A-Engrossed
House Bill 2199

Ordered by the House May 16
Including House Amendments dated May 16

Sponsored by Representative SMITH DB (Presession filed.)

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.

Extends sunset date of enterprise zone program.

Provides that agreement between zone sponsor and business firm seeking exemption may not become effective before 30 days following publication of terms of agreement on zone sponsor's website. Requires Oregon Business Development Department to provide technical assistance related to such agreements to zone sponsor upon request.

Directs Oregon Business Development Department, in consultation with Legislative Revenue Officer, to study transparency of enterprise zone programs and submit report of study findings to Legislative Assembly.

Requires zone sponsor to notify adjacent local governments of intention to enter into agreement with business firm that may increase use of infrastructure within those governments' boundaries.

Provides limitation on number of years for which property in enterprise zone may be exempt from property taxes imposed by school districts.

Subjects long term rural enterprise zone exemption statute to requirement that state agency report certain tax expenditure information to State Chief Information Officer for posting on Oregon transparency website.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to enterprise zones; creating new provisions; amending ORS 276A.256, 285C.160, 285C.255, 285C.406, 285C.409 and 285C.412; and prescribing an effective date.

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

SUNSET EXTENSIONS

SECTION 1. ORS 285C.255 is amended to read:

285C.255. (1) Notwithstanding any other provision of ORS 285C.050 to 285C.250:

(a) An area may not be designated as an enterprise zone after June 30, [*2025*] **2030**;

(b) A business firm may not obtain authorization under ORS 285C.140 after June 30, [*2025*] **2030**; and

(c) An enterprise zone, except for a reservation enterprise zone or a reservation partnership zone, that is in existence on June 29, [*2025*] **2030**, is terminated on June 30, [*2025*] **2030**.

(2) Notwithstanding subsection (1) of this section:

(a) A reservation enterprise zone may be designated, and a reservation partnership zone may be cosponsored, under ORS 285C.306 after June 30, [*2025*] **2030**; and

(b) A business firm may obtain authorization under ORS 285C.140 after June 30, [*2025*] **2030**:

(A) If located in a reservation enterprise zone or a reservation partnership zone; or

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.

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(B) As allowed under ORS 285C.245 (1)(b).

SECTION 2. ORS 285C.406 is amended to read:

285C.406. In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or a corporate excise or income tax credit under ORS 317.124:

(1) The written agreement between the business firm and the rural enterprise zone sponsor that is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise zone under ORS 285C.245; and

(2)(a) For the purpose of the property tax exemption, the business firm must obtain certification under ORS 285C.403 on or before June 30, [*2025*] **2030**; or

(b) For the purpose of the corporate excise or income tax credit, the business firm must obtain certification under ORS 285C.403 on or before June 30, 2018.

TRANSPARENCY

SECTION 3. Section 4 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 4. (1) An agreement between a zone sponsor and a business firm seeking exemption within the enterprise zone of the sponsor, including, but not limited to, an agreement entered into under ORS 285C.160, may not become effective before the day that is 30 days following the date on which the zone sponsor makes the terms of the agreement public by posting them on the zone sponsor's website.

(2) Upon request, the Oregon Business Development Department shall provide technical assistance to a zone sponsor intending to enter into an agreement with a business firm.

SECTION 5. Section 6 of this 2023 Act is added to and made a part of ORS 285C.400 to 285C.420.

SECTION 6. (1) An agreement between a zone sponsor and a business firm seeking exemption within the rural enterprise zone of the sponsor, including, but not limited to, a written agreement entered into under ORS 285C.403, may not become effective before the day that is 30 days following the date on which the zone sponsor makes the terms of the agreement public by posting them on the zone sponsor's website.

(2) Upon request, the Oregon Business Development Department shall provide technical assistance to a zone sponsor intending to enter into an agreement with a business firm.

SECTION 7. Section 8 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 8. (1) The Oregon Business Development Department, in consultation with the Legislative Revenue Officer, shall conduct a study of the transparency of enterprise zone programs.

(2) With respect to agreements related to enterprise zone programs entered into between zone sponsors and business firms, the study shall compare:

(a) The transparency required under statute and the transparency of the processes by which such agreements have actually been entered into.

(b) The differences in actual transparency among the various enterprise zones.

(c) The differences in actual transparency between enterprise zones under ORS 285C.050 to 285C.250 and rural enterprise zones under ORS 285C.400 to 285C.420.

(3) With respect to the outcomes under the enterprise zone programs, the department

shall study the information that should be included in the reports published pursuant to ORS 276A.256 to enable evaluation of the outcomes.

(4) Not later than September 15, 2024, the department shall submit a report of the findings of the study, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to revenue, and may include recommendations for legislation in the report.

SECTION 9. Section 8 of this 2023 Act is repealed on January 2, 2025.

INFRASTRUCTURE IMPACT

SECTION 10. Section 11 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 11. The sponsor of an enterprise zone intending to enter into an agreement with a business firm for purposes of ORS 285C.050 to 285C.250 that may increase the use of infrastructure located outside the zone sponsor's boundaries shall provide timely notice of the intent to all adjacent local governments within whose boundaries infrastructure may be so affected.

SECTION 12. Section 13 of this 2023 Act is added to and made a part of ORS 285C.400 to 285C.420.

SECTION 13. The sponsor of a rural enterprise zone intending to enter into an agreement with a business firm for purposes of ORS 285C.400 to 285C.420 that may increase the use of infrastructure located outside the zone sponsor's boundaries shall provide timely notice of the intent to all adjacent local governments within whose boundaries infrastructure may be so affected.

EXCLUSION OF SCHOOL DISTRICT TAXES

SECTION 14. ORS 285C.160 is amended to read:

285C.160. (1) An eligible business firm seeking authorization under ORS 285C.140 and the sponsor of the enterprise zone in which the firm intends to invest may enter into a written agreement to extend the period during which the qualified property is exempt from taxation under ORS 285C.175 if the firm complies with the terms of the agreement.

(2)**(a)** The period for which the qualified property is to continue to be exempt must be set forth in the agreement and may not exceed two additional tax years.

(b) Notwithstanding ORS 285C.175, during the period of an extension agreed to pursuant to this section, the property of a business firm shall not be exempt from ad valorem property taxes imposed by a school district as defined in ORS 332.002 (2).

(3) In order for an agreement under this section to extend the period of exemption, the agreement must be executed on or before the date on which the firm is authorized, and:

(a) If the enterprise zone is a rural enterprise zone or an urban enterprise zone located inside a metropolitan statistical area of fewer than 400,000 residents, the agreement must require that the firm:

(A)(i) Annually compensate all new employees hired by the firm at an average rate of at least 150 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization; or

(ii) If the enterprise zone is located in a qualified rural county, annually compensate all new employees hired by the firm at an average rate of at least 130 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization; and

(B) Meet any additional requirement that the sponsor may reasonably request.

(b) Notwithstanding paragraph (a)(A) of this subsection, the average wage received by the newly hired employees must equal or exceed 100 percent of the average wage in the county.

(c) If the enterprise zone is an urban enterprise zone located inside a metropolitan statistical area of 400,000 residents or more, the agreement must require that the firm meet any additional requirement the sponsor may reasonably require.

(4) If a firm enters into an agreement under this section that includes a compensation requirement under subsection (3)(a)(A) of this section and the firm subsequently submits one or more statements of continued intent under ORS 285C.165, notwithstanding the terms of the agreement made under this section, for each statement of continued intent submitted, the county average annual wage under subsection (3)(a)(A) of this section shall be adjusted to a level that is current with the statement.

SECTION 15. ORS 285C.409 is amended to read:

285C.409. (1)**(a)** A facility of a certified business firm is exempt from ad valorem property taxation:

[*(a)*] **(A)** For the first tax year following the calendar year in which the business firm is certified under ORS 285C.403 or after which construction or reconstruction of the facility commences, whichever event occurs later;

[*(b)*] **(B)** For each subsequent tax year in which the facility is not yet in service as of the assessment date; and

[*(c)*] **(C)** For a period of at least seven consecutive tax years but not more than 15 consecutive tax years, as provided in the written agreement between the business firm and the rural enterprise zone sponsor under ORS 285C.403 (3)(c), if the facility satisfies the requirements of ORS 285C.412. The period described in this paragraph shall commence as of the first tax year in which the facility is in service as of the assessment date.

(b) Notwithstanding paragraph (a) of this subsection, beginning with the sixth year of exemption, the facility of a business firm shall not be exempt from ad valorem property taxes imposed by a school district as defined in ORS 332.002 (2).

(2) An exemption under this section may not be allowed for real or personal property that has received a property tax exemption under ORS 285C.170 or 285C.175.

(3) For each tax year that the facility is exempt from taxation under this section, the county assessor shall:

(a) Enter on the assessment and tax roll, as a notation, the real market value and assessed value of the facility.

(b) Enter on the assessment and tax roll, as a notation, the amount of tax that would be due if the facility were not exempt.

(c) Indicate on the assessment and tax roll that the property is exempt and is subject to potential additional taxes as provided in ORS 285C.420 by adding the notation "enterprise zone exemption (potential additional tax)."

(4) The amount determined under subsection (3)(b) of this section and the name of the business firm shall be reported to the Department of Revenue on or before December 31 of each tax year so

that the department may compute the distributions described in ORS 317.131.

(5) The following property may not be exempt from property taxation under this section:

(a) Land.

(b) Any property that existed at the facility on an assessment date before the assessment date for the first tax year for which property of the firm is exempt under this section.

SECTION 16. ORS 285C.412 is amended to read:

285C.412. In order for a facility of a business firm to continue to be exempt from ad valorem property taxation under ORS 285C.409 for a tax year following the first assessment date on which the facility is in service, all of the conditions of any one of the alternative subsections in this section must be met:

(1) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds the lesser of $25 million or one percent of the real market value of all nonexempt taxable property in the county in which the facility is located, as determined for the assessment year in which the business firm is certified (and rounded to the nearest $10 million of such value);

(b) The business firm hires or will hire at least 75 full-time employees at the facility by the end of the fifth calendar year following the year in which the facility is placed in service; and

(c) The annual average compensation for employees, based on payroll, at the business firm's facility must be at least 150 percent of the average wage in the county in which the facility is located, or, if the facility is located in a qualified rural county, determined as of the date on which the written agreement between the zone sponsor and the business firm was executed, the annual average compensation must be at least 130 percent of the average wage in the county in which the facility is located. This requirement may be initially met in any year during the first five years after the year in which the facility is placed in service, and thereafter is met if:

(A) The annual average compensation at the facility for the year equals or exceeds 150 percent of the average wage in the county for the year in which the requirement is initially met or, for a facility located in a qualified rural county, determined as of the date on which the written agreement between the zone sponsor and the business firm was executed, the annual average compensation at the facility for the year equals or exceeds 130 percent of the average wage in the county for the year in which the requirement is initially met; and

(B) The average wage at the facility equals or exceeds 100 percent of the average wage in the county.

(2) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) The facility meets the total cost requirements set forth in subsection (1)(a) of this section;

(b) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section; and

(c)(A) The business firm hires or will hire at least 10 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is certified, the location of the facility is in a county with a population of 10,000 or fewer; or

(B) The business firm hires or will hire at least 35 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is certified, the location of the facility is in a county with a population of 40,000 or fewer.

(3) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds the lesser of $12.5 million or one-half of one percent of the real market value of all nonexempt taxable property in the county in which the facility is located, as determined for the assessment year in which the business firm is certified (and rounded to the nearest $10 million of such value);

(b) At the time that the business firm is certified, the location of the facility is 10 or more miles from Interstate Highway 5, as measured between the two closest points between the facility site and anywhere along that interstate highway;

(c) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section; and

(d)(A) The business firm hires or will hire at least 50 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service; or

(B) The business firm satisfies the requirements of subsection (2)(c)(A) or (B) of this section.

(4) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) Within three years either before or after the property tax year in which the facility is placed in service, the business firm places one or more other facilities in the same or another enterprise zone for which the business firm is certified and otherwise meets the requirements of ORS 285C.400 to 285C.420;

(b) The total cost of all facilities of the business firm exceeds $25 million by the end of the calendar year in which the last such facility is placed in service;

(c) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section independently for each facility of the firm; and

(d) The business firm hires or will hire a total of at least 100 full-time employees at all of the firm's facilities by the end of the fifth calendar year following the year in which the first such facility is placed in service.

(5) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds $200 million;

(b) At the time that the business firm is certified, the location of the facility meets the siting requirements of subsection (3)(b) of this section;

(c) The business firm hires or will hire at least 10 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service; and

(d) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section.

SECTION 17. ORS 276A.256 is amended to read:

276A.256. (1) For each statute that authorizes a tax expenditure with a purpose connected to economic development and that is listed in subsection (2) of this section, the state agency charged with certifying or otherwise administering the tax expenditure shall submit a report to the State Chief Information Officer. If a statute does not exist to authorize a state agency to certify or otherwise administer the tax expenditure, or if a statute does not provide for certification or administration of the tax expenditure, the Department of Revenue shall submit the report.

(2) This section applies to:

(a) ORS 285C.175, 285C.362, **285C.409,** 307.123, 307.455, 315.141, 315.331, 315.336, 315.341, 315.506, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124, 317.391 and 317.394 and sections 1 to 5, chapter 112, Oregon Laws 2016.

(b) Grants awarded under ORS 469B.256 in any tax year in which certified renewable energy contributions are received as provided in ORS 315.326.

(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

(d) ORS 316.116, if the allowed credit exceeds $2,000.

(3) The following information, if the information is already available in an existing database the state agency maintains, must be included in the report required under this section:

(a) The name of each taxpayer or applicant approved for the allowance of a tax expenditure or a grant award under ORS 469B.256.

(b) The address of each taxpayer or applicant.

(c) The total amount of credit against tax liability, reduction in taxable income or exemption from property taxation granted to each taxpayer or applicant.

(d) Specific outcomes or results required by the tax expenditure program and information about whether the taxpayer or applicant meets those requirements. This information must be based on data the state agency has already collected and analyzed in the course of administering the tax expenditure. Statistics must be accompanied by a description of the methodology employed in the statistics.

(e) An explanation of the state agency's certification decision for each taxpayer or applicant, if applicable.

(f) Any additional information that the taxpayer or applicant submits and that the state agency relies on in certifying the determination.

(g) Any other information that state agency personnel deem valuable as providing context for the information described in this subsection.

(4) The information reported under subsection (3) of this section may not include proprietary information or information that is exempt from disclosure under ORS 192.311 to 192.478 or 314.835.

(5) No later than September 30 of each year, a state agency described in subsection (1) of this section shall submit to the State Chief Information Officer the information required under subsection (3) of this section as applicable to applications for allowance of tax expenditures the state agency approved during the agency fiscal year ending during the current calendar year. The information must then be posted on the Oregon transparency website described in ORS 276A.253 no later than December 31 of the same year.

(6)(a) In addition to the information described in subsection (3) of this section, the State Chief Information Officer shall post on the Oregon transparency website:

(A) Copies of all reports that the State Chief Information Officer, the Department of Revenue or the Oregon Business Development Department receives from counties and other local governments relating to properties in enterprise zones that have received tax exemptions under ORS 285C.170, 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS 315.506, 315.507 or 317.124 by reason of being in an enterprise zone; and

(B) Copies of any annual reports that agencies described in subsection (1) of this section are required by law to produce regarding the administration of statutes listed in subsection (2) of this section.

(b) The reports must be submitted to the State Chief Information Officer in a manner and format that the State Chief Information Officer prescribes.

(7) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the State Chief Information Officer.

(8) The information described in this section must be provided to the Oregon transparency website by posting reports and providing links to existing information systems applications in accordance with standards established by the State Chief Information Officer.

CAPTIONS

SECTION 18. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

APPLICABILITY CLAUSES

SECTION 19. Sections 4, 6, 11 and 13 of this 2023 Act apply to agreements entered into on or after the effective date of this 2023 Act.

SECTION 20. The amendments to ORS 285C.160 and 285C.409 by sections 14 and 15 of this 2023 Act apply to exemptions first granted on or after the effective date of this 2023 Act for property tax years beginning on or after July 1, 2024.

EFFECTIVE DATE

SECTION 21. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.