APPROVED ON APRIL 13, 2016
BY THE BOARD OF COUNTY COMMISSIONERS
AT THE WEEKLY BUSINESS SESSION

General Discussion: April 5, 2016
9:00 a.m. – BCC Conference Room
Commissioners Cherryl Walker, Keith Heck, and Simon G. Hare; Wendy Watkins, Recorder

Chair Cherryl Walker called the meeting to order at 9:00 a.m.

1. **SB 1513**
   Connie Roach, Assessor, said she would like direction from the Board on whether they would like to implement SB 1513 **(Exhibit A)** relating to a property tax exemption for the homesteads of the surviving spouses of certain public safety officers. The Board agreed they would like more time to make a decision and tabled the matter for a month.

2. **Other** *(ORS 192.640(1) ". . . notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.")*

   Commissioner Hare discussed the letter he sent to Dayne Barron regarding the Northwest Forest Plan Allowable Sale Quality (ASQ) **(Exhibit A)**.

   Commissioner Walker mentioned she would like all departments to report quarterly instead of monthly at the County Administrative Workshop's and the Board agreed. *Staff was directed to make the change effective immediately.*

   Commissioner Walker announced she will be out next week and Commissioner Heck will have to Chair the meetings.

The meeting adjourned at 9:33 a.m.

EXHIBITS
Exhibit A – SB 1513
Exhibit B – Northwest Forest Plan Allowable Sale Quality (ASQ) Letter

Exhibit A
General Discussion
4/5/16

Josephine County, Oregon

OFFICE OF LEGAL COUNSEL
M. Wally Hicks, Legal Counsel
Leah C. Harper, Assistant Legal Counsel
Josephine County Courthouse Room 152
500 NW 6th Street / Grants Pass, OR 97526
(541) 474-5226 / FAX (541) 474-5223

MEMORANDUM

Received
Josephine County
Mar 30, 2016
Board of
Commissioners

TO: Board of County Commissioners
CC: Connie Roach, Assessor

FROM: M. Wally Hicks, Legal Counsel WH

DATE: March 30, 2016

RE: SB 1513 (2016 session) relating to a property tax exemption for the homesteads of the surviving spouses of certain public safety officers

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The 2016 Legislature passed SB 1513. Governor Brown signed the bill on March 15, 2016. Its effective date is June 2, 2016, and it has been designated as Chapter 56 of Oregon Laws 2016. A copy of the Senate Bill is attached. This memo is an attempt to analyze and explain the meaning of the new law.

The new law pertains to the surviving spouses of Fire Service Professionals, Police Officers, and Reserve Officers who were killed in the line of duty as those terms are defined in ORS 181A.355 (definitions for ORS 181A.355 are attached). The surviving spouses cannot have remarried. Also, an eligible "homestead" must be an owner-occupied dwelling and the tax lot upon which the dwelling is located that is owned by the surviving spouse.

The operative wording of the exemption authority is short; *"A county may provide, by ordinance or resolution, that up to $250,000 of assessed value of each homestead located in the county shall be exempt from ad valorem property taxes imposed by all taxing jurisdictions on the homestead."* The claim for the exemption is not easily made. The claimant must use the form provided by the Oregon Department of Revenue, and must provide documentary proof of ownership and of the fact that the deceased partner was in fact killed in the line of duty. There are also prescribed deadlines for filing a claim.

It is apparent from the documents associated with the Bill that the Legislature considered that the effect was to create a flat exempt amount that was expected to be up to the maximum of $250,000. This is similar, but entirely separate from, the exemption schedule for disabled veterans and surviving spouses of disabled veterans, as set forth in ORS 307.250.

Nothing in SB1513 imposes on the county a requirement to create an exemption. The new law says *"A county may provide, by ordinance or resolution...."* If, the Board of County

Commissioners (BCC) wants to create an exemption, it has full latitude to create virtually any sort of system whereby surviving spouses can be exempted from up to $250,000.00 of assessed value. The BCC can create a system that resembles the veterans exemption, but to be clear, these are two entirely different and unrelated exemptions.

MWH:cr
Enclosures

Enrolled
Senate Bill 1513

Sponsored by Senators GIROD, COURTNEY, KNOPP, JOHNSON (Presession filed.)

CHAPTER .....

AN ACT

Relating to a property tax exemption for the homesteads of the surviving spouses of certain public safety officers; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "Fire service professional," "police officer" and "reserve officer" have the meanings given those terms in ORS 181A.355.

(b) "Homestead" means the owner-occupied principal dwelling, either real or personal property, owned by a surviving spouse and the tax lot upon which the dwelling is located.

(c) "Surviving spouse" means the spouse of a fire service professional, police officer or reserve officer killed in the line of duty who has not remarried after the death of the fire service professional, police officer or reserve officer.

(2)(a) A county may provide, by ordinance or resolution, that up to $250,000 of assessed value of each homestead located in the county shall be exempt from ad valorem property taxes imposed by all taxing jurisdictions on the homestead.

(b) An exemption granted under this section applies solely to the period preceding the date of the first remarriage of the surviving spouse after the death of the fire service professional, police officer or reserve officer and ends on the date of remarriage.

(3)(a) A surviving spouse seeking an exemption granted pursuant to this section must file an application with the county assessor on or before April 1 preceding the property tax year for which the exemption is sought.

(b) If the homestead designated in the claim for exemption is acquired after March 1 and before July 1, the claim for that year must be filed within 30 days after the date of acquisition.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, a claim may be filed for the current tax year:

(A) On or before December 31 of the tax year, if the claim is accompanied by a late filing fee in an amount equal to the greater of $200 or one-tenth of one percent of the real market value as of the most recent assessment date of the homestead to which the claim pertains.

(B) On or before April 1 of the tax year, if the claim is accompanied by a late filing fee of $200 and the claimant is a first-time filer, as defined in ORS 307.162, or demonstrates good and sufficient cause, as defined in ORS 307.162, for failing to file a timely claim.

(4)(a) An application for an exemption granted pursuant to this section must:

(A) Be made on a form prescribed by the Department of Revenue;

(B) Designate the property for which the exemption is claimed and be accompanied by documentation showing the surviving spouse's ownership of the homestead;

(C) Include a statement setting forth the basis for eligibility for the exemption;

(D) Be accompanied by a document that:

(i) Is issued by the fire service agency or law enforcement unit that employed or utilized the fire service professional, police officer or reserve officer at the time of death; and

(ii) Certifies that the fire service professional, police officer or reserve officer was killed in the line of duty; and

(E) Include a written statement signed by the surviving spouse affirming that all information contained in the application is true.

(b) A timely application shall be approved if all requirements for the exemption are met.

SECTION 2. This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by Senate February 19, 2016

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House February 29, 2016

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2016

Approved:

.....M.,....., 2016

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2016

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Jeanne P. Atkins, Secretary of State

181A.355 Definitions for ORS 181A.355 to 181A.670. As used in ORS 181A.355 to 181A.670, unless the context requires otherwise:

(11) **"Fire service professional"** means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not mean forest fire protection agency personnel.

(14) **"Police officer"** means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.121 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) A humane special agent commissioned under ORS 181A.340;

(d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540; or

(e) An authorized tribal police officer as defined in ORS 181A.680.

(18) **"Reserve officer"** means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.121 or 353.125, the Governor or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

Exhibit B
General Discussion
4/5/16

Josephine County Board of Commissioners
Simon Hare, Commissioner

April 1, 2016

Dayne Barron
Medford District Manager
Bureau of Land Management
3040 Biddle Road
Medford, OR 97504

Dear Mr. Barron;

This letter is a formal request for information and clarification regarding if and/or how the Bureau of Land Management ("BLM"), Medford District, plans to maintain compliance with the Northwest Forest Plan's Allowable Sale Quantity (ASQ).

In 2010, two timber companies and three timber organizations sued for declaratory and injunctive relief to remedy statutory violations by the Secretaries of the Interior and Agriculture in connection with timber sales in Oregon and Washington. The companies alleged that from fiscal years 2004 to 2010, the Secretary of the Interior failed to sell the amount of timber required by the O & C Act in Roseburg and Medford. The companies sought a declaration under the Declaratory Judgment Act, and the Administrative Procedure Act ("APA"), that BLM's failure to annually offer for sale 80% of the allowable sale quantity of timber from Roseburg and Medford violated the O & C Act, and an order compelling BLM to annually offer for sale 80% of the allowable sale quantity of timber and additional timber in fiscal years 2011 and 2012 to make up for past shortfalls.

Josephine County's position is that the BLM manages 2.4 million acres of public land in western Oregon, most of which is governed by the O & C Act. In 1937 Congress stipulated that timberland

> shall be managed . . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal [sic] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities [sic]. 43 U.S.C. § 1181a.

At issue are timber sales from O & C Act lands in the Roseburg and Medford districts of western Oregon from fiscal years 2004 to 2010. BLM's 1995 resource management plans establish "allowable sale quantities" of timber, which BLM treats as synonymous with the statutory term "annual productive capacity." See IV BLM, Final Environmental Impact Statement for the Revision of the Resource Management Plans of the Western Oregon Bureau of Land Management app. R, at 712 (2008). The allowable sale quantity for Roseburg is 45 million board feet; for Medford, 57.1 million board feet. The

COURTHOUSE
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Roseburg and Medford plans provide that "[t]he actual sustainable timber sale level . . . may deviate by as much as 20 percent from the identified allowable sale quantity." BLM, Roseburg District: Record of Decision and Resource Management Plan 61 (1995); accord BLM, Record of Decision for the Medford District Resource Management Plan 72 (1995). Between fiscal years 2004 and 2010, the timber sold from the Roseburg district was only 43% of the allowable sale quantity, averaging 19 million board feet per year. The timber sold from the Medford district was only 56% of the allowable sale quantity, averaging 32 million board feet per year in fiscal years 2005 and 2006. The amount of Roseburg timber sold was less than 80% of the allowable sale quantity every year; the amount of Medford timber sold reached 80% of the allowable sale quantity.

Although the case was ultimately dismissed on the grounds that the plaintiffs lacked standing under Article III of the U.S. Constitution, the Josephine County Board of Commissioners contends that the ASQ for the Medford and Roseburg BLM Districts, according the Northwest Forest Plan, still stands.

Therefore, we request a written response on the previous question; does the Bureau of Land Management ("BLM"), Medford District, plan to maintain compliance with the Northwest Forest Plan's Allowable Sale Quantity (ASQ) and if so, how?

Sincerely,

Simon G. Hare, Commissioner
Josephine County

cc: Alan Bollschweiler, Field Manager
BLM, Grants Pass Field Office

Rocky McVay, Executive Director
Association of O&C Counties

Jackson County Board of Commissioners