

No easy path for law targeting Oregon corporate minimum tax break

Christian Gaston, The Oregonian



Sen. Ginny Burdick, D-Portland, would like to pass legislation to limit the cost of a tax cut spurred by Oregon Supreme Court ruling, but Republicans seem unlikely to join onto the Democratic effort. *(Michael Lloyd/The Oregonian)*

Legislative Democrats' effort to recoup millions in corporate taxes lost to an Oregon Supreme Court decision could run headlong into election year politics.

In May the court ruled that corporations could use tax credits to pay the state's corporate minimum tax, which could cost the state [\\$90 million in tax revenue over the next decade](#).

Democrats would like to tweak the law to prevent those revenue losses when the Legislature convenes in February, but many Republicans seem happy to let the ruling stand.

Expected tax impact

The [Legislative Revenue Office](#) has estimated what the state stands to lose in corporate tax revenue following the Oregon Supreme Court decision allowing companies to use tax credits to lower their corporate minimum bills.

2009 \$6.9

2010 \$8
2011 \$8.5
2012 \$7
2013 \$7.2
2014 \$7.6
2015 \$8
2016 \$8.4
2017 \$8.8
2018 \$9.2
2019 \$9.7
2020 \$10.2
2021 \$10.7

Building Republican support could be difficult in the coming session as a political fight over proposed ballot measures raising the corporate minimum could spill into the debate.

"That's the risk of the short session is it comes so close to the campaign season," said [Sen. Ginny Burdick, D-Portland](#), chair of the Senate Finance and Revenue Committee.

Burdick and her counterpart in the House, [Rep. Phil Barnhart, D-Eugene](#), would like to develop a legislative fix, but it's unclear what shape it may take.

"I think how to get there is yet to be decided," Barnhart said.

Any change to the law would likely require a supermajority vote, which means Democrats, who control the House and Senate, would need to woo two Republicans in each chamber.

"This is an example of why the measure that set up this super-majority requirement simply doesn't work," said Barnhart. "It means that we have a very hard time simply managing tax policy."

The tax case was spurred by Measure 67, which replaced the state's \$10 corporate minimum tax with a tiered tax structure that maxes out at \$100,000 in 2010.

Accountants for Con-way, a multinational logistics company, tried to use a Business Energy Tax Credit to reduce a \$75,000 corporate minimum tax it owed but the Oregon Department of Revenue ruled that the credits couldn't be used that way. Con-way sued and eventually prevailed.

Now, roughly 500 other corporations could use tax credits to reduce their corporate minimum payment. The ruling is expected to knock \$30 million out of the current state budget because several tax years are affected by the decision. In future tax years, the hit is expected to be about \$10 million.

"At its core, it's actually a pretty technical issue," said [Rep. Jules Bailey, D-Portland](#).

But any tax discussion can quickly spiral into an ideological debate.

[Rep. John Davis, R-Wilsonville](#), who supports the court's decision, said he didn't expect Democrats in Salem to take that risk for a change in tax policy that would yield only \$20 million each budget cycle.

"I just don't see those in the building wanting to take this as a tax fight," Davis said.

But supporters of the corporate minimum see it another way.

"When voters passed the reforms to the corporate minimum tax, they did so because they believe that corporations, especially the very large ones, should be paying something," said Scott Moore, spokesman for Our Oregon, a union-supported group that helped pass Measure 67.

Our Oregon has filed a number of potential ballot measures this year that could go up for a vote in November, including several that would increase the corporate minimum for some businesses.

Lawmakers said the potential of those measures moving forward could expand the scope of any debate in Salem over the corporate minimum.

"There is a risk that it becomes a larger discussion than it needs to be," Bailey said.

Moore said he wasn't qualified to gauge a fix's chances in Salem, but he wants lawmakers to move forward.

"We certainly hope that legislators will pick it up," Moore said. "It's not a small amount of money."

--Christian Gaston