HB 3011 Are Enterprise Exemptions for jobs? Urban or Rural? Well paid or not?

House Revenue Committee – Jody Wiser – 4.4.2023

This is the bill we hope you will use to extend Oregon's Enterprise Zone programs. Sections 11 through 14 are about the SIP. We hope they will be amended out of this bill and considered with HB 3457 which is exclusively about the SIP. Then HB 3011 will be about Oregon's Enterprise Zone programs which will cost over a half a billion in 2023-25 and a few related policy issues. HB 3011 deserves a workgroup with diverse membership.

We have two primary issues around the Enterprise Zone programs: job location and job quantity and quality.

Job location

The Enterprise Zone purpose statement in ORS.285C.055 includes: "To stimulate and protect economic success…throughout all regions of the state, but especially those communities at the center of or outside major metropolitan areas for which geography may act as an economic hindrance…." These words make us wonder why the Standard Enterprise Zones are used so robustly in the Bend and Portland MSAs where we don't see "geography as an economic hindrance." Only about one-quarter of Standard Enterprise Zone employees are in rural areas. More than half are in the Portland Metro MSA (Tax Expenditure Report, pg 223). *Should thriving areas of the state use the standard enterprise zone program less or with different sideboards and benefits?*

The Long Term Rural Enterprise Zone can be used in 25 counties with high net outmigration, low income or high unemployment. The prescribed criteria for which counties are included uses very long term horizons. Deschutes County which has been thriving for years only recently became ineligible. The job creation requirements are complex, based on miles from I-5 and investment, and perhaps more complex than needed.

- *Should the formula for what rural areas are eligible for lower pay requirements be revised?*
- *Should the requirements for investment, jobs and miles from I-5 be simplified?*

Job quantity and quality

Only the 5-year and LTREZ programs include job and pay requirements. The LTREZ job count requirements are too complex for this testimony but has similar issues to those with the 5-year program around pay:

- The number of jobs required
- The pay requirements that exist or are absent, and
- The formula for setting pay requirements.

The 5-year Standard Enterprise Zone program law requires an increase in the numer of jobs of the greater of 10% or one job. The publicly available information omits job numbers for quite a few businesses, so we can't be sure. It appears that this job increase standard is met, unless specifically waived by the zone sponsor.

- *Is this the standard you want to keep, or the only standard you want?*
- *How can reporting about job creation be improved?*

Business Oregon reports in the Tax Expenditure Report that the subsidy cost averages around $10,000-$13,000 per job, but range wildly from less than $100 to greater than $100,000 per job at the most capital intensive sites. And during COVID, but also in any other time, local jurisdictions can waive job creation requirements. However, that understates the reality. Adobe Systems is receiving five years of abatement at $600,000 a year, for one Hillsboro job. (See Adobe on page 1 of the transparency report).

- *Do you want a cap on the subsidy per job?*
- *Do you want to continue allowing local jurisdictions to waive job requirements?*

Pay requirement issues

There are no pay requirements for three-year exemptions. The five-year and LTREZ exemptions include pay obligations, but the requirements do not apply in either the Portland or Salem MSA. Here's the language of ORS 285C.160 (bolding of text is mine).

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: 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**

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**
Meet any additional requirement that the sponsor may reasonably request.

Notwithstanding paragraph 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.**

Both the compensation and the wage requirements are based on years-old data. Attached is Business Oregon's document showing that the requirements for new applications until November 2023 are based on the most recent data – that for 2021. That's a second lag because the requirements are set upon application, i.e., before building begins. The requirements are likely four years old by the time most hiring begins and do not increase during the 5 years of tax abatement.

- *Should three years of exemption essentially be by right? In every area of the state?*
- *Are jobs that pay a county's years-old average wage, or 130% or 150% as compensation "good jobs," or should the standard be more timely?*
- *Is the use of both "compensation" and "wage" useful?*
- *How do local sponsors or Business Oregon validate that these requirements are met?*
- *Should the eligibility for a "qualified rural county" be changed? Deschutes County only recently dropped out of eligibility.*

The wage or compensation requirements do not apply in either the Portland or Salem MSA.

- *Why should employers in Hillsboro or Gresham not have to meet pay requirements when those in Ashland or Pendleton must?*
- *Is this absence of wage requirements why low-paying facilities like the UPS and Amazon distribution centers in Portland and Salem receive five-year enterprise zone exemptions?*

Long Term Enterprise Zones have similar compensation and wage standards which are mixed and based on aged data with an important variation:
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**:

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 the average wage at the facility equals or exceeds 100 percent of the average wage in the county.

- *Is this overly complicated?*
- *Should pay standards increase each year of exemption along with inflation?*
- *Do the pay requirements apply to all workers at the facility: employees, contract workers and employees of other firms that provide daily services at the facility such as security and maintenance.*

What businesses are eligible Standard Enterprise Zones? According to ORS 285c.135:
A business firm is not an eligible business firm if the firm is:

Engaged within the enterprise zone in the business of providing goods, products or **services to the general public for personal or household use.**

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

These definitions might make one wonder how UPS and Amazon distribution centers and Bandon Golf Resort have qualified <u>unless one reads the exceptions</u>. Should these exceptions, possibly written in the first days of call centers or for Harry & David and small community hotels be re-considered.

A business firm engaged in the activity of providing a retail or financial service within the enterprise zone if:

a) The activity serves customers by responding to orders or requests received only by telephone, computer, the Internet or similar means of telecommunications; and

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

c) A business firm that operates a hotel, motel or destination resort in the enterprise zone if the sponsor has elected under ORS 285C.070 (Election to permit hotels, motels or destination resorts as eligible business firms) to treat a business firm engaged in hotel, motel or destination resort operations in an enterprise zone as an eligible business firm.

- *Are the exceptions ones you want to keep?*

What businesses are eligible for the Long Term Rural Enterprise Zone
There is no limit on business types if locating in one of 25 counties with high net outmigration, low income or high unemployment. The standard for this is for a very long period of time. Deschutes County only recently fell out. Nearly all rural counties are eligible.

- *Should business types be limited?*
- *Should the formula for what areas are eligible rural zones with lower pay requirements be revised?*
- *Should the requirements for numbers of jobs be miles from I-5? Is this what you would write?*

LTREZ reporting

Annual reporting for the LTREZ is totally inadequate. It should certainly be as complete as that for the shorter Standard Enterprise Zone.

Issues with the SIP portion of the bill

We would not reduce the SIP to 8 + 2 years. However, we do believe that current SIP agreements should be subject to changes you make, since they run for as many as 30 years, and anticipate changes by the legislature.

Should the cap on the Community Service Fee be removed? But, perhaps the payments should be part of the required property tax payments, rather than community service fees. This change would mean that all taxing districts will get a greater and fairer share of the revenue.

There needs to be job and pay requirements for the SIP. It appears that jobs are always created at each SIP project, and the average revenue cost is about $23,500/job per year, not taking fees into account, which would reduce that. There are some outliers, but for the most part those businesses are paying robust additional community service fees negotiated by the local community. However, recently the program is experiencing broader use, adding a distribution center, a solar farm, and more mill changes. When changes are made to the E-Zones and LTREZ, there will be movement to the SIP. Perhaps it's time for job numbers and wage requirements for the SIP. We already have one project approved that is paying well below its county average wage. **The Columbia Distributing Company in Clackamas County pays an average wage of $49,105 in a county where the average wage is $63,568.**

You will also need to make data centers and distribution centers ineligible for SIPs just as for the two E-Zones. We would handle disqualifying urban data centers with by naming them rather than by using a employees per square feet formula.

Legislation needs to make sure that Oregon manufacturers can warehouse and distribute from their facility the products they manufacture since manufacturers must store their product until sold, whether selling wholesale or retail.

Distribution agreements for Community Service Fees and additional fees (page 13, line 21) require that 75% of property tax authority concur. That may be only the county, city and schools, leaving small districts with no vote. Since schools seem to go along with agreements because of the school funding formulas, the 75% really isn't much stronger than 51%. Why not include all taxing jurisdictions?

Electronic Commerce zones and SIZ zones: They seem to just complicate things. Please invite discussion about the need for continuing these zones.

Businesses can get out of their SIP deals (page 9, line 42). Why have this provision? Businesses will have received tax breaks other years that were to their advantage. Should this provision be removed?

Indexing what they pay tax on with the SIP. Remember that you will want to increase or index $25, $50 and $100 million, not just $25 and $100 million.