

A-Engrossed
House Bill 2258

Ordered by the House April 12
Including House Amendments dated April 12

Sponsored by Representatives LIVELY, NERON, RESCHKE; Representative BYNUM (Pre-session 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.

Authorizes Oregon Business Development Department to provide financial assistance to projects related to industrial land.

Extends sunset of Oregon Industrial Site Readiness Program.

Establishes Industrial Site Loan Fund in State Treasury. Appropriates moneys for deposit in [*Oregon Industrial Site Readiness Program*] fund for purpose of funding financial assistance to industrial land projects.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to industrial site readiness; creating new provisions; amending ORS 285B.627; and declaring
3 an emergency.

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

5 **SECTION 1. Sections 2 to 12 of this 2023 Act are added to and made a part of ORS**
6 **chapter 285B.**

7 **SECTION 2. Findings. (1) Traded sector industries are the foundation of state and re-**
8 **gional economic development strategies for long-term job creation and prosperity. Because**
9 **traded sector jobs typically pay higher than average wages and generate higher than average**
10 **income tax revenues, such jobs play an important role in supporting critical state services.**

11 **(2) Industrial development that provides new traded sector jobs reinforces the economies**
12 **of local and regional communities and contributes to the economic recovery of the State of**
13 **Oregon.**

14 **(3) There is a shortage of market-ready industrial land in this state. Public and private**
15 **project sponsors have limited financial tools to facilitate development of significant and**
16 **complex industrial land that is appropriate for traded sector industrial use.**

17 **(4) Public assistance is necessary to overcome development-related constraints and to**
18 **incentivize industrial land development in this state.**

19 **(5) The purpose of sections 2 to 12 of this 2023 Act is to provide financial assistance to**
20 **project sponsors for development and planning projects related to industrial land develop-**
21 **ment, in an amount determined on a case-by-case basis by the Oregon Business Development**
22 **Department.**

23 **SECTION 3. Definitions. As used in sections 2 to 12 of this 2023 Act:**

24 **(1) "Administrative costs" includes, but is not limited to, the direct and indirect costs**
25 **incurred by the Oregon Business Development Department for:**

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 (a) Investigating and processing applications submitted under section 8 of this 2023 Act;
2 (b) Negotiating agreements for the purposes of sections 2 to 12 of this 2023 Act;
3 (c) Monitoring the use of moneys provided to project sponsors under sections 2 to 12 of
4 this 2023 Act;
5 (d) Closing a project; and
6 (e) Providing financial assistance to a project sponsor.
- 7 (2) “Brownfield” has the meaning given that term in ORS 285A.185.
- 8 (3)(a) “Development project” means a project for the acquisition, improvement, con-
9 struction, demolition or redevelopment of publicly or privately owned utilities, buildings,
10 land, transportation facilities or other facilities that assist the economic and community
11 development of a municipality.
- 12 (b) “Development project” includes planning project activities that are necessary or use-
13 ful to a development project as determined by the department.
- 14 (4) “Eligible project” means a development project or a planning project.
- 15 (5) “Environmental action” has the meaning given that term in ORS 285A.188.
- 16 (6) “Industrial land” means land planned and zoned for industrial use that:
- 17 (a) Is suitable for new industrial uses, or the expansion of existing industrial uses, that
18 can provide significant additional employment in Oregon;
- 19 (b) Has land characteristics that provide significant competitive advantages that are dif-
20 ficult or impossible to replicate; and
- 21 (c) Has access to transportation and freight infrastructure, including, but not limited to,
22 rail, port, airport, multimodal freight or transshipment facilities and other major transpor-
23 tation facilities or routes.
- 24 (7)(a) “Industrial use” means a use that generates income from the production, handling
25 or distribution of goods or services, including goods or services in the traded sector.
- 26 (b) “Industrial use” includes, but is not limited to, manufacturing, assembly, fabrication,
27 processing, storage, logistics, warehousing, importation, distribution, transshipment and re-
28 search and development.
- 29 (8) “Planning project” means:
- 30 (a) A project related to a potential development project for preliminary and final land use
31 planning and engineering;
- 32 (b) A survey, land investigation or environmental action;
- 33 (c) A financial, technical or other feasibility report, study or plan; or
- 34 (d) Any activity that the department determines to be necessary or useful in planning for
35 a potential development project.
- 36 (9) “Private owner” means a private business entity or property owner that has entered
37 into an agreement with a local jurisdiction for the development of public infrastructure to
38 serve a private site.
- 39 (10) “Project sponsor” means:
- 40 (a) A public entity or private owner of industrial land that is investing in the preparation
41 of the land for industrial use by a third party; or
- 42 (b) A public entity that has entered into a development or other agreement with the
43 private owner of industrial land to prepare the land for industrial use.
- 44 (11) “Public entity” means:
- 45 (a) A city or county in Oregon;

- 1 (b) A port formed under ORS 777.005 to 777.725;
- 2 (c) The Port of Portland created by ORS 778.010;
- 3 (d) The tribal council of a federally recognized Indian tribe in this state; or
- 4 (e) An airport district established under ORS chapter 838.

5 **SECTION 4. Financial assistance for development projects.** (1)(a) The Oregon Business
6 Development Department may provide financial assistance to a project sponsor, for allowable
7 costs expended for an industrial land development project, from moneys in the Industrial Site
8 Loan Fund established under section 12 of this 2023 Act, in accordance with this section.

9 (b) The financial assistance may be in the form of a loan to the project sponsor or the
10 purchase of bonds issued by the project sponsor.

11 (c) The department shall determine the amount of the financial assistance on a case-by-
12 case basis.

13 (2) Financial assistance may be provided only with respect to a development project that
14 is:

15 (a) Directly owned and operated by the project sponsor; or

16 (b) The subject of a management contract or an operating agreement to which the
17 project sponsor is a party.

18 (3)(a) If a development project consists solely of the purchase or acquisition of land, fi-
19 nancial assistance may be provided only if the land is:

20 (A) Identified in the applicable land use or capital plan as necessary for a potential in-
21 dustrial land development project; or

22 (B) Zoned solely for industrial use.

23 (b) Notwithstanding paragraph (a) of this subsection, financial assistance may not be
24 denied under this subsection solely because the costs of the development project include the
25 costs of acquiring off-site property for purposes that are directly related to the development
26 project, including, but not limited to, wetland mitigation.

27 (4) Financial assistance provided to a project sponsor under this section may not be used
28 for:

29 (a) The payment of:

30 (A) A penalty or fine; or

31 (B) Environmental remediation activities conducted at an industrial land site that is
32 listed or proposed to be listed as a national priority pursuant to the Comprehensive Envi-
33 ronmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), for which the
34 project sponsor, or any party to the loan agreement entered into pursuant to section 9 of
35 this 2023 Act to which the project sponsor is a party, is liable under 42 U.S.C. 9607;

36 (b) Retirement of debt;

37 (c) Projects that primarily focus on relocating business or economic activity from one
38 part of the state to another, except in cases where the business or economic activity would
39 otherwise be located outside Oregon; or

40 (d) Ongoing operations or maintenance expenses of any person.

41 (5) The department shall adopt rules to administer and implement the provisions of this
42 section.

43 **SECTION 5. Forgivable loans for planning projects.** (1)(a) The Oregon Business Develop-
44 ment Department may make a forgivable loan to a project sponsor, for allowable costs re-
45 lated to a planning project, from moneys in the Industrial Site Loan Fund established under

1 section 12 of this 2023 Act, in accordance with this section.

2 (b) The department shall determine the amount of a forgivable loan on a case-by-case
3 basis.

4 (2) The department may not expend in any biennium more than one percent of the value
5 of the Industrial Site Loan Fund for planning projects.

6 (3) A planning project eligible for a forgivable loan under this section may:

7 (a) Be a stand-alone project that is not intended to lead to a development project.

8 (b) Be a project that is intended to lead to a development project.

9 (c) Include planning or investigation for an environmental action on a brownfield.

10 **SECTION 6. Other forms of financial assistance.** The Oregon Business Development De-
11 partment may directly or indirectly expend or loan moneys in the Industrial Site Loan Fund
12 established under section 12 of this 2023 Act or extend credit to:

13 (1) Provide to project sponsors of an industrial land eligible project any form of financial
14 assistance that the department considers appropriate, including the refinancing of temporary
15 project financing.

16 (2) Purchase goods or services related to an eligible project on behalf of the project
17 sponsor.

18 (3)(a) Finance guaranty agreements that are issued to guarantee any portion of the ob-
19 ligation of a project sponsor to finance an industrial land development project and that are
20 not sold to the State of Oregon.

21 (b) Guaranty agreements under this subsection shall be payable solely from moneys in
22 the fund and shall not constitute a debt or obligation of the State of Oregon.

23 (c) The department may, on behalf of the state, establish a special account in the fund
24 and commit to deposit into the special account specified portions of current and future
25 moneys credited to the fund.

26 (d) The commitments shall be made by rule of the department and shall constitute
27 covenants of the state for the benefit of the owners of obligations guaranteed by the state
28 pursuant to this section.

29 **SECTION 7. Allowable costs.** For purposes of sections 2 to 12 of this 2023 Act:

30 (1) The allowable costs of a development project include:

31 (a) Property acquisition and assembly costs associated with creating large development
32 parcels, including any easement or right of way directly related to and necessary for a de-
33 velopment project.

34 (b) Transportation improvements such as access roads, rail spurs and sidings, marine
35 facility access, airport facilities necessary to provide industrial land access, intersections,
36 turning lanes, signals, sidewalks, curbs, transit stops and storm drains.

37 (c) Infrastructure for providing broadband, electric power, natural gas, water and sewer
38 service.

39 (d) Natural resource mitigation.

40 (e) Land grading activities.

41 (f) Environmental remediation and mitigation activities to address brownfield issues, in
42 accordance with state and federally approved remediation plans.

43 (g) Interest-carrying costs incurred by a project sponsor for amounts borrowed to de-
44 velop industrial land and financing costs, including capitalized interest.

45 (h) Direct project management costs.

1 (i) Costs of consultant services and expenses.

2 (j) Construction costs and expenses.

3 (k) Costs of acquiring off-site property for purposes directly related to a development
4 project, including, but not limited to, wetland mitigation.

5 (L) Other costs that the Oregon Business Development Department determines to be
6 necessary or useful for the project.

7 (2) The allowable costs of a planning project include:

8 (a) Necessary planning, engineering, legal and other professional services associated with:

9 (A) The preparation of applications for local, state and federal permits and related ad-
10 ministrative costs.

11 (B) Carrying out the project and related administrative costs.

12 (b) Other costs that the department determines to be necessary or useful for the project.

13 **SECTION 8. Application process for financial assistance.** (1)(a) A project sponsor seeking
14 financial assistance from the Industrial Site Loan Fund must submit an application in the
15 manner and form required by the Oregon Business Development Department.

16 (b) At a minimum, each application must include:

17 (A) The name and nature of the project sponsor;

18 (B) A description of the nature of the project;

19 (C) The provisions of sections 2 to 12 of this 2023 Act under which the project is eligible
20 for financial assistance;

21 (D) The proposed activities to be funded;

22 (E) A description and estimate of the allowable costs to be incurred for the project; and

23 (F) All other information and documentation that the department requires.

24 (2)(a) The department shall review all timely and complete applications and approve or
25 reject each application in accordance with rules adopted by the department.

26 (b) The department shall notify each applicant of its decision. The rejection of an appli-
27 cation may not be appealed.

28 **SECTION 9. Agreement for financial assistance.** (1) Upon approval of an application
29 submitted under section 8 of this 2023 Act, the Oregon Business Development Department,
30 notwithstanding any other provision of law or any restriction on indebtedness contained in
31 a charter, and the project sponsor of the eligible project to which the application relates may
32 enter into an agreement for financial assistance based on the application. The department
33 shall determine the maximum amount of financial assistance based on a reasonable and
34 prudent expectation of the ability of the project sponsor to repay the financial assistance.

35 (2) An agreement entered into pursuant to this section must include:

36 (a) A provision that the obligation of the state under the agreement is contingent on the
37 availability of moneys in the Industrial Site Loan Fund for the financial assistance agreed
38 upon.

39 (b) A provision that grants the department a lien on, or a security interest in, collateral
40 to secure repayment of a loan made to, or bonds issued by, the project sponsor, in a form
41 and amount determined by the department and specified in the agreement.

42 (c) Provisions that the department considers necessary to ensure expenditure of the
43 funds for the purposes set forth in the approved application.

44 (d) Any other provision the department considers necessary or appropriate.

45 (3) For an eligible project owned by a public entity, a loan agreement entered into pur-

1 suant to this section must be authorized by an ordinance, resolution or order adopted by the
2 governing body of the project sponsor.

3 (4) In making a determination to enter into a loan agreement with the project sponsor
4 for an industrial land development project, the department shall consider the reasonableness
5 of the project sponsor's estimated costs to prepare the land for industrial use, including, but
6 not limited to, allowable costs for land preparation.

7 (5) Financial assistance approved by the department for an eligible project shall be paid,
8 in accordance with the terms of the agreement entered into pursuant to this section, from
9 the Industrial Site Loan Fund established under section 12 of this 2023 Act.

10 (6) In assisting project sponsors with eligible projects, and to meet the goals of sections
11 2 to 12 of this 2023 Act, the department and other state agencies shall cooperate to the
12 maximum extent possible with each other and federal agencies.

13 **SECTION 10. Repayment.** (1) A project sponsor may repay financial assistance provided
14 for an eligible project under sections 2 to 12 of this 2023 Act from any source, including, but
15 not limited to:

16 (a) Revenues generated by the eligible project, including special assessment revenues.

17 (b) Amounts withheld under section 11 of this 2023 Act.

18 (c) The general fund of the project sponsor.

19 (2) A plan for repayment to the Industrial Site Loan Fund of financial assistance provided
20 for an industrial land development project:

21 (a) Shall provide for repayment by the project sponsor of the financial assistance with
22 interest to begin no later than seven years after the date of project completion or at such
23 other time as the Oregon Business Development Department may provide.

24 (b) Shall provide for such evidence of debt assurance of, and security for, repayment by
25 the project sponsor as is considered necessary by the department.

26 (c) Shall set forth a schedule of payments and the period of the loan, not to exceed the
27 useful life of the contracted project or 30 years from the date of the project completion,
28 whichever is less, and the manner of determining when loan payments are delinquent.

29 (d) May provide for a reasonable extension of the time for making any repayment as set
30 forth under paragraph (c) of this subsection in emergency or hardship circumstances, if ap-
31 proved by the department.

32 (e) Shall include repayment of interest that accrues during any period of delay in repay-
33 ment authorized under paragraph (a) of this subsection. The repayment of accrued interest
34 may be in varying amounts.

35 (f) Shall allow for other forms of payment than principal and interest payments on loans,
36 in accordance with rules adopted by the department.

37 **SECTION 11. Breach; default.** (1) If a project sponsor fails to comply with an agreement
38 entered into under section 9 of this 2023 Act, the Oregon Business Development Department
39 may seek appropriate legal remedies to secure any repayment of obligations due from the
40 project sponsor to the Industrial Site Loan Fund.

41 (2)(a) If a project sponsor defaults on payments of obligations to the fund under sections
42 2 to 12 of this 2023 Act, the State of Oregon may withhold any amounts otherwise due to the
43 project sponsor to offset against the obligations. The department may waive this right to
44 withhold.

45 (b) Moneys withheld under paragraph (a) of this subsection shall be deposited in the fund

1 and shall be used to repay any account in the fund from which moneys were expended to pay
2 obligations upon which the project sponsor defaulted.

3 **SECTION 12. Industrial Site Loan Fund.** (1)(a) The Industrial Site Loan Fund is estab-
4 lished in the State Treasury, separate and distinct from the General Fund. Interest earned
5 by the Industrial Site Loan Fund shall be credited to the fund.

6 (b) Moneys in the fund are continuously appropriated to the Oregon Business Develop-
7 ment Department for the purposes set forth in sections 2 to 12 of this 2023 Act. In addition,
8 the department may finance administrative costs incurred by the department under sections
9 2 to 12 of this 2023 Act.

10 (c) The department may establish other accounts within the fund for the payment of
11 project costs, reserves, debt service payments, credit enhancement, administrative costs and
12 operation expenses or any other purpose necessary to carry out sections 2 to 12 of this 2023
13 Act.

14 (2) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857, and the
15 earnings from the investments shall be credited to the account in the fund designated by the
16 department.

17 (3) The fund shall consist of moneys credited to the fund, including:

18 (a) Moneys appropriated to the fund by the Legislative Assembly;

19 (b) Moneys transferred to the fund by the department;

20 (c) Earnings on moneys in the fund;

21 (d) Repayment of financial assistance, including interest, under sections 10 and 11 of this
22 2023 Act;

23 (e) Moneys received from the federal, state or local governments; and

24 (f) Moneys from any other source, including, but not limited to, grants and gifts.

25 (4)(a) The department may commit moneys in the fund, or reserve future income of the
26 fund, for expenditure in future years in accordance with this section.

27 (b) The department may commit moneys or reserve future income under this subsection
28 only after:

29 (A) Allowing for contingencies; and

30 (B) Determining that there will be sufficient unobligated net moneys in the fund to make
31 the future payments, consistent with the requirements of this section.

32 **SECTION 13.** ORS 285B.627 is amended to read:

33 285B.627. (1) In consultation with the Department of Revenue, the Oregon Business Development
34 Department shall establish and administer the Oregon Industrial Site Readiness Program. The pur-
35 pose of the program is to:

36 (a) Enter into tax reimbursement arrangements with qualified project sponsors pursuant to
37 subsection (5) of this section; or

38 (b) Provide loans, including forgivable loans, to qualified project sponsors pursuant to subsection
39 (5) of this section.

40 (2)(a) Subject to standards and procedures that the Oregon Business Development Department
41 shall establish by rule, the department shall designate regionally significant industrial sites for
42 inclusion in the program.

43 (b) A regionally significant industrial site designated under this section must be an industrial
44 site that is planned and zoned for industrial use.

45 (3) A project sponsor may apply to participate in the program by submitting an application and

1 development plan in writing in a form prescribed by the department by rule.

2 (4) The department shall establish by rule criteria and standards for the qualification of project
3 sponsors to participate in the program.

4 (5) Upon qualification of a project sponsor under this section, and before July 1, [2023] 2033, the
5 department may:

6 (a) Enter into a tax reimbursement arrangement with the project sponsor pursuant to which the
7 project sponsor shall receive an amount equal to 50 percent of the estimated incremental income tax
8 revenues generated by an eligible employer per tax year, beginning with the first tax year following
9 the tax year in which a project sponsor is qualified under this section, until the total investment
10 of the qualified project sponsor in the eligible site preparation costs, including interest, established
11 under subsection (7) of this section has been recovered, at which time the tax reimbursement ar-
12 rangement shall end; or

13 (b) Enter into a loan agreement with the project sponsor under terms and conditions specified
14 and required by the department. In making a determination to enter into a loan agreement with the
15 project sponsor, the department shall consider the reasonableness of the project sponsor's estimated
16 costs to prepare the site for industrial use, including but not limited to eligible site preparation
17 costs established by the department pursuant to subsection (7) of this section. The agreement may
18 specify that a portion of the loan may be forgiven if the project sponsor enters into a contract with
19 an eligible employer to conduct a business in the traded sector industry on a regionally significant
20 industrial site within seven years after the project sponsor was qualified under this section.

21 (6)(a) The total amount of the loan that may be forgiven under subsection (5) of this section is
22 the lesser of:

23 (A) Fifty percent of the total cost of eligible site preparation costs; or

24 (B) Fifty percent of the amount of the estimated incremental income tax revenues for the eligible
25 employer for the term of the loan.

26 (b) Loan forgiveness may not be allowed under subsection (5) of this section if any portion of
27 the loan that would not be forgiven would be repaid by the project sponsor with state funds received
28 from any source.

29 (7) The department shall establish, by rule, eligible site preparation costs including, but not
30 limited to, some or all of the following:

31 (a) Acquisition and assembly costs associated with creating large development parcels.

32 (b) Transportation improvements such as access roads, intersections, turning lanes, signals,
33 sidewalks, curbs, transit stops and storm drains.

34 (c) Water and sewer infrastructure.

35 (d) Natural resource mitigation.

36 (e) Site grading activities.

37 (f) Environmental remediation and mitigation activities to address brownfields issues in accord-
38 ance with state and federally approved remediation plans.

39 (g) Planning, engineering and administrative costs associated with applying for necessary local,
40 state and federal permits.

41 (h) Interest-carrying costs incurred by a project sponsor for amounts borrowed to develop a re-
42 gionally significant industrial site, not to exceed 20 percent of the total amount forgiven, if any,
43 under subsection (5) of this section.

44 (8) The total amount of tax reimbursement arrangements [*and loan amounts*] authorized under
45 this section may not exceed \$10 million per year.

1 (9) Funds received pursuant to a tax reimbursement arrangement or a loan agreement under
2 subsection (5) of this section may not be used for the payment of:

3 (a) A penalty or fine; or

4 (b) Environmental remediation activities conducted at a regionally significant industrial site that
5 is listed or proposed to be listed as a national priority pursuant to the Comprehensive Environ-
6 mental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) for which the project
7 sponsor, eligible employer or any party to the tax reimbursement arrangement or loan agreement
8 is liable under 42 U.S.C. 9607 at that regionally significant industrial site.

9 (10) The department shall adopt rules to administer and implement the provisions of this section.

10 **SECTION 14. There is appropriated to the Oregon Business Development Department, for**
11 **the biennium beginning July 1, 2023, out of the General Fund, the amount of \$40,000,000 for**
12 **deposit in the Industrial Site Loan Fund established under section 12 of this 2023 Act. The**
13 **moneys may be used for any purpose for which moneys in the fund may be used.**

14 **SECTION 15. The section captions used in this 2023 Act are provided only for the con-**
15 **venience of the reader and do not become part of the statutory law of this state or express**
16 **any legislative intent in the enactment of this 2023 Act.**

17 **SECTION 16. This 2023 Act being necessary for the immediate preservation of the public**
18 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
19 **on its passage.**

20