

House Bill 2037

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Business Development Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases limits for loans for certain business development projects made with moneys from Oregon Business Development Fund and provides for annual adjustment of limits for changes in Consumer Price Index.

A BILL FOR AN ACT

1
2 Relating to loan limits for economic development; creating new provisions; and amending ORS
3 285B.059 and 285B.062.

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

5 **SECTION 1.** ORS 285B.059 is amended to read:

6 285B.059. (1) The Oregon Business Development Commission may approve a business develop-
7 ment project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation,
8 the commission finds that:

9 (a) The proposed business development project is feasible and a reasonable risk from practical
10 and economic standpoints, and that the loan has reasonable prospect of repayment.

11 (b) The applicant can provide good and sufficient collateral for the loan.

12 (c) Moneys in the Oregon Business Development Fund are or will be available for the proposed
13 business development project.

14 (d) There is a need for the proposed business development project.

15 (e) The applicant has not received or entered into a contract or contracts exceeding [~~\$1~~] **\$2**
16 million with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days.

17 (2)(a) Except as provided in paragraph (b) of this subsection, the total amount of moneys loaned
18 from the fund for a business development project may not exceed 50 percent of the cost of the
19 project.

20 (b) The total amount of moneys loaned from the fund for a business development project may
21 exceed 50 percent of the cost of the project if two or more lenders have denied requests from the
22 applicant to commit to participate in the financing of the project and the applicant has no other
23 available financing.

24 (3)(a) Except as provided in paragraph (b) of this subsection, moneys may not be loaned from the
25 fund for a business development project unless there exists a commitment from a commercial or
26 private lender, or a local development group, to participate in the financing of the project.

27 (b) Moneys may be loaned from the fund for a business development project without a commit-
28 ment from a commercial or private lender, or a local development group, to participate in the fi-
29 nancing of the project if:

30 (A) The applicant is a county or municipality;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) There are payments other than the scheduled principal and interest payments; or

2 (C) Two or more lenders have denied requests from the applicant to commit to participate in the
3 financing of the project and the applicant has no other available financing.

4 (4) To encourage private sector and local development group participation in the financing of
5 business development projects, the commission may subordinate the security position of the fund to
6 that of other lenders.

7 (5) In each fiscal year of a biennium, 15 percent of all moneys available for lending from the
8 fund is reserved for loans to emerging small business enterprises as defined by the Oregon Business
9 Development Department by rule, which are located in or draw their workforces from within rural
10 or distressed areas as determined by the Oregon Business Development Department in cooperation
11 with the Employment Department of this state. If the Oregon Business Development Department was
12 unable to obtain a sufficient number of approvable applications to meet the requirements of this
13 subsection in the previous fiscal year, it may, in the current fiscal year and notwithstanding the
14 limitations imposed by ORS 285B.050 (2), make loans, in an amount that does not exceed the 15
15 percent reserved for the prior fiscal year less the amount of loans made to emerging small business
16 enterprises located in rural or distressed areas during the previous fiscal year, to service and retail
17 businesses operated by small business enterprises that are located in or draw their workforces from
18 within rural or distressed areas as determined by the Oregon Business Development Department in
19 cooperation with the Employment Department of this state. Service and retail businesses operated
20 by small business enterprises under this section need not be engaged in traded sector activities. As
21 used in this subsection, "rural area" and "distressed area" have the *[meaning]* **meanings** given those
22 terms in ORS 285A.010.

23 **SECTION 2.** ORS 285B.062 is amended to read:

24 285B.062. If the Oregon Business Development Commission approves *[the]* **a** business develop-
25 ment project, the commission, on behalf of the state, and the applicant may enter into a loan con-
26 tract of not more than *[\$1]* **\$2** million, secured by good and sufficient collateral, which shall set
27 forth, among other matters:

28 (1) A plan for repayment by the applicant to the Oregon Business Development Fund of moneys
29 borrowed from the fund used for the business development project, with interest charged on those
30 moneys at the rate of not less than one percentage point more than the prevailing interest rate on
31 United States Treasury bills, notes or bonds of a comparable term, as determined by the commission.
32 The repayment plan, among other matters:

33 (a) Shall provide for commencement of repayment by the applicant of **the** moneys *[used for the*
34 *business development project and interest thereon]* **and interest** no later than one year after the date
35 of the loan contract or at such other time as the commission may provide.

36 (b) May provide for reasonable extension of the time for making any repayment in emergency
37 or hardship circumstances if approved by the commission.

38 (c) Shall provide for such evidence of debt assurance of, and security for, repayment by the ap-
39 plicant as is considered necessary by the commission.

40 (d) Shall set forth a schedule of payments and the period of **the** loan, *[which shall]* not **to** exceed
41 the *[usable]* **useful** life of the contracted project or 25 years from the date of the contract, which-
42 ever is less, and *[shall also set forth]* the manner of determining when loan payments are delinquent.
43 The payment schedule shall include repayment of interest *[which]* **that** accrues during any period
44 of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may
45 require payments of varying amounts for collection of accrued interest.

1 (e) Shall set forth a procedure for formal declaration of default of payment by the commission,
2 including formal notification of all relevant federal, state and local agencies[;] and [further,] a pro-
3 cedure for notification of all relevant federal, state and local agencies that declaration of default
4 has been rescinded when appropriate.

5 (f) Shall allow for other forms of payment than principal and interest payments on loans, to be
6 outlined in administrative rules.

7 (2) Provisions satisfactory to the commission for field engineering and inspection, the commis-
8 sion to be the final judge of completion of the contract.

9 (3) That the liability of the state under the contract is contingent upon the availability of mon-
10 eys in the fund for use in the business development project.

11 (4) Such further provisions as the commission considers necessary to [insure] **ensure** expendi-
12 ture of the funds for the purposes set forth in the approved application.

13 **SECTION 3. The amendments to ORS 285B.059 and 285B.062 by sections 1 and 2 of this**
14 **2021 Act apply to applications for business development projects submitted on or after the**
15 **effective date of this 2021 Act.**

16 **SECTION 4. Section 5 of this 2021 Act is added to and made a part of ORS 285B.050 to**
17 **285B.098.**

18 **SECTION 5. (1) Beginning with the 2023 calendar year, the Oregon Business Development**
19 **Department shall annually adjust the maximum contract amounts specified in ORS 285B.059**
20 **(1)(e) and 285B.062 by multiplying each amount by the percentage change in the monthly**
21 **averaged Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-**
22 **lished by the Bureau of Labor Statistics of the United States Department of Labor, for the**
23 **12 consecutive months ending on the immediately preceding December 31 compared to the**
24 **monthly averaged Consumer Price Index for All Urban Consumers, West Region (All Items),**
25 **for the 12 consecutive months ending on December 31, 2021.**

26 (2) Notwithstanding subsection (1) of this section, the adjusted maximum contract
27 amounts specified in ORS 285B.059 (1)(e) and 285B.062 may not be less than \$2 million.
28