

SENATE AMENDMENTS TO SENATE BILL 1084

By COMMITTEE ON FINANCE AND REVENUE

May 24

1 On page 1 of the printed bill, line 2, delete “285C.255,” and insert “285C.135, 285C.255,
2 285C.403.”

3 In line 3, after “285C.406,” insert “285C.600, 285C.609, 285C.635, 307.123.”

4 On page 6, line 24, delete “and loan amounts”.

5 Delete lines 35 and 36 and insert:

6 **“SECTION 17.** ORS 285C.135 is amended to read:

7 “285C.135. (1) To be an eligible business firm, a business firm must be engaged, or proposing to
8 engage, within the enterprise zone, in the business of providing goods, products or services to busi-
9 nesses or other organizations through activities including, but not limited to, manufacturing, as-
10 sembly, fabrication, processing, shipping or storage.

11 “(2) A business firm is not an eligible business firm if the firm is:

12 “(a) Engaged within the enterprise zone in the business of providing goods, products or services
13 to the general public for personal or household use.

14 “(b) Significantly engaged in a business activity within the enterprise zone that consists of retail
15 sales or services, child care, housing, retail food service, health care, tourism, entertainment, fi-
16 nancial services, professional services, leasing space to others, property management, construction
17 or other similar activities, even if for another business or organization.

18 **“ (c) Significantly engaged in operating a fulfillment center within the enterprise zone**
19 **from which deliveries are made to retail purchasers within or in the region surrounding the**
20 **enterprise zone.**

21 “(3) If a business firm described in subsection (2) of this section engages in an activity described
22 in subsection (1) of this section, the business firm is an eligible business firm if the activity is per-
23 formed at a location that is separate from the activity of the firm that is described in subsection (2)
24 of this section. Property at the location at which the firm conducts an activity described in sub-
25 section (2) of this section may not be exempt under ORS 285C.175.

26 “(4) Two or more business firms that otherwise meet the requirements of this section may elect
27 to be treated as one eligible business firm if 100 percent of the equity interest in the business firms
28 is owned by the same person or persons, or if one of the business firms owns 100 percent of the
29 equity interest of the other or others.

30 “(5) Notwithstanding subsections (1) to (3) of this section, each of the following business firms
31 is an eligible business firm under subsection (1) of this section:

32 “(a) A business firm engaged in the activity of providing a retail or financial service within the
33 enterprise zone if:

34 “(A) The activity serves customers by responding to orders or requests received only by tele-
phone, computer, the Internet or similar means of telecommunications; and

1 “(B) Not less than 90 percent of the customers or orders are located and originate in an area
2 from which long distance telephone charges, in the absence of a toll-free number, would apply if the
3 order were placed by telephone.

4 “(b) A business firm that operates a facility within the enterprise zone that serves statewide,
5 regional, national or global operations of the firm through administrative, design, financial, man-
6 agement, marketing or other activities, without regard to the relationship of these activities to any
7 otherwise eligible activities within the enterprise zone.

8 “(c) A business firm that operates a hotel, motel or destination resort in the enterprise zone if
9 the sponsor has elected under ORS 285C.070 to treat a business firm engaged in hotel, motel or
10 destination resort operations in an enterprise zone as an eligible business firm.

11 “(d) A business firm that is engaged in electronic commerce if the enterprise zone has been
12 designated for electronic commerce under ORS 285C.095.

13 “**SECTION 18.** ORS 285C.403 is amended to read:

14 “285C.403. (1)(a) [Any] A business firm proposing to apply for the tax exemption provided under
15 ORS 285C.409 shall, before the commencement of construction or installation of property or im-
16 provements at a location in a rural enterprise zone and before the hiring of employees, apply for
17 certification with the sponsor of the zone and with the county assessor of the county or counties in
18 which the zone is located. [*The application shall be made on a form prescribed by the Department of*
19 *Revenue.*]

20 “(b) **A business firm may not be certified under this section if it is significantly engaged**
21 **in operating a fulfillment center within the rural enterprise zone from which deliveries are**
22 **made to retail purchasers within or in the region surrounding the rural enterprise zone.**

23 “(2) [*The*] **An application for certification shall be made on a form prescribed by the De-**
24 **partment of Revenue and shall** contain the following information:

25 “(a) A description of the firm’s proposed business operations and facility in the rural enterprise
26 zone;

27 “(b) A description and estimated cost or value of the property or improvements to be con-
28 structed or installed at the facility;

29 “(c) An estimate of the number of employees at the facility that will be hired by the firm;

30 “(d) A commitment to meet the applicable requirements of ORS 285C.412;

31 “(e) A commitment to satisfy all additional conditions agreed to pursuant to the written agree-
32 ment between the rural enterprise zone sponsor and the business firm under subsection (3)(c) of this
33 section; and

34 “(f) Any other information considered necessary by the Department of Revenue.

35 “(3) The sponsor and the county assessor shall certify the business firm by approving the ap-
36 plication if the sponsor and the county assessor determine that all of the following requirements
37 have been met:

38 “(a) The governing body of the county and city in which the facility is located has adopted a
39 resolution approving the property tax exemption for the facility.

40 “(b) The business firm has committed to meet the applicable requirements of ORS 285C.412.

41 “(c) The business firm has entered into a written agreement with the sponsor of the rural en-
42 terprise zone that may include any additional requirements that the sponsor may reasonably request,
43 including but not limited to contributions for local services or infrastructure benefiting the facility.
44 The written agreement shall state the number of consecutive tax years for which the facility, fol-
45 lowing commencement of operations, is to be exempt from property tax under ORS 285C.409. The

1 agreement may not provide for a period of exemption that is less than seven consecutive tax years
2 or more than 15 consecutive tax years. If the agreement is silent on the number of tax years for
3 which the facility is to be exempt following placement in service, the exemption shall be for seven
4 consecutive tax years.

5 “(d) When the written agreement required under paragraph (c) of this subsection is executed,
6 the facility is located in:

7 “(A) A qualified rural county; or

8 “(B) A county with chronically low income or chronic unemployment, based on the most recently
9 revised annual data available.

10 “(4) The approval of an application by both the sponsor and the county assessor under sub-
11 section (3) of this section shall be prima facie evidence that the business firm will qualify for the
12 property tax exemption under ORS 285C.409.

13 “(5) The sponsor and the county assessor shall provide copies of an approved application to the
14 applicant, the Department of Revenue and the Oregon Business Development Department.

15 “(6) If the sponsor or the county assessor fails or refuses to certify the business firm, the busi-
16 ness firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall
17 provide copies of the firm’s appeal to the sponsor, the county assessor, the Oregon Business Devel-
18 opment Department and the Department of Revenue.

19 “**SECTION 19.** ORS 285C.609 is amended to read:

20 “285C.609. (1) A determination under ORS 285C.606 (1) by the Oregon Business Development
21 Commission that a project shall be exempt from property taxation under ORS 307.123 must be re-
22 quested by official action of the governing body of the county taken at a regular or duly called
23 special meeting thereof by the affirmative vote of a majority of its members.

24 “(2) The governing body of any Oregon county shall forward appropriate prospective eligible
25 projects to the Oregon Business Development Department for processing.

26 “(3) For purposes of this section, for projects located on a federally recognized Oregon Indian
27 reservation, the governing body of a county shall be considered to be the governing body of the
28 federally recognized Oregon Indian tribe.

29 “(4) The county may not make the request under subsection (1) of this section unless, after a
30 public hearing:

31 “(a) The county and, if the proposed eligible project will be located within a city, the city have
32 entered into an agreement with the business firm, as described in this subsection.

33 “(b) The agreement provides for the payment of a fee by the business firm, as follows:

34 “(A) The fee shall be for community services support that relates to the direct impact of the
35 eligible project on public services.

36 “(B) The fee shall be in an amount equal to 25 percent of the property taxes that would, but for
37 the exemption, be due on the exempt property in each assessment year, but not exceeding [~~\$2.5~~] **\$3**
38 million in any year.

39 “(C) The fee shall be paid annually during the tax exemption period, as of a date set forth in
40 the agreement.

41 “(c) The agreement provides for the refunding or crediting of overpayments, for interest on late
42 payments or underpayments and for the manner in which the appeal of the assessed value of the
43 property included in the project will affect the fee.

44 “(5) The agreement described in subsection (4) of this section may provide for any other re-
45 quirements related to the project.

1 “(6)(a) The fee collected under subsection (4)(b) of this section shall be distributed by the county
2 based on an agreement. The agreement is effective only if:

3 “(A) The county and the city, if any, in which the eligible project is located have entered into
4 the agreement; and

5 “(B) Local taxing districts listed in ORS 198.010 or 198.180 that constitute at least 75 percent
6 of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180 in the code
7 area in which the eligible project is located have entered into the agreement.

8 “(b) If an effective agreement is not entered into under paragraph (a) of this subsection within
9 three months after the date of the determination by the commission under ORS 285C.606 (1), the
10 commission shall, by official action, establish a formula for distributing the fee collected under
11 subsection (4)(b) of this section.

12 “(7) **The maximum fee amount under subsection (4)(b)(B) of this section shall be adjusted**
13 **each year for the property tax year beginning on July 1 by multiplying \$3 million by the ratio**
14 **of the increase, if any, in the monthly averaged Consumer Price Index for All Urban Con-**
15 **sumers, West Region, for the 12 consecutive months ending December 31 of the prior cal-**
16 **endar year over the monthly averaged index for the 12 consecutive months ending December**
17 **31, 2023.**

18 “**SECTION 20.** ORS 307.123 is amended to read:

19 “307.123. (1) Except as provided in subsection (4) of this section, real or personal property that
20 the Oregon Business Development Commission, acting pursuant to ORS 285C.606, has determined is
21 an eligible project under ORS 285C.600 to 285C.635 shall be subject to assessment and taxation as
22 provided in this section.

23 “(2)(a) The following portions of the real market value of the eligible project, increased annually
24 for growth at the rate of three percent, shall be taxable at the taxable portion’s assessed value un-
25 der ORS 308.146:

26 “(A) The minimum cost of the project under ORS 285C.606 (1)(c)(A); or

27 “(B) If the project is located in a rural area as defined in ORS 285C.600:

28 “[*i*] *\$25 million for a project with a total cost of not more than \$500 million.*]

29 “(i) **For a project with a total cost of at least \$25 million and not more than \$38 million,**
30 **the total cost of the project.**

31 “(ii) **\$38 million for a project with a total cost of more than \$38 million and not more than**
32 **\$500 million.**

33 “[*ii*] (iii) [*\$50*] **\$75 million for a project with a total cost of more than \$500 million and not**
34 **more than \$1 billion.**

35 “[*iii*] (iv) [*\$100*] **\$150 million for a project with a total cost of more than \$1 billion.**

36 “(b) The taxable portion of real market value, as adjusted, shall be allocated as follows until the
37 entire amount is assigned: first to land, second to buildings, third to real property machinery and
38 equipment and last to personal property.

39 “(c) The remainder of the real market value shall be exempt from taxation for a period of 15
40 years from the beginning of the tax year after the earliest of the following dates:

41 “(A) The date the property is certified for occupancy or, if no certificate of occupancy is issued,
42 the date the property is used to produce a product for sale; or

43 “(B) The expiration of the exemption for commercial facilities under construction under ORS
44 307.330.

45 “(3) If the real market value of the property falls below the value determined under subsection

1 (2)(a) of this section, the owner or lessee shall pay taxes only on the assessed value of the property.

2 “(4) Notwithstanding subsection (1) of this section, real or personal property that has received
3 an exemption under ORS 285C.175 may not be assessed under this section.

4 “(5) The Department of Revenue may adopt rules and prescribe forms that the department de-
5 termines are necessary for administration of this section.

6 “(6) The determination by the Oregon Business Development Commission that a project is an
7 eligible project that may receive a tax exemption under this section shall be conclusive, so long as
8 the property included in the eligible project is constructed and installed in accordance with the
9 application approved by the commission.

10 “(7) Notwithstanding subsection (1) of this section, if the owner or lessee of property exempt
11 under this section fails to pay the fee required under ORS 285C.609 (4)(b) by the end of the tax year
12 in which it is due, the exemption shall be revoked and the property shall be fully taxable for the
13 following tax year and for each subsequent tax year for which the fee remains unpaid. If an unpaid
14 fee is paid after the exemption is revoked, the property shall again be eligible for the exemption
15 provided under this section, beginning with the tax year after the payment is made. Reinstatement
16 of the exemption under this subsection shall not extend the 15-year exemption period provided for
17 in subsection (2)(c) of this section.

18 “**SECTION 21.** ORS 285C.635 is amended to read:

19 “285C.635. (1)(a) Upon receipt of information compiled under ORS 285C.615, the Oregon De-
20 partment of Administrative Services shall determine the annual amount of personal income tax re-
21 venue attributable to retained jobs and newly created jobs for each eligible project for which an
22 eligible business firm received a property tax exemption under ORS 307.123.

23 “(b) The amount of personal income tax revenue attributable to each eligible project under this
24 subsection may not include personal income tax revenue attributable to the estimated incremental
25 income tax revenues generated by an eligible employer in connection with a tax reimbursement ar-
26 rangement or loan agreement that has been entered into under the Oregon Industrial Site Readiness
27 Program established by ORS 285B.627.

28 “(c) In determining the amount of personal income tax revenue attributable to each eligible
29 project, the Oregon Department of Administrative Services may rely on reasonable techniques of
30 estimation, if appropriate.

31 “(2) Not later than May 15 of each fiscal year, the Oregon Department of Administrative Ser-
32 vices shall certify to the Department of Revenue, the Legislative Revenue Officer and the Legisla-
33 tive Fiscal Officer the amounts determined under subsection (1) of this section and the amounts
34 described in subsection (3) of this section to be distributed by the Department of Revenue.

35 “(3)(a) Not sooner than July 10 and not later than July 15 of the fiscal year immediately fol-
36 lowing the fiscal year in which the certification under subsection (2) of this section is made, the
37 Department of Revenue shall distribute to each county in which an eligible project is located an
38 amount equal to the total of:

39 “(A) Twenty percent of the total annual amount of personal income tax revenue attributable to
40 retained jobs for all eligible projects in the county as determined under subsection (1) of this sec-
41 tion; and

42 “(B) Fifty percent of the total annual amount of personal income tax revenue attributable to
43 newly created jobs for all eligible projects in the county as determined under subsection (1) of this
44 section.

45 “(b) Notwithstanding paragraph (a) of this subsection, a county may not receive a distribution

1 under this section in an amount greater than [~~\$16~~] **\$20** million for any year.

2 “(c) The county shall distribute the amounts received under paragraphs (a) and (b) of this sub-
3 section to the taxing districts in the county in which an eligible project is located in a manner
4 consistent with the distribution of the community services fee under ORS 285C.609 for the project.

5 “(4) The Department of Revenue shall retain unreceipted revenue from the tax imposed under
6 ORS chapter 316 in an amount necessary to make the distributions required under subsection (3)
7 of this section. The department shall make the distributions out of the unreceipted revenue in lieu
8 of paying the revenue over to the State Treasurer for deposit in the General Fund.

9 “(5) **The maximum distribution allowed under subsection (3)(b) of this section shall be**
10 **adjusted each year by multiplying \$20 million by the ratio of the increase, if any, in the**
11 **monthly averaged Consumer Price Index for All Urban Consumers, West Region, for the 12**
12 **consecutive months ending December 31 of the prior calendar year over the monthly aver-**
13 **aged index for the 12 consecutive months ending December 31, 2023.**

14 “[5] (6) The Oregon Department of Administrative Services shall adopt rules necessary to ad-
15 minister this section.

16 “**SECTION 22.** ORS 285C.600 is amended to read:

17 “285C.600. As used in ORS 285C.600 to 285C.635:

18 “(1) ‘Business firm’ has the meaning given that term in ORS 285C.050.

19 “(2) **‘Consumer Price Index for All Urban Consumers, West Region’ means the Consumer**
20 **Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau**
21 **of Labor Statistics of the United States Department of Labor.**

22 “[2] (3) ‘Eligible project’ means a project that meets criteria established by the Oregon Busi-
23 ness Development Commission to be exempt from property taxation under ORS 307.123.

24 “[3] (4) ‘First-source hiring agreement’ has the meaning given that term in ORS 285C.050.

25 “[4] (5) ‘Newly created jobs’ means, for an eligible project, total jobs less retained jobs.

26 “[5] (6) ‘Publicly funded job training provider’ has the meaning given that term in ORS
27 285C.050.

28 “[6] (7) ‘Rural area’ means an area located entirely outside of the urban growth boundary of
29 a city with a population of 40,000 or more, as the urban growth boundary is acknowledged on the
30 date on which an applicant submits an application, pursuant to rules adopted by the Oregon Busi-
31 ness Development Department, for property tax exemption under ORS 307.123.

32 “[7] (8) ‘Strategic investment zone’ means a geographic area established under ORS 285C.623,
33 within which the property of eligible projects may be exempt from property taxation under ORS
34 307.123.

35 “**SECTION 23.** **Section 24 of this 2023 Act is added to and made a part of ORS 285C.050**
36 **to 285C.250.**

37 “**SECTION 24.** **The Oregon Business Development Department, in consultation with the**
38 **Legislative Revenue Officer, shall conduct a study of the transparency of agreements related**
39 **to enterprise zone programs entered into between zone sponsors and business firms. The**
40 **study shall compare the transparency required under statute and the transparency of the**
41 **process by which such agreements have actually been entered into. The study shall also**
42 **compare the differences in actual transparency among the various enterprise zones. Not**
43 **later than September 15, 2024, the department shall submit a report of the findings of the**
44 **study, in the manner provided by ORS 192.245, to the interim committees of the Legislative**
45 **Assembly related to economic development, and may include recommendations for legislation**

1 **in the report.**

2 **“SECTION 25. Section 24 of this 2023 Act is repealed on January 2, 2025.**

3 **“SECTION 26. This 2023 Act takes effect on the 91st day after the date on which the 2023**
4 **regular session of the Eighty-second Legislative Assembly adjourns sine die.”**

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