

# House Bill 3363

Sponsored by Representative WITT

## 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**.

Directs Economic and Community Development Department to file annual Unified Economic Development Report detailing development assistance.

Requires public disclosure of development assistance. Limits development subsidies based on cost and quality of jobs created. Provides for recapture of development subsidies from recipients in default on obligations.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to economic development; and declaring an emergency.

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

4 **SECTION 1. (1) "Corporate parent" means any person, association, corporation, joint**  
5 **venture, partnership or other entity that owns or controls 50 percent or more of a recipient.**

6 **(2) "Date of subsidy" means the date that a granting body provides the initial monetary**  
7 **value of a development subsidy to a recipient, provided that:**

8 **(a) If the subsidy is for installation of new equipment, the date of subsidy shall be the**  
9 **date the recipient puts the equipment into service; and**

10 **(b) If the subsidy is for improvements to property, the date of subsidy shall be the date**  
11 **the improvements are finished or the date the recipient or intended beneficiary of the de-**  
12 **velopment subsidy occupies the property, whichever is earlier.**

13 **(3) "Development assistance" means:**

14 **(a) Tax credits, tax exemptions and tax abatements given as an incentive to a recipient;**

15 **(b) Grants or loans of public funds given as an incentive to a recipient; and**

16 **(c) All other state and local government unit programs for the benefit of a recipient.**

17 **(4) "Development subsidy" means any development assistance with a value of at least**  
18 **\$25,000.**

19 **(5) "Economic development" means the provision to any person of governmental subsi-**  
20 **dies, grants or loans or the provision of tax credits, tax exemptions, tax deferrals or other**  
21 **tax reduction programs for the primary purpose of improving the economy anywhere in this**  
22 **state, including but not limited to developing the state's workforce, creating jobs, con-**  
23 **structing and maintaining infrastructure, protecting or developing the environment, in-**  
24 **creasing tourism, improving transportation and developing trade and business opportunities**  
25 **for persons or economic sectors.**

26 **(6) "Full-time job" means a job in which an individual is employed by a recipient for at**  
27 **least 35 hours per week.**

28 **(7) "Granting body" means any agency, board, office, public benefit corporation or au-**  
29 **thority of the state or a local government unit that provides a development subsidy or other**

**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 development assistance.

2 (8) "Local government unit" means an agency, board, commission, office, public benefit  
3 corporation or public authority of a political subdivision of the state.

4 (9) "New employee" means a full-time employee who represents a net increase in the  
5 number of individuals employed by the recipient in this state. "New employee" does not in-  
6 clude an employee who performs a job that was previously performed by another employee  
7 of the recipient if that job existed for at least six months before the employee was hired.

8 (10) "Part-time job" means a job in which an individual is employed by a recipient for less  
9 than 35 hours per week.

10 (11) "Project site" means the site of a project for which any development subsidy is pro-  
11 vided.

12 (12) "Recipient" means any person, association, corporation, joint venture, partnership  
13 or other entity that receives a development subsidy or other development assistance.

14 (13) "Small business" means a recipient whose corporate parent, and all of its subsid-  
15 iaries, employed fewer than 20 full-time employees or had total gross receipts of less than  
16 \$1 million during the calendar year.

17 (14) "State" means an agency, board, commission, office, public benefit corporation or  
18 public authority of the state.

19 (15) "Subsidy value" means the face value of any and all development subsidies provided  
20 to a recipient.

21 (16) "Temporary job" means a job in which an individual is hired for a season or for a  
22 limited period of time.

23 **SECTION 2.** (1) The Economic and Community Development Department shall submit an  
24 annual Unified Economic Development Report to the Legislative Assembly no later than  
25 three months after the end of each fiscal year. The report shall present all types of expen-  
26 ditures for economic development during the prior fiscal year, including but not limited to:

27 (a) The amount of uncollected state tax revenues resulting from every tax credit, abate-  
28 ment, exemption and reduction provided to a recipient by the state or a local government  
29 unit, including but not limited to taxes on gross receipts, income, sales, use, raw materials,  
30 excise, property, utility and inventory.

31 (b) The name of each recipient that claimed any tax credit, abatement, exemption or re-  
32 duction under paragraph (a) of this subsection of any value equal to or greater than \$5,000,  
33 together with the dollar amount received by each such recipient.

34 (c) The aggregate amount of tax credits, abatements, exemptions or reductions of less  
35 than \$5,000 received by recipients and the number of recipients so aggregated for each tax  
36 expenditure.

37 (d) All state-appropriated expenditures for economic development, including line items in  
38 the budgets of every state-funded entity concerned with economic development, including but  
39 not limited to the Economic and Community Development Department, the Employment  
40 Department, vocational education programs, state university research programs, manufac-  
41 turing extension service, the State Workforce Investment Board, the Oregon Economic and  
42 Community Development Commission, industrial development authorities, regional develop-  
43 ment authorities and finance authorities.

44 (e) All expenditures for economic development appropriated by local governments units.

45 (f) All expenditures appropriated by the state and local government units for economic

1 development, by expenditure category. Expenditure categories for inclusion in the report  
 2 shall include:

- 3 (A) Infrastructure;
- 4 (B) Transportation;
- 5 (C) Manufacturing;
- 6 (D) Private businesses other than manufacturing;
- 7 (E) Nonprofit organizations;
- 8 (F) Workforce training;
- 9 (G) Education;
- 10 (H) Business relocation incentives;
- 11 (I) Arts and film;
- 12 (J) Environmental projects;
- 13 (K) Economic sector development; and
- 14 (L) Other categories that the Director of the Economic and Community Development  
 15 Department deems appropriate.

16 (2) The Department of Revenue shall submit a report of the amounts in subsection (1)(a)  
 17 to (c) of this section to the Economic and Community Development Department at the end  
 18 of the applicable fiscal year for inclusion in the Unified Economic Development Report. The  
 19 Economic and Community Development Department may append the Department of Revenue  
 20 report to the Unified Economic Development Report rather than separately reporting the  
 21 amounts.

22 (3) Each local government unit that appropriates expenditures for economic development  
 23 shall submit a report of the amounts in subsection (1)(d) and (e) of this section and the list  
 24 of expenditures by category in subsection (1)(f) of this section to the Economic and Com-  
 25 munity Development Department at the end of the applicable fiscal year for inclusion in the  
 26 Unified Economic Development Report. The department may append local government unit  
 27 reports submitted under this subsection to the Unified Economic Development Report rather  
 28 than separately reporting the amounts, provided that the amounts of development assistance  
 29 expended by local government units are included in the list of expenditures by category as  
 30 required by subsection (1)(f) of this section.

31 **SECTION 3.** (1) Each local government unit shall submit a report to the Department of  
 32 Revenue regarding any real property in the unit's jurisdiction that has received a property  
 33 tax abatement or reduction during the fiscal year. The report shall contain information, in-  
 34 cluding but not limited to:

- 35 (a) The name of the property owner;
- 36 (b) The address of the property;
- 37 (c) The start and end dates of the property tax abatement or reduction;
- 38 (d) The schedule of the tax reduction;
- 39 (e) Each tax abatement or reduction for the property; and
- 40 (f) The amount of property tax revenue not paid to the local government unit as a result  
 41 of the abatement or reduction.

42 (2) Each local government unit shall also submit a report to the department setting forth  
 43 the total property tax revenue not paid to the unit during the fiscal year as a result of all  
 44 property tax abatements and reductions in the unit's jurisdiction.

45 (3) The reports required under subsections (1) and (2) of this section must be prepared

1 on forms provided by the department and submitted to the department by the local govern-  
 2 ment unit no later than three months after the end of the fiscal year.

3 (4) The department shall annually compile and publish all of the data contained in the  
 4 reports required under subsections (1) and (2) of this section in both written and electronic  
 5 form. The department shall post the data on the department's Internet website.

6 (5) If a local government unit fails to submit the reports required under subsections (1)  
 7 and (2) of this section to the Department of Revenue within the prescribed time, the de-  
 8 partment shall notify the State Treasurer and the Economic and Community Development  
 9 Department, whereupon the State Treasurer or the Economic and Community Development  
 10 Department shall withhold further payments of any development subsidy to the delinquent  
 11 unit until the unit files the reports with the Department of Revenue.

12 **SECTION 4.** (1) An applicant for a development subsidy shall complete an application for  
 13 the development subsidy on a form provided by the Economic and Community Development  
 14 Department and shall submit the application to the granting body providing the development  
 15 subsidy. The information required on the application shall include the following:

16 (a) An application tracking number that is specific to the granting body and the project.

17 (b) The office mailing address, the office telephone number and the name of the chief  
 18 officer of the granting body.

19 (c) The office mailing address, the office telephone number and the name of the chief  
 20 officer of the applicant's corporate parent.

21 (d) The office mailing address, the office telephone number and the name of the chief  
 22 officer of the applicant.

23 (e) The street address of each project site for which a development subsidy is requested.

24 (f) The three-digit North American Industry Classification System number or a successor  
 25 number for each project site for which a development subsidy is requested.

26 (g) The total number of individuals employed by the applicant at each project site on the  
 27 date of the application, including the number of employees in full-time, part-time and tem-  
 28 porary jobs.

29 (h) The total number of individuals employed in this state by the applicant's corporate  
 30 parent, and all of its subsidiaries, as of December 31 of the prior fiscal year, broken down  
 31 by full-time, part-time and temporary jobs.

32 (i) The type of development subsidy sought and the subsidy value.

33 (j) The number of new jobs to be created by the applicant and the number of jobs in  
 34 which employees will be retained by the applicant as a result of the development subsidy,  
 35 including the number of full-time, part-time and temporary jobs at the project site and the  
 36 occupations or job classifications associated with those jobs.

37 (k) Detailed information projecting the anticipated starting dates of all new employees  
 38 and the total payroll to be created as a result of the development subsidy.

39 (L) For project sites located in a Metropolitan Statistical Area, as defined by the federal  
 40 Office of Management and Budget, the average hourly wage paid to nonmanagerial employees  
 41 in this state for the industries involved at each project site, as established by the United  
 42 States Bureau of Labor Statistics.

43 (m) For project sites located outside of a Metropolitan Statistical Area with a population  
 44 exceeding 400,000, the average weekly wage paid to nonmanagerial employees in the county  
 45 for the industries involved at the project site, as established by the United States Depart-

1 **ment of Commerce.**

2 **(n) The type and amount of health care coverage to be provided by the applicant within**  
 3 **90 days after commencement of employment at the project site, including any costs to be**  
 4 **borne by the employees.**

5 **(o) Information regarding the anticipated benefits, direct or indirect and tangible or in-**  
 6 **tangible, to the area in which the project site is located, including but not limited to:**

7 **(A) Benefits to the economy;**

8 **(B) Energy savings anticipated by the project;**

9 **(C) Benefits to the environment; and**

10 **(D) Other benefits or savings anticipated as a result of the project.**

11 **(p) A list of all other forms of development assistance that the applicant is requesting,**  
 12 **and the name of any other granting body from which a development subsidy is sought.**

13 **(q) A statement as to whether the development subsidy may reduce employment at any**  
 14 **other site controlled by the applicant or its corporate parent, within or outside this state,**  
 15 **resulting from automation, merger, acquisition, corporate restructuring or other business**  
 16 **activity.**

17 **(r) A certification by the chief officer of the applicant that the information in the appli-**  
 18 **cation contains no misrepresentation of material facts upon which eligibility for a develop-**  
 19 **ment subsidy is based.**

20 **(2) Every granting body shall require an applicant to complete an application form that**  
 21 **meets the minimum requirements under this section each time the applicant applies for a**  
 22 **development subsidy.**

23 **(3) If the granting body approves the application, the granting body shall send a copy of**  
 24 **the application to the Economic and Community Development Department within 15 days**  
 25 **after the approval. If the application is not approved, the granting body shall retain the ap-**  
 26 **plication in the records of the granting body.**

27 **SECTION 5. (1) Each granting body shall file, no later than February 1 of each year, a**  
 28 **progress report with the Economic and Community Development Department for each**  
 29 **project for which a development subsidy has been granted.**

30 **(a) The report shall include the following information:**

31 **(A) The application tracking number;**

32 **(B) The office mailing address, the office telephone number and the name of the chief**  
 33 **officer of the granting body;**

34 **(C) The office mailing address, the office telephone number and the name of the chief**  
 35 **officer of the recipient;**

36 **(D) A summary of the number of jobs required, created and lost, broken down by full-**  
 37 **time, part-time and temporary jobs and by wage groups;**

38 **(E) The type and amount of health care coverage provided to the employees at the**  
 39 **project site, including any costs borne by the employees;**

40 **(F) The comparison of the total employment in this state by the recipient's corporate**  
 41 **parent on the date of the application and the date of the progress report, broken down by**  
 42 **full-time, part-time and temporary jobs;**

43 **(G) A statement as to whether the use of the development subsidy during the previous**  
 44 **fiscal year reduced employment at any other site controlled by the recipient or its corporate**  
 45 **parent, within or outside this state, as a result of automation, merger, acquisition, corporate**

1 restructuring or other business activity; and

2 (H) A signed certification by the chief officer of the recipient as to the accuracy of the  
3 progress report.

4 (b) On all subsequent annual progress reports, the granting body shall indicate whether  
5 the recipient is still in compliance with its job creation, wage and health care coverage goals  
6 and whether the corporate parent is still in compliance with its state employment require-  
7 ment.

8 (c) Granting bodies shall file annual progress reports for the duration of the development  
9 subsidy or not less than five years, whichever is longer.

10 (2) The department shall compile and publish all data from the progress reports in both  
11 written and electronic form. The department shall post the data on the department's Inter-  
12 net website.

13 (3) The granting body and the department shall have access at all reasonable times to the  
14 project site and the records of the recipient in order to monitor the project and to prepare  
15 the progress reports.

16 (4) A recipient that fails to provide the granting body with information or access required  
17 under this section shall be subject to a fine of not less than \$500 per day to commence within  
18 10 working days after the February 1 deadline, and of not less than \$1,000 per day to com-  
19 mence 20 days after such deadline.

20 **SECTION 6.** A granting body may not grant or award a development subsidy unless:

21 (1) The cost per job created or maintained by the development subsidy is less than  
22 \$35,000. The cost per job shall be determined by dividing the amount of the development  
23 subsidy by the number of full-time jobs required under the application approved by the  
24 granting body;

25 (2) The recipient provides health care coverage to employees as approved by the granting  
26 body in the application for the development subsidy; and

27 (3) The average wage paid to employees at the project site equals or exceeds the wages  
28 established under section 4 (1)(L) or (m) of this 2007 Act by:

29 (a) 75 percent, for a recipient that is a small business; or

30 (b) 85 percent, for all other recipients.

31 **SECTION 7.** (1) A recipient shall fulfill its job creation, wage and health care coverage  
32 goals for the project within two years after the date of subsidy. The recipient shall maintain  
33 the wage and health care coverage goals as long as the development subsidy is in effect or  
34 not less than five years, whichever is longer.

35 (2) The corporate parent of a recipient must maintain at least 90 percent of its employ-  
36 ment in this state as long as the development subsidy is in effect or not less than five years,  
37 whichever is longer.

38 (3) If the requirements under subsections (1) and (2) of this section are not fulfilled, the  
39 granting body shall recapture the development subsidy from the recipient as follows:

40 (a) Upon a failure by the recipient to create the required number of jobs or to pay the  
41 required wages or to provide the required health care coverage, the amount recaptured shall  
42 be a percentage of the total development subsidy that is equal to the percentage by which  
43 the number of jobs created or the amount of wages paid or health care coverage provided  
44 falls short of the job creation, wage or health care coverage goals set forth in the initial  
45 application for the development subsidy.

1 (b) Upon a failure of the corporate parent to maintain 90 percent of its employment in  
 2 this state, the rate of recapture shall equal twice the percentage by which such employment  
 3 is less than 90 percent.

4 (4) The granting body shall provide notice to the recipient of an intent to recapture the  
 5 development subsidy. The notice shall state the reasons that the granting body seeks recap-  
 6 ture and the amount to be recaptured. The recipient shall remit to the governing body the  
 7 recapture amount within 60 calendar days after the date of the notice.

8 (5) If a recipient fails to fulfill the requirements for a development subsidy in three con-  
 9 secutive calendar years, the granting body shall notify the Economic and Community Devel-  
 10 opment Department and the recipient that the recipient is in default. The recipient shall  
 11 repay to the granting body all remaining value of the development subsidy not previously  
 12 repaid, no later than 180 calendar days after the date of the notice of default.

13 (6) The Director of the Economic and Community Development Department may elect  
 14 to waive enforcement of any recapture provision under this section based on a finding that  
 15 the waiver is necessary to avert an imminent and demonstrable hardship to the recipient  
 16 that may result in the recipient's insolvency or discharge of employees.

17 (7)(a) No later than June 1 of each year, the department shall compile a report on the  
 18 outcomes and effectiveness of recapture provisions for development subsidies, including but  
 19 not limited to:

20 (A) The total number of recipients;

21 (B) The total number of recipients in failing to meet or maintain job creation, wage or  
 22 health care coverage goals;

23 (C) The total number of completed recapture efforts;

24 (D) The total number of recapture efforts initiated; and

25 (E) The number of waivers granted for recapture provisions.

26 (b) The department shall publish the report in both written and electronic form no later  
 27 than September 1. The department shall post the report on the department's Internet  
 28 website.

29 (c) Data regarding the outcomes and effectiveness of recapture provisions for grants  
 30 under ORS 285A.224 are not required to be included in the report required by this subsection.

31 **SECTION 8.** Notwithstanding ORS 192.502 (16), all records required to be prepared or  
 32 maintained under sections 1 to 7 of this 2007 Act, including but not limited to applications,  
 33 progress reports, recapture notices and reports, default notices and other related records  
 34 or proceedings, shall be subject to disclosure under public records law.

35 **SECTION 9.** Nothing in sections 1 to 7 of this 2007 Act shall require or authorize any  
 36 recipient to reduce wages or benefits established under any collective bargaining agreement  
 37 or state or federal prevailing wage law.

38 **SECTION 10.** This 2007 Act being necessary for the immediate preservation of the public  
 39 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
 40 on its passage.