

# House Bill 3049

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Oregon Business Development Department)

## 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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes an income tax exemption for business firms in poor and rural areas. (Flesch Readability Score: 61.8).

Modifies provisions governing a corporate excise tax exemption allowed for business firms operating in certain economically lagging areas. Makes changes to the program requirements, including methods of calculating employee wages in support of showing of applicant eligibility.

First applies to preliminary certifications and annual certifications issued on or after the effective date of the Act.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax exemptions for business development; creating new provisions; amending ORS  
3 285C.500, 285C.503, 285C.506 and 317.391; and prescribing an effective date.

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

5 **SECTION 1.** ORS 285C.500 is amended to read:

6 285C.500. As used in ORS 285C.500 to 285C.506:

7 (1) **“Annual wage” means wages, salaries, commissions, paid leave, overtime, bonuses or**  
8 **any other form of remuneration, that:**

9 (a) **Is paid annually by a business to an employee for personal services; and**

10 (b) **Is taxable income of the employee under ORS chapter 316.**

11 (2) **“Average wage” means the most recently available average annual wage for this state**  
12 **or for a county in this state, whichever is less, that has been determined as final by the**  
13 **Oregon Business Development Department for an entire calendar year, based on data issued**  
14 **by the Employment Department.**

15 [(1)] (3) **“Business firm”** has the meaning given that term in ORS 285C.050.

16 [(2)] (4) **“County per capita [*personal*] income”** means the per capita personal income level pub-  
17 lished by the Bureau of Economic Analysis of the United States Department of Commerce for a  
18 county.

19 [(3)] (5) **“County unemployment [*rate*]”** means the most recently available unemployment rate for  
20 the county, as determined by the Employment Department.

21 [(4)] (6) **“Facility”** means the land, real property improvements and personal property that are  
22 used by a business firm to conduct business operations, and that are the subject of an application  
23 for preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.

24 [(5)] **“Qualified location” means any area that is:**

25 [(a) **Zoned for industrial use or is within the urban growth boundary of a city that has 15,000 or**  
26 **fewer residents; and]**

27 [(b) **Located in a county that, during either of the two years preceding the date an application 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 *preliminary certification is filed under ORS 285C.503, had both:]*

2 [(A) A county unemployment rate that was in the top half of county unemployment rates in this  
3 state; and]

4 [(B) A county per capita personal income that was in the bottom half of county per capita personal  
5 incomes in this state.]

6 **(7) “Population” means the most recently available certified population estimate prepared  
7 by the Portland State University Population Research Center.**

8 **(8) “Qualified location” means any area in this state that, as of the date that an appli-  
9 cation for preliminary certification regarding the area is filed under ORS 285C.503, is:**

10 **(a)(A) Zoned for industrial use and is outside the urban growth boundary of a city with  
11 a population of 100,000 or more; or**

12 **(B) Within the urban growth boundary of a city that has a population of 15,000 or fewer;  
13 and**

14 **(b) Located in a county that the Oregon Business Development Department determines  
15 had a rank in the bottom half of counties for county unemployment and county per capita  
16 income, combined, based on statistics for the most recent year available to the department  
17 and the two immediately preceding years.**

18 [(6)] **(9) “Urban growth boundary” means an urban growth boundary contained in a city or  
19 county comprehensive plan that has been acknowledged by the Land Conservation and Development  
20 Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a  
21 metropolitan service district under ORS 268.390 (3).**

22 **SECTION 2. ORS 285C.503 is amended to read:**

23 285C.503. (1) A business firm seeking the income and corporate excise tax exemption allowed  
24 under ORS 316.778 or 317.391 shall, before the commencement of construction, reconstruction, mod-  
25 ification or installation of property or improvements at the location for which the exemption is  
26 sought and before the hiring of any **new** employees at that location, apply to the Oregon Business  
27 Development Department for preliminary certification under this section.

28 (2) The application shall be on a form prescribed by the department and shall contain the fol-  
29 lowing information:

30 (a) The proposed location of the facility;

31 (b) A description of the property to be constructed, reconstructed, modified, acquired, installed  
32 or leased [*and that is to*] **that will** comprise the facility when the business firm commences business  
33 operations at the facility;

34 (c) If any property described in paragraph (b) of this subsection is to be leased, the term of the  
35 lease;

36 (d) The number of full-time, year-round employees the business firm intends to hire **at the fa-  
37 cility, not to include any that would be relocated from elsewhere in this state;**

38 (e) The [*minimum annual average compensation intended to be given*] **annual wages intended to  
39 be paid** to the employees described in paragraph (d) of this subsection;

40 (f) A description of any other **recent** business activities of the firm in this state at the time of  
41 application, sufficient for the department to be able to determine if the proposed facility will con-  
42 stitute a new business in this state; [*and*]

43 **(g) A description of any recent business activities at the facility; and**

44 [(g)] **(h) Any other information that the department requires.**

45 (3) An application filed under this section must be accompanied by a fee in an amount prescribed

1 by the Oregon Business Development Department by rule. The fee required by the department may  
 2 not exceed \$500.

3 (4)(a) When an application is filed under this section, the department shall send copies of the  
 4 application to the governing bodies of [*the city and county*] **any city, port or county** in which the  
 5 facility is proposed to be located **and to the governing board of any city within whose urban**  
 6 **growth boundary the facility is to be located.** [*If the facility is to be located within a port, the*  
 7 *department shall also send a copy of the application to the governing body of the port.*]

8 (b) The governing body of a city, port or county described in paragraph (a) of this subsection  
 9 may object to the preliminary certification of a business firm if the firm would be:

10 (A) In competition with an existing business employing individuals within the city, port or  
 11 county; or

12 (B) Incompatible with economic growth or development standards that the city, port or county  
 13 had adopted prior to the date of application for preliminary certification.

14 (c) If the governing body of the city, port or county decides to object to preliminary certification  
 15 of the firm, the governing body shall adopt a resolution stating its objection and the reason for its  
 16 objection.

17 (d) The governing body of a city, port or county has 60 days from the date **a copy of** the ap-  
 18 plication is sent to the city, port or county to object to preliminary certification. If the objection is  
 19 not made within the 60-day period, the city, port or county shall be deemed to have agreed to pre-  
 20 liminary certification.

21 (5) When an application is filed under this section, the department shall review the application  
 22 and determine whether all of the following requirements are met:

23 (a) The proposed facility is to be located at a qualified location.

24 (b) The proposed facility is intended to operate as a facility for at least 10 years following the  
 25 date the facility becomes operational.

26 [*(c) The business firm intends to hire at least five employees for full-time, year-round*  
 27 *employment.*]

28 [*(d)(A) The newly hired employees described in paragraph (c) of this subsection are to receive a*  
 29 *minimum annual compensation of:*]

30 [*(i) 150 percent of the county per capita personal income of the county in which the facility is to*  
 31 *be located determined as of the date of the application for preliminary certification;*]

32 [*(ii) 100 percent of the county per capita personal income of the county in which the facility is to*  
 33 *be located determined as of the date of the application for preliminary certification and the business*  
 34 *firm will provide health insurance coverage to the employees at the facility who are described in par-*  
 35 *agraph (c) of this subsection that equals or exceeds the health insurance benefits provided to employees*  
 36 *of the city, port or county in which the facility is to be located; or]*

37 [*(iii) If the facility is to be located in a county that is outside all metropolitan statistical areas, as*  
 38 *defined by the most recent federal decennial census, 130 percent of the county per capita personal in-*  
 39 *come of the county in which the facility is to be located determined as of the date of the application for*  
 40 *preliminary certification.*]

41 [*(B) Notwithstanding subparagraph (A) of this paragraph, the average wage received by the newly*  
 42 *hired employees must equal or exceed 100 percent of the average wage in the county.*]

43 [*(e) The business operations of the business firm that are to be conducted at the facility constitute*  
 44 *a new business that the firm does not operate at another location in this state.*]

45 **(c) The business firm intends to hire at least five employees for full-time, year-round**

1 **employment at the facility, not to include any job that the firm would relocate from else-**  
 2 **where in this state.**

3 **(d)(A) The newly hired employees described in paragraph (c) of this subsection are each**  
 4 **to be paid an annual wage that equals or exceeds 110 percent of the average wage where the**  
 5 **facility is located; and**

6 **(B) All employees at the facility are to be paid an annual wage that on average equals**  
 7 **or exceeds 100 percent of the average wage where the facility is located.**

8 **(e) The business operations of the business firm that are to be conducted at the facility**  
 9 **constitute a new business relative to the business operations recently conducted at that fa-**  
 10 **cility or conducted by the firm at any other location in this state.**

11 (f) The business operations of the business firm will not compete with existing businesses in the  
 12 city, **port** or county in which the facility is to be located.

13 (6) If the department determines that the proposed facility, if completed as described in the ap-  
 14 plication, meets the criteria set forth in subsection (5) of this section and the governing body of the  
 15 city, port or county does not object under subsection (4) of this section to preliminary certification  
 16 of the firm, the department shall issue a preliminary certification to the firm.

17 (7) If the department determines that the proposed facility, as set forth in the application, does  
 18 not meet the requirements for preliminary certification under this section, the department may not  
 19 issue a preliminary certification. The applicant may appeal the decision to not issue a preliminary  
 20 certification in the manner of a contested case under ORS chapter 183. *[No]* **An** appeal may **not** be  
 21 made if the reason for not issuing a preliminary certification is the objection of the governing body  
 22 of the city, port or county under subsection (4) of this section.

23 **SECTION 3.** ORS 285C.506 is amended to read:

24 285C.506. (1) Following completion of the construction, reconstruction, modification, acquisition,  
 25 installation or lease of the facility, the hiring of employees to conduct business operations at the  
 26 facility and the commencement of operations at the facility, a business firm that obtained prelimi-  
 27 nary certification under ORS 285C.503 may apply for annual certification under this section.

28 (2) The application shall be filed with the Oregon Business Development Department on or be-  
 29 fore *[30 days after]* **the last day of the next month following** the end of the income or corporate  
 30 excise tax year of the business firm.

31 (3) The application shall contain the following information:

- 32 (a) A description of the business operations conducted at the facility;
- 33 (b) The date business operations commenced at the facility;
- 34 (c) The number of full-time, year-round employees employed by the business firm at the facility;
- 35 (d) A schedule of the annual *[compensation]* **wages** paid to the employees; and
- 36 (e) Any other information required by the department.

37 (4) An application filed under this section must be accompanied by a fee in an amount prescribed  
 38 by the department by rule. The fee required by the department may not exceed *[\$100]* **\$200**.

39 (5) The department shall review a business firm's application and approve the application if:

40 (a) The business operations of the firm at the facility commenced at least 24 months before the  
 41 date of application for annual certification *[but within 10 years before the end of the tax year pre-*  
 42 *ceding the date of application for annual certification]*; and

43 (b) The business firm has satisfied the employment and *[minimum compensation]* **annual wage**  
 44 requirements described in ORS 285C.503 (5)(c) and (d) **for the most recent tax year**.

45 (6) In the case of the first application for annual certification filed by a business firm under this

1 section, the department may approve the application only if, in addition to the requirements of  
2 subsection (5) of this section:

3 (a) Business operations commenced at the facility within a reasonable period of time, as deter-  
4 mined by the department by rule, following the date of preliminary certification under ORS 285C.503;

5 (b) There has not been a significant interruption in construction, reconstruction, modification  
6 or installation activity at the location **of the facility**, as determined by the department by rule,  
7 following the date of preliminary certification under ORS 285C.503; and

8 (c) The facility and the business operations actually conducted at the facility are reasonably  
9 similar to the proposed facility and proposed operations described in the application for preliminary  
10 certification.

11 (7) After the first application for annual certification, the department may approve a subsequent  
12 application [*or*] **for** certification filed under this section only if:

13 (a) The business firm meets the requirements of subsection (5) of this section; and

14 (b) The facility and the business operations actually conducted at the facility retain similar  
15 characteristics to the facility and the business operations actually conducted at the facility during  
16 the period of prior certification. This paragraph does not preclude an applicant from changing the  
17 location of the facility, the ownership or organization of the business firm or other aspects of the  
18 facility or business firm that are within the intent of ORS 285C.500 to 285C.506 if the change is made  
19 in accordance with rules adopted by the department.

20 (8)(a) The department may consult with the city or county in determining whether to approve  
21 or disapprove an application under this section.

22 [(9)] (b) If the department approves an application, it shall issue an annual certification to the  
23 business firm.

24 [(10)] (c) If the department disapproves an application, the business firm or any owner of the  
25 business firm may not be allowed the exemption described in ORS 316.778 or 317.391 for the tax year  
26 for which the annual certification was sought or for any subsequent tax year.

27 **(d) The department must approve or disapprove an application under this section within**  
28 **30 days of the date the application is filed.**

29 [(11)] (e) The decision of the department to disapprove an application under this section may  
30 be appealed in the manner of a contested case under ORS chapter 183.

31 [(12)] (f) An annual certification may not be issued under this section for a tax year that is more  
32 than nine consecutive tax years following the first tax year [*an exemption is allowed under ORS*  
33 *316.778 or 317.391*] **for which an annual certification is issued under subsection (5) of this**  
34 **section** with respect to the facility.

35 [(13)] *The department must approve or disapprove an application under this section within 30 days*  
36 *of the date the application is filed.*

37 **SECTION 4.** ORS 317.391 is amended to read:

38 317.391. (1) **As used in this section:**

39 (a) **“Business firm” has the meaning given that term in ORS 285C.500.**

40 (b) **“Certified facility” means a facility, as defined in ORS 285C.500, for which an annual**  
41 **certification under ORS 285C.506 has been issued.**

42 [(1)] (2) For each tax year in which a business firm has received an annual certification for a  
43 facility under ORS 285C.506, the income of the business firm that is apportionable to the certified  
44 facility shall be exempt from tax under this chapter.

45 [(2)] (3) The income of a business firm that is exempt under this section shall be determined by

1 multiplying the taxable income of the business firm (as determined before application of this section)  
2 by the sum of:

3 (a) 50 percent of the ratio of the payroll of the business firm from employment at the certified  
4 facility over total statewide payroll of the business firm, as determined under ORS 314.660; and

5 (b) 50 percent of the ratio of the average value of the property of the business firm at the cer-  
6 tified facility over the average value of the property of the business firm statewide, as determined  
7 under ORS 314.655.

8 [(3)] (4) The sum computed under subsection [(2)] (3) of this section shall be the amount of the  
9 business firm's income that is exempt from tax under this chapter.

10 [(4) As used in this section:]

11 [(a) "Business firm" has the meaning given that term in ORS 285C.500.]

12 [(b) "Certified facility" means a facility, as defined in ORS 285C.500, for which an annual certi-  
13 fication under ORS 285C.506 has been issued.]

14 (5) **The exemption allowed to a business firm under this section may not exceed**  
15 **\$\_\_\_\_\_ for any tax year.**

16 **SECTION 5. (1) The amendments to ORS 285C.500 by section 1 of this 2025 Act apply to**  
17 **preliminary certifications issued under ORS 285C.503 on or after the effective date of this**  
18 **2025 Act.**

19 **(2) The amendments to ORS 285C.503 by section 2 of this 2025 Act apply to applications**  
20 **for preliminary certification filed under ORS 285C.503 on or after July 1, 2017, for which an-**  
21 **annual certification is issued under ORS 285C.506 on or after the effective date of this 2025 Act.**

22 **(3) The amendments to ORS 285C.506 and 317.391 by sections 3 and 4 of this 2025 Act**  
23 **apply to annual certifications issued under ORS 285C.506 on or after January 1, 2026.**

24 **SECTION 6. This 2025 Act takes effect on the 91st day after the date on which the 2025**  
25 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

26