

SB 1084-1
(LC 4404)
5/16/23 (ASD/ps)

Requested by Senator MEEK

**PROPOSED AMENDMENTS TO
SENATE BILL 1084**

1 On page 1 of the printed bill, line 2, delete “285C.255,” and insert
2 “285C.135, 285C.255, 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
8 engaged, or proposing to engage, within the enterprise zone, in the business
9 of providing goods, products or services to businesses or other organizations
10 through activities including, but not limited to, manufacturing, assembly,
11 fabrication, processing, shipping or storage.

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

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

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

21 **“(c) Significantly engaged in operating a fulfillment center within**

1 **the enterprise zone from which deliveries are made to retail purchas-**
2 **ers within or in the region surrounding the enterprise zone.**

3 “(3) If a business firm described in subsection (2) of this section engages
4 in an activity described in subsection (1) of this section, the business firm
5 is an eligible business firm if the activity is performed at a location that is
6 separate from the activity of the firm that is described in subsection (2) of
7 this section. Property at the location at which the firm conducts an activity
8 described in subsection (2) of this section may not be exempt under ORS
9 285C.175.

10 “(4) Two or more business firms that otherwise meet the requirements of
11 this section may elect to be treated as one eligible business firm if 100 per-
12 cent of the equity interest in the business firms is owned by the same person
13 or persons, or if one of the business firms owns 100 percent of the equity
14 interest of the other or others.

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

18 “(a) A business firm engaged in the activity of providing a retail or fi-
19 nancial service within the enterprise zone if:

20 “(A) The activity serves customers by responding to orders or requests
21 received only by telephone, computer, the Internet or similar means of tele-
22 communications; and

23 “(B) Not less than 90 percent of the customers or orders are located and
24 originate in an area from which long distance telephone charges, in the ab-
25 sence of a toll-free number, would apply if the order were placed by tele-
26 phone.

27 “(b) A business firm that operates a facility within the enterprise zone
28 that serves statewide, regional, national or global operations of the firm
29 through administrative, design, financial, management, marketing or other
30 activities, without regard to the relationship of these activities to any oth-

1 erwise eligible activities within the enterprise zone.

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

6 “(d) A business firm that is engaged in electronic commerce if the enter-
7 prise zone has been designated for electronic commerce under ORS 285C.095.

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

9 “285C.403. (1)(a) [Any] **A** business firm proposing to apply for the tax
10 exemption provided under ORS 285C.409 shall, before the commencement of
11 construction or installation of property or improvements at a location in a
12 rural enterprise zone and before the hiring of employees, apply for certifica-
13 tion with the sponsor of the zone and with the county assessor of the county
14 or counties in which the zone is located. [*The application shall be made on*
15 *a form prescribed by the Department of Revenue.*]

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

20 **“(2) [The] An application for certification shall be made on a form**
21 **prescribed by the Department of Revenue and shall** contain the follow-
22 ing information:

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

25 **“(b) A description and estimated cost or value of the property or im-**
26 **provements to be constructed or installed at the facility;**

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

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

30 **“(e) A commitment to satisfy all additional conditions agreed to pursuant**

1 to the written agreement between the rural enterprise zone sponsor and the
2 business firm under subsection (3)(c) of this section; and

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

5 “(3) The sponsor and the county assessor shall certify the business firm
6 by approving the application if the sponsor and the county assessor deter-
7 mine that all of the following requirements have been met:

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

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

13 “(c) The business firm has entered into a written agreement with the
14 sponsor of the rural enterprise zone that may include any additional re-
15 quirements that the sponsor may reasonably request, including but not lim-
16 ited to contributions for local services or infrastructure benefiting the
17 facility. The written agreement shall state the number of consecutive tax
18 years for which the facility, following commencement of operations, is to be
19 exempt from property tax under ORS 285C.409. The agreement may not pro-
20 vide for a period of exemption that is less than seven consecutive tax years
21 or more than 15 consecutive tax years. If the agreement is silent on the
22 number of tax years for which the facility is to be exempt following place-
23 ment in service, the exemption shall be for seven consecutive tax years.

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

26 “(A) A qualified rural county; or

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

29 “(4) The approval of an application by both the sponsor and the county
30 assessor under subsection (3) of this section shall be prima facie evidence

1 that the business firm will qualify for the property tax exemption under ORS
2 285C.409.

3 “(5) The sponsor and the county assessor shall provide copies of an ap-
4 proved application to the applicant, the Department of Revenue and the
5 Oregon Business Development Department.

6 “(6) If the sponsor or the county assessor fails or refuses to certify the
7 business firm, the business firm may appeal to the Oregon Tax Court under
8 ORS 305.404 to 305.560. The business firm shall provide copies of the firm’s
9 appeal to the sponsor, the county assessor, the Oregon Business Development
10 Department and the Department of Revenue.

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

12 “285C.609. (1) A determination under ORS 285C.606 (1) by the Oregon
13 Business Development Commission that a project shall be exempt from
14 property taxation under ORS 307.123 must be requested by official action of
15 the governing body of the county taken at a regular or duly called special
16 meeting thereof by the affirmative vote of a majority of its members.

17 “(2) The governing body of any Oregon county shall forward appropriate
18 prospective eligible projects to the Oregon Business Development Depart-
19 ment for processing.

20 “(3) For purposes of this section, for projects located on a federally re-
21 cognized Oregon Indian reservation, the governing body of a county shall be
22 considered to be the governing body of the federally recognized Oregon In-
23 dian tribe.

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

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

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

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

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

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

8 “(c) The agreement provides for the refunding or crediting of overpay-
9 ments, for interest on late payments or underpayments and for the manner
10 in which the appeal of the assessed value of the property included in the
11 project will affect the fee.

12 “(5) The agreement described in subsection (4) of this section may provide
13 for any other requirements related to the project.

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

17 “(A) The county and the city, if any, in which the eligible project is lo-
18 cated have entered into the agreement; and

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

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

28 “(7) **The maximum fee amount under subsection (4)(b)(B) of this**
29 **section shall be adjusted each year for the property tax year beginning**
30 **on July 1 by multiplying \$3 million by the ratio of the increase, if any,**

1 **in the monthly averaged Consumer Price Index for All Urban Con-**
2 **sumers, West Region, for the 12 consecutive months ending December**
3 **31 of the prior calendar year over the monthly averaged index for the**
4 **12 consecutive months ending December 31, 2023.**

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

6 “307.123. (1) Except as provided in subsection (4) of this section, real or
7 personal property that the Oregon Business Development Commission, acting
8 pursuant to ORS 285C.606, has determined is an eligible project under ORS
9 285C.600 to 285C.635 shall be subject to assessment and taxation as provided
10 in this section.

11 “(2)(a) The following portions of the real market value of the eligible
12 project, increased annually for growth at the rate of three percent, shall be
13 taxable at the taxable portion’s assessed value under ORS 308.146:

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

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

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

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

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

22 “[*ii*] **(iii) [\$50] \$75 million for a project with a total cost of more than**
23 **\$500 million and not more than \$1 billion.**

24 “[*iii*] **(iv) [\$100] \$150 million for a project with a total cost of more than**
25 **\$1 billion.**

26 “(b) The taxable portion of real market value, as adjusted, shall be allo-
27 cated as follows until the entire amount is assigned: first to land, second
28 to buildings, third to real property machinery and equipment and last to
29 personal property.

30 “(c) The remainder of the real market value shall be exempt from taxation

1 for a period of 15 years from the beginning of the tax year after the earliest
2 of the following dates:

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

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

8 “(3) If the real market value of the property falls below the value deter-
9 mined under subsection (2)(a) of this section, the owner or lessee shall pay
10 taxes only on the assessed value of the property.

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

14 “(5) The Department of Revenue may adopt rules and prescribe forms that
15 the department determines are necessary for administration of this section.

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

21 “(7) Notwithstanding subsection (1) of this section, if the owner or lessee
22 of property exempt under this section fails to pay the fee required under ORS
23 285C.609 (4)(b) by the end of the tax year in which it is due, the exemption
24 shall be revoked and the property shall be fully taxable for the following tax
25 year and for each subsequent tax year for which the fee remains unpaid. If
26 an unpaid fee is paid after the exemption is revoked, the property shall again
27 be eligible for the exemption provided under this section, beginning with the
28 tax year after the payment is made. Reinstatement of the exemption under
29 this subsection shall not extend the 15-year exemption period provided for in
30 subsection (2)(c) of this section.

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

2 “285C.635. (1)(a) Upon receipt of information compiled under ORS
3 285C.615, the Oregon Department of Administrative Services shall determine
4 the annual amount of personal income tax revenue attributable to retained
5 jobs and newly created jobs for each eligible project for which an eligible
6 business firm received a property tax exemption under ORS 307.123.

7 “(b) The amount of personal income tax revenue attributable to each eli-
8 gible project under this subsection may not include personal income tax
9 revenue attributable to the estimated incremental income tax revenues gen-
10 erated by an eligible employer in connection with a tax reimbursement ar-
11 rangement or loan agreement that has been entered into under the Oregon
12 Industrial Site Readiness Program established by ORS 285B.627.

13 “(c) In determining the amount of personal income tax revenue attribut-
14 able to each eligible project, the Oregon Department of Administrative Ser-
15 vices may rely on reasonable techniques of estimation, if appropriate.

16 “(2) Not later than May 15 of each fiscal year, the Oregon Department
17 of Administrative Services shall certify to the Department of Revenue, the
18 Legislative Revenue Officer and the Legislative Fiscal Officer the amounts
19 determined under subsection (1) of this section and the amounts described in
20 subsection (3) of this section to be distributed by the Department of Revenue.

21 “(3)(a) Not sooner than July 10 and not later than July 15 of the fiscal
22 year immediately following the fiscal year in which the certification under
23 subsection (2) of this section is made, the Department of Revenue shall dis-
24 tribute to each county in which an eligible project is located an amount
25 equal to the total of:

26 “(A) Twenty percent of the total annual amount of personal income tax
27 revenue attributable to retained jobs for all eligible projects in the county
28 as determined under subsection (1) of this section; and

29 “(B) Fifty percent of the total annual amount of personal income tax
30 revenue attributable to newly created jobs for all eligible projects in the

1 county as determined under subsection (1) of this section.

2 “(b) Notwithstanding paragraph (a) of this subsection, a county may not
3 receive a distribution under this section in an amount greater than [~~\$16~~] **\$20**
4 million for any year.

5 “(c) The county shall distribute the amounts received under paragraphs
6 (a) and (b) of this subsection to the taxing districts in the county in which
7 an eligible project is located in a manner consistent with the distribution
8 of the community services fee under ORS 285C.609 for the project.

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

14 “**(5) The maximum distribution allowed under subsection (3)(b) of**
15 **this section shall be adjusted each year by multiplying \$20 million by**
16 **the ratio of the increase, if any, in the monthly averaged Consumer**
17 **Price Index for All Urban Consumers, West Region, for the 12 con-**
18 **secutive months ending December 31 of the prior calendar year over**
19 **the monthly averaged index for the 12 consecutive months ending De-**
20 **cember 31, 2023.**

21 “[~~(5)~~] **(6)** The Oregon Department of Administrative Services shall adopt
22 rules necessary to administer this section.

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

24 “285C.600. As used in ORS 285C.600 to 285C.635:

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

26 “**(2) ‘Consumer Price Index for All Urban Consumers, West**
27 **Region’ means the Consumer Price Index for All Urban Consumers,**
28 **West Region (All Items), as published by the Bureau of Labor Statis-**
29 **tics of the United States Department of Labor.**

30 “[~~(2)~~] **(3)** ‘Eligible project’ means a project that meets criteria established

1 by the Oregon Business Development Commission to be exempt from property
2 taxation under ORS 307.123.

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

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

7 “[5] (6) ‘Publicly funded job training provider’ has the meaning given
8 that term in ORS 285C.050.

9 “[6] (7) ‘Rural area’ means an area located entirely outside of the urban
10 growth boundary of a city with a population of 40,000 or more, as the urban
11 growth boundary is acknowledged on the date on which an applicant submits
12 an application, pursuant to rules adopted by the Oregon Business Develop-
13 ment Department, for property tax exemption under ORS 307.123.

14 “[7] (8) ‘Strategic investment zone’ means a geographic area established
15 under ORS 285C.623, within which the property of eligible projects may be
16 exempt from property taxation under ORS 307.123.

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

19 **“SECTION 24. The Oregon Business Development Department, in
20 consultation with the Legislative Revenue Officer, shall conduct a
21 study of the transparency of agreements related to enterprise zone
22 programs entered into between zone sponsors and business firms. The
23 study shall compare the transparency required under statute and the
24 transparency of the process by which such agreements have actually
25 been entered into. The study shall also compare the differences in ac-
26 tual transparency among the various enterprise zones. Not later than
27 September 15, 2024, the department shall submit a report of the
28 findings of the study, in the manner provided by ORS 192.245, to the
29 interim committees of the Legislative Assembly related to economic
30 development, and may include recommendations for legislation in the**

1 **report.**

2 **“SECTION 25. Section 24 of this 2023 Act is repealed on January 2,**
3 **2025.**

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

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