

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Action: Adoption of an Ordinance Concerning a Four-Year Income Tax for Schools; Adding Sections 2.2000 to 2.2038 to the Eugene Code, 1971; and Providing a Sunset Date

Meeting Date: April 25, 2011
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 6
Staff Contact: Sue Cutsogeorge
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ISSUE STATEMENT

The council will take action on an ordinance implementing a four-year City income tax for schools. A public hearing on the ordinance was held on April 11.

BACKGROUND

On February 14, 2011, the council approved Resolution #5023 referring to the May 17 ballot an income tax measure for schools. On February 22, 2011, the council adjusted the tax brackets and rates for the measure in Resolution #5024. After an appeal, the ballot title was certified on March 15, and was assigned Measure #20-182, Temporary City Income Tax for Schools.

This ordinance, along with administrative rules that would be adopted by the City Manager, would implement the provisions of Ballot Measure #20-182. The proposed ordinance is included in Attachment A. If Measure #20-182 is passed, administrative rules would be developed and then adopted after a public notice and comment period.

The ordinance included in Attachment A incorporates one correction from the version that was submitted for the public hearing. In section 2.010(3)(e), the bracket was incorrectly stated, and Attachment A shows the correction.

A public hearing was held on the ordinance on April 11. Twelve people spoke about the income tax. After the hearing, two councilors requested potential amendments to the ordinance. Those proposed amendments are:

Amend section 2.2006 by adding the following sentence at the end of the section:
“However, nothing in the rules may require an employer to withhold wages for this income tax.” (Councilor Clark)

Amend section 3 of the ordinance by adding the following sentence after the first sentence: “It is the intent of the City Council that the sunset shall not be extended or repealed unless approved by the voters.” (Councilor Zelenka)

After the main motion (to adopt the ordinance) has been made, either or both of these amendments can be made.

Information on City Web Site

All of the council background materials on the school tax can be found on the City's website, at:

- www.eugene-or.gov/schooltax

Next Steps

Administrative rules for this ordinance will be adopted if the ballot measure is approved at the May 17 election. The process for implementing administrative rules will include a public notice and comment period, per City Code.

RELATED CITY POLICIES

There are no City policies related to City support for school funding. There is a council goal of Fair, Stable and Adequate Financial Resources: A government whose ongoing financial resources are based on a fair and equitable system of revenues and are adequate to maintain and deliver municipal services.

COUNCIL OPTIONS

1. Approve ordinance as presented in Attachment A.
2. Approve the ordinance with one or both of the amendments described above.
3. Do not approve the ordinance.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends approving the ordinance as included in Attachment A.

SUGGESTED MOTIONS

Move to approve Council Bill 5046 concerning a four-year income tax for schools; adding sections 2.2000 to 2.2038 to the Eugene Code, 1971; and providing a sunset date.

ATTACHMENT

- A. Proposed Ordinance

FOR MORE INFORMATION

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ORDINANCE NO. _____

AN ORDINANCE CONCERNING A FOUR-YEAR INCOME TAX FOR SCHOOLS; ADDING SECTIONS 2.2000 TO 2.2038 TO THE EUGENE CODE, 1971; AND PROVIDING A SUNSET DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The following heading and Sections 2.2000 to 2.2038 are added to the Eugene Code, 1971, to provide as follows:

Temporary School Funding Personal Income Tax

2.2000 **Purpose.** The provisions contained in sections 2.2000 to 2.2038 of this code are for purposes of administering the city of Eugene's temporary school funding personal income tax, hereinafter referred to as the income tax.

2.2002 **Effective Date.** The income tax shall be in effect for taxable years during years 2011, 2012, 2013 and 2014. For calendar year taxpayers, this is taxable years beginning January 1, 2011 through taxable year ending December 31, 2014.

2.2004 **Definitions.** For the purpose of sections 2.2000 through 2.2038 of this code, the following words and phrases shall be defined as provided in this section, unless the context requires otherwise.

City manager. The city manager or the manager's designee.

Eugene adjusted income. Oregon taxable income less any income that state or federal law prohibits a city from taxing. Under state law in effect at the time of adoption of this income tax code, this includes the income exemption required by ORS 238.445 for Oregon PERS benefits and any portion of pension benefits received by federal retirees that cannot be taxed by local government.

Eugene taxable income. Eugene adjusted income after any proration for residency outside of the city as provided in section 2.2014 of this code.

Filing date. The postmark date affixed by the United States postal service if mailed or the date stamp if delivered by hand or sent by facsimile.

Finance officer. The person designated by the city manager as the city's finance officer to administer and enforce the income tax code and administrative rules. The finance officer may delegate authority to other city employees or contract with other entities to assist in carrying out the finance officer's duties under this income tax.

Nonresident. An individual who is not a resident of the city of Eugene.

Oregon taxable income. Oregon taxable income shall be taxable income as reported or as reportable to the state of Oregon for personal income tax purposes before any credits or exemptions.

Part-year resident. A taxpayer who changes status during a tax year from resident to nonresident or from nonresident to resident.

Resident. A taxpayer domiciled within the city of Eugene for any portion of the taxable year.

Taxpayer. Any natural person whose income in whole or in part is subject to the income tax.

Tax year. The taxable year of a taxpayer for federal or state income tax purposes.

2.2006 **Administrative Authority.** Pursuant to the procedures of section 2.019 of this code, the city manager may adopt regulations, procedures, forms, guides and written policies, including provisions regarding employer withholding of income tax from the wages of their employees, and further clarification of the definitions contained section 2.2004 or other provisions of this income tax code, for administering the income tax.

2.2008 **Conformity to State Income Tax Laws.** The policy of the city is to follow the state of Oregon laws and regulations adopted by the Department of Revenue relating to personal income tax. The income tax shall be construed in conformity with such laws and regulations imposing taxes on or measured by net income. Should a question arise under the income tax on which this code or the implementing regulations are silent, the finance officer may look to the laws and regulations of the state for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this code or the implementing regulations or the state law is otherwise inapplicable.

2.2010 **Tax Rate.**

(1) A tax is imposed for each taxable year on Eugene taxable income as defined in section 2.2004 on every resident of the city. The tax shall be

collected annually on income earned between January 1, 2011 and December 31, 2014.

- (2) For joint filers, the tax shall consist of a graduated tax of:
 - (a) If joint Oregon taxable income is \$22,000 or less, then the taxpayer is exempt from this tax.
 - (b) 0.35% if joint Oregon taxable income is between \$22,001 and \$35,000;
 - (c) 0.47% if joint Oregon taxable income is between \$35,001 and \$50,000;
 - (d) 0.75% if joint Oregon taxable income is between \$50,001 and \$75,000; and
 - (e) 1.20% if joint Oregon taxable income is more than \$75,000.
- (3) For single filers, the tax shall consist of a graduated tax of:
 - (a) If single Oregon taxable income is \$11,000 or less, then the taxpayer is exempt from this tax.
 - (b) 0.35% if single Oregon taxable income is between \$11,001 and \$17,500;
 - (c) 0.47% if single Oregon taxable income is between \$17,501 and \$25,000;
 - (d) 0.75% if single Oregon taxable income is between \$25,001 and \$37,500; and
 - (e) 1.20% if single Oregon taxable income is more than \$37,500.
- (4) For residents who receive Oregon PERS or federal retirement benefits plus income from other sources, the income from other sources shall be subject to the income tax. The tax brackets shall be determined based on Oregon taxable income including Oregon PERS and federal retirement benefits, but the tax owed shall be based on Eugene taxable income. The intention is that residents who have the same Oregon taxable income before any Eugene adjustments should pay the same tax rate, even though for some residents, a portion of their income is exempt from the city income tax.

2.2012 **Individuals Required to File Tax Returns.** Every resident who is required to file an Oregon income tax return is required to file a return for the city income tax. Nothing contained in this section shall preclude the finance officer from requiring any individual to file a return when, in the judgment of the finance officer, a return should be filed.

2.2014 **Proration of Eugene Adjusted Income for Part-Year Residents.**
If a taxpayer is a part-year resident of the city for the tax year at issue, the Eugene adjusted income shall be prorated based upon the number of days of residency within the city within the taxable year.

2.2016 **Return Due Date; Extensions.**
(1) Tax returns shall be on forms provided or approved by the finance officer. All tax returns shall be filed, together with the specified tax by

the fifteenth day of the fourth month following the end of the taxpayer's tax year. If the due date falls on a weekend or holiday, the due date shall be the first business day following the weekend or holiday.

- (2) The finance officer shall, when requested, grant extensions for filing returns. An extension will be automatically granted for six months beyond the initial due date, upon request. The finance officer will honor federal and state extensions, upon request. An extension does not extend the time to pay the tax. Payments made after the due date shall be subject to interest and penalties as provided in sections 2.2022 and 2.2024 of this code.
- (3) The tax return shall contain a written declaration, verified by the taxpayer, to the effect that the statements made therein are true.
- (4) The finance officer shall prepare blank tax returns and make them available upon request. Failure to receive or secure a form shall not relieve any person from the obligation to pay the income tax.

2.2018 Changes to Federal or State Tax Returns.

- (1) If a taxpayer's reported net income under applicable state laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxpayer to correct an error in the original federal or state return, a report of such change shall be filed with the finance officer within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report shall be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- (2) The finance officer may assess deficiencies and grant refunds resulting from changes to federal or state returns within the time periods established by the city manager pursuant to section 2.019 of this code, treating the report of change in federal or state income tax returns as the filing of an amended tax return.
- (3) The finance officer may assess penalties and interest on the additional tax due as provided in sections 2.2022 and 2.2024 of this code or may refuse to grant a refund of taxes as a result of the amended return if the amended return is not filed with the finance officer within the time limits set forth in subsection (1) of this section.

2.2022 Interest.

- (1) Interest shall be collected on any unpaid tax at the current rate of simple interest established by the Oregon Department of Revenue per month or fraction thereof, computed from the original due date of the tax to the fifteenth day of the month following the date of payment.
- (2) Interest at the rate established in subsection (1) of this section shall be payable on any overpayments of tax. Such interest shall be computed as beginning 45 days after the later of the due date or the date paid.

- (3) Notwithstanding section 2.582 of this code, the city manager may waive or reduce interest for good cause. The city manager may look to ORS 305.145 and OAR 150-305.145 for guidance in the waiver of interest.

2.2024 Penalties.

- (1) A penalty shall be assessed if a person:
 - (a) Fails to file a tax return or extension request by the time required under subsection 2.2016(1) of this code; or
 - (b) Fails to pay at least 90% of the tax by the time by the time required under subsection 2.2016(1) of this code; or
 - (c) Fails to file or pay payroll taxes withheld at the time required as established by the city manager pursuant to section 2.019 of this code.
- (2) The penalty under subsection (1) of this section shall be calculated as:
 - (a) 5% of the balance of the tax paid after the original due date if the failure is for a period less than or equal to 3 months.
 - (b) An additional 20% of the balance of the tax paid after the original due date if the failure is for a period greater than 3 months.
- (3) Notwithstanding section 2.582 of this code, the city manager may waive or reduce any penalty for good cause. The city manager may look to ORS 305.145 and OAR 150-305.145 for guidance in the waiver of penalty.

2.2026 Appeal Rights.

- (1) Any determination of the city manager or finance officer may be protested by the taxpayer. Written notice of the protest must be received by the city manager within 30 days after the notice of determination was mailed or delivered to the taxpayer. The protest shall state the name and address of the taxpayer and an explanation of the grounds for the protest.
- (2) The city manager shall respond within 30 days after the protest is filed with the city manager with either a revised determination or a final determination. The city manager's determination shall include the reasons for the determination and state the time and manner for appealing the determination.
- (3) The time to file a protest or the time for the city manager's response may be extended by the city manager for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice shall be given to the taxpayer if the city manager's deadline is extended.
- (4) Any final determination by the city manager may be appealed by the taxpayer pursuant to the procedures of section 2.021 of this code.

2.2028 Settlement Offers and Agreements. Notwithstanding section 2.582 of this code, the city manager may, upon good and sufficient cause, make settlement agreements with taxpayers in the recomputation of taxes payable or in the collection thereof. Such agreements shall be consistent with ORS

305.150 and 305.155 and corresponding Oregon Administrative Rules. Applications for settlement offers will be provided by the finance officer to taxpayers proposing settlement offers.

2.2030 **Tax as Debt.** The income tax due per this code and any interest and penalties subsequently assessed thereon shall become, from the time such liability is incurred, a personal debt, due to the city, from the person or persons liable for the debt. The finance officer may pursue collection of this debt through all legal and available means.

2.2032 **Use and Division of Funds.**

(1) Funds may only be used by the school districts to reduce the number of days students are not in school and to reduce average class size. Funds may also be used to pay the cost of implementation of the income tax. Before any funds are divided between the two school districts, funds shall first be distributed to cover the costs of implementation of the income tax.

(2) Funds generated by the tax shall be divided between the Eugene School District 4J and Bethel School District based on the number of Eugene residents enrolled in each district. In addition, before funds are distributed to a school district, the district must enter into an intergovernmental agreement with the city to ensure that the funds are spent only as authorized by this income tax code.

2.2034 **School District Reporting.** In order to continue receiving funds each year, the Eugene School District 4J and Bethel School District shall provide a report to the City Council describing how the income tax revenues were spent. In addition, the school districts shall establish a review panel, similar in nature to the Citizen Street Repair Review Panel, comprised of four members appointed by the Bethel School District, four members appointed by the Eugene School District, and four members appointed by the Mayor, two of whom should be business representatives and two of whom opposed the measure. The first report from the school districts and the review panel will be due by December 31, 2012 for the 2011 tax year. The reports must be completed and submitted annually.

2.2036 **Reduction or Suspension of Tax.** The council shall, by resolution, reduce or suspend the tax if the state either:

(a) Increases state funding of the school districts to the point that additional local revenues are no longer needed to restore instructional furlough days or prevent average class size from increasing; or

(b) Requires that the local income tax revenues decrease the amount of state funding for the school districts.

2.2038 **Confidentiality.** Except as provided in this code or otherwise required by law, the city manager, finance officer, any elected official, employee, or agent

of the city, or any person who has acquired information pursuant to this code, shall not release any financial information or social security numbers submitted or disclosed to the city under this income tax code. Nothing in this section shall be construed to prohibit the disclosure of general statistics in a form that would prevent the identification of financial information or social security numbers regarding an individual taxpayer.

Section 2. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 3. Sections 2.2000 to 2.2018 of the Eugene Code, 1971, shall automatically sunset and be repealed one year following the last filing date for any taxpayer under this income tax code. However, all provisions of the income tax code shall continue to apply to any tax or other monies that are still owed related to income earned between January 1, 2011 and December 31, 2014. The City Recorder is requested to note this sunset date on appropriate City logs.

Section 4. This Ordinance shall take effect if and only if Ballot Measure 20-182 is approved at the May 17, 2011 election. In such an event, the Ordinance shall be effective upon the later of: (1) the Mayor's proclamation under section 2.986 of the Eugene Code, 1971 that the Measure passed; or (2) 30 days after this Ordinance is adopted by the Council and approved by the Mayor.

Passed by the City Council this

_____ day of April, 2011.

Approved by the Mayor this

_____ day of April, 2011.

City Recorder

Mayor