

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

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Date: June 20, 2023

Measure Description:

Establishes income and corporate excise tax credit allowed for qualified research activities and sets increased maximum credit amount. Updates and modifies certain economic development programs.

Government Unit(s) Affected:

Oregon Business Development Department, Cities, Counties, Special Districts, Department of Revenue, Judicial Department, Legislative Revenue Office, School Districts

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action in the 2024 Regular Session - See analysis.

Analysis:

HB 2009, as modified by the -15 amendment, is an omnibus tax measure that updates and modifies certain economic development programs.

The measure establishes a research and development tax credit for qualified semiconductor companies for increases in qualified research costs that are primarily intended for use in the semiconductor industry. The maximum allowable credit may not exceed \$5 million per taxpayer. The measure also caps the total amount of potential tax credits each biennium until the tax credit sunsets. Taxpayers with fewer than 3,000 employees may claim a refundable credit ranging from 25% to 100% refundable, depending on the number of employees. The tax credit is non-refundable for taxpayers with more than 3,000 employees; however, any non-refundable portion may offset any remaining tax liability and be carried forward for up to five years. Prior to claiming the credit, a taxpayer must obtain approval and apply for certification from the Oregon Business Development Department (OBDD). OBDD must establish a fee for filing a written application for certification to be paid by taxpayers. OBDD may order the suspension or revocation of any credit allowed for a qualified semiconductor company. The tax credit applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.

The remainder of the measure concerns property tax programs, including the following:

- Extends the sunset dates for local governments and OBDD to create new enterprise zones, or for zone sponsors to authorize firms to obtain enterprise zone property tax exemption, from June 30, 2025, to June 30, 2032.
- Extends the sunset dates for reservation enterprise zones and authorizations to exempt them from property tax to enable them to continue operating through and after June 30, 2032.
- Adds requirement that enterprise zone or long-term rural enterprise zone agreements between zone sponsors and firms do not become effective until after the terms of the agreement are published by the zone sponsor.
- Requires OBDD to assist zone sponsors relating to the agreements upon request.
- Directs OBDD, in consultation with the Legislative Revenue Officer (LRO), to conduct a study on the transparency of enterprise zone programs and submit a report to interim legislative committees related to revenue by September 15, 2024.

- Requires zone sponsors to notify impacted local governments of possible increases in infrastructure demand due to new enterprise zone or long-term rural enterprise zone project developments.
- Prohibits fulfillment centers from qualifying for new enterprise zone or long-term rural enterprise zone exemption approvals.
- Changes the enterprise zone and long-term rural enterprise zone programs to require a fee of 25% of the exempted taxes to be paid to the overlaying school districts. If unpaid and the fee becomes delinquent, the school district is to notify the county assessor and the firm, and then the exemption is disqualified with additional taxes charged, along with the delinquent fee amount on the next tax roll. The fee is to be collected as other taxes and distributed to the school districts with delinquent fees.
- Requires additional long-term rural enterprise zone exemption information be posted to the state's transparency website if it's available and not confidential.
- Clarifies how enterprise zone or long-term rural enterprise zone exemptions continue once the zone is terminated.
- Increases the Strategic Investment Program minimum cost eligibility thresholds from \$100 million to \$150 million, or from \$25 million to \$40 million in rural areas, and indexes those thresholds by increases in the Consumer Price Index.
- Sunsets the creation of new strategic investment zones after the measure's effective date.
- Changes the Strategic Investment Program community service fee limit to increase to \$3 million with limits in subsequent years indexed to inflation.
- Requires the LRO to conduct a review of the Strategic Investment Program and submit a report to the interim committees related to revenue by October 1, 2034.
- Extends the sunset date on gainshare payments through 2030.
- Increases the Strategic Investment Program project's taxable values, depending on project total costs.

The measure takes effect 91 days after adjournment *sine die*.

Oregon Business Development Department

The measure is anticipated to have a fiscal impact on OBDD. The measure establishes a new research and development tax credit for semiconductor businesses to be administered by OBDD. Prior to claiming the new research and development tax credit, taxpayers must pay a fee and apply to obtain the necessary certification from OBDD. To certify this tax credit, OBDD will need to conduct rulemaking, develop a one-time application for preliminary confirmation of eligibility, develop an annual application for certification and an application review process, and establish a means of monitoring companies after certification.

The measure extends the sunset dates and makes various changes to local incentive programs. OBDD will need to update rules, training materials, publications, and the Business Oregon website. OBDD also anticipates some limited consultant costs for preparation of the newly required training materials, as well as new dedicated trainings related to the new school fee.

The measure directs OBDD to conduct a study of the transparency of the enterprise zone program. OBDD anticipates an increase in workload from this study, as the agency will likely use a contract consultant for the report drafting. OBDD staff will administer the contract, including facilitating the request for proposals, entering the final contract, providing direction to the consultant, and processing disbursements.

The new tax credit certification, changes to existing programs, and conducting the study will create new administrative costs. OBDD anticipates needing one permanent, full-time Operations and Policy Analyst 3 position to process tax credit certifications, monitor businesses for possible revocation or suspension, and assist with other work on the changes to the incentive programs. OBDD also anticipates needing additional funding for consultant fees for the study and training materials and legal opinions and advice from the Department of Justice. This fiscal impact statement assumes that funding would be provided from a combination of Lottery Fund allocations and Other Funds generated from the certification process. The estimated fiscal impact to OBDD is

\$478,638 total funds in 2023-25 and \$259,321 total funds in 2025-27.

Although the credit is effective for tax years beginning in 2024, taxpayers intending to claim the credit are required to file a registration with OBDD by December 1, 2023. OBDD will need to manage this additional workload with existing resources and return to the Legislative Assembly in the 2024 regular session or a future Emergency Board meeting to request additional funding and position authority needed to support this program and costs to complete the study.

School Districts

The fiscal impact to school districts is indeterminant, though anticipated to be minimal. The measure would require enterprise zone agreements to provide for payments of school support fees to be paid in lieu of property taxes that would otherwise be imposed by a school district on a business firm's facility. The amount of the fee must be 25 percent of the property taxes due on the facility for each property tax year after the fifth year of exemption.

School districts would be required to notify participating business firms that the payment is owed and would be required to refund any overpayments. Although it is unclear how many school districts would be affected by these enterprise zone agreement requirements, this increase in workload is anticipated to have only a minimal fiscal impact on school districts.

It should also be noted that these school support fees in lieu of property taxes have the potential to increase local revenues offset against a school district's equalization formula revenue.

Other Government Units

The measure is anticipated to have either no fiscal impact or a minimal fiscal impact on cities, counties, special districts, Department of Revenue, Judicial Department, and Legislative Revenue Office.