

House Bill 2151

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Economic and Community 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**.

Permits Oregon Economic and Community Development Commission to adjust allocations to programs that receive funding from Oregon Community Development Fund.
Makes technical changes.

A BILL FOR AN ACT

1
2 Relating to economic development; amending ORS 284.706, 285A.227, 285B.083, 285B.286, 285B.290
3 and 285C.140.

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

5 **SECTION 1.** ORS 284.706 is amended to read:

6 284.706. (1) There is created the Oregon Innovation Council consisting of the following voting
7 members:

8 (a) The Governor or the Governor's designated representative, who shall be chairperson of the
9 council.

10 (b) Five members appointed by the Governor who are engaged in the operations of Oregon
11 traded sector industries.

12 (c) One member appointed by the Governor who is a representative of an Oregon-based, gener-
13 ally accredited, not-for-profit private institution of higher education.

14 (d) A member of the Oregon Growth Account Board, appointed by the board, who has experience
15 in the field of venture capital.

16 (e) A member of the Engineering and Technology Industry Council, appointed by the Engineer-
17 ing and Technology Industry Council.

18 (f) The Director of the Economic and Community Development Department.

19 (g) The Chancellor of the Oregon University System.

20 (h) The Commissioner for Community College Services.

21 (i) The State Treasurer.

22 (2)(a) The Speaker of the House of Representatives shall appoint two members to the council
23 who are members of the House of Representatives.

24 (b) The President of the Senate shall appoint two members to the council who are members of
25 the Senate.

26 (c) Members of the Legislative Assembly appointed to the council are nonvoting members and
27 may act in an advisory capacity only.

28 (3) The following persons, or their representatives, shall serve as ex officio, nonvoting members
29 of the council:

30 (a) The *[chairperson]* **presiding officer** of the Oregon Economic and Community Development

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 Commission.

2 (b) The president of the State Board of Higher Education.

3 (c) The chairperson of the State Board of Education.

4 (d) An executive officer of an association representing Oregon-based, generally accredited, not-
5 for-profit private institutions of higher education, appointed by the Governor.

6 (4) The term of office of each appointed voting member of the council is three years, but an
7 appointed member serves at the pleasure of the appointing authority. Before the expiration of the
8 term of an appointed voting member, the appointing authority shall appoint a successor whose term
9 begins on July 1 next following. An appointed member is eligible for reappointment. If there is a
10 vacancy for any cause, the appointing authority shall make an appointment to become immediately
11 effective for the remainder of the unexpired term.

12 (5) A majority of the voting members of the council constitutes a quorum for the transaction
13 of business.

14 (6) Official action by the council requires the approval of a majority of the voting members of
15 the council.

16 (7) The council shall meet at least twice per fiscal year at a place, day and time determined by
17 the chairperson. The council may also meet at other times and places specified by a call of the
18 chairperson or by written request of a majority of the voting members of the council.

19 (8) The council may adopt rules necessary for the operation of the council.

20 (9) The council may establish committees and delegate to the committees duties as the council
21 considers desirable.

22 (10) The Economic and Community Development Department shall provide staff support to the
23 council.

24 (11) Members of the council who are not members of the Legislative Assembly are entitled to
25 compensation and expenses incurred by them in the performance of their official duties in the man-
26 ner and amounts provided for in ORS 292.495. Claims for compensation and expenses of members
27 of the council who are public officers shall be paid out of funds appropriated to the public agency
28 that employs the member. Claims for compensation and expenses of members of the council who are
29 not public officers shall be paid out of funds appropriated to the Economic and Community Devel-
30 opment Department for that purpose.

31 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist the
32 council in the performance of its duties and, to the extent permitted by laws relating to
33 confidentiality, to furnish such information and advice as the members of the council consider nec-
34 essary to perform their duties.

35 **SECTION 2.** ORS 285A.227 is amended to read:

36 285A.227. (1) There is created within the State Treasury, separate and distinct from the General
37 Fund, the Oregon Community Development Fund. The fund is created to provide a flexible funding
38 source for financing those programs and projects that are determined by the Oregon Economic and
39 Community Development Commission under the policies, criteria and standards set forth in ORS
40 285A.020, 285A.045 and 285A.055 to further economic and community development. The Economic
41 and Community Development Department may finance programs and projects determined by the
42 commission to further economic and community development by making grants or loans using mon-
43 eys in the fund. Notwithstanding ORS 279A.140, the department may enter into contracts as neces-
44 sary or appropriate to implement programs and projects determined by the commission to further
45 economic and community development using moneys in the fund. The Oregon Community Develop-

1 ment Fund shall consist of all moneys credited to the fund, including moneys from the Administra-
 2 tive Services Economic Development Fund, federal funds collected or received, and fees, moneys or
 3 other revenues, including Miscellaneous Receipts, collected or received by the Economic and Com-
 4 munity Development Department, and all interest earnings that accrue to the fund. The moneys in
 5 the Oregon Community Development Fund are continuously appropriated to the Economic and
 6 Community Development Department to promote economic and community development.

7 (2) The Oregon Economic and Community Development Commission, by rule, shall adopt stan-
 8 dards, objectives and criteria for use of the moneys in the Oregon Community Development Fund.
 9 **Subject to the adopted standards, objectives and criteria for the use of moneys, the com-**
 10 **mission may adjust allocations to programs and projects that receive funding from the**
 11 **Oregon Community Development Fund.**

12 **SECTION 3.** ORS 285B.083 is amended to read:

13 285B.083. Except as provided in ORS 285B.086, if any business development project is refinanced
 14 or financial assistance is obtained from other sources after the execution of the loan from the state,
 15 those may first be used to repay the state, unless provided otherwise [*by the committee*], if the refi-
 16 nancing or financial assistance applies only to the business development project authorized and does
 17 not include any subsequent addition, expansion, improvement or further development.

18 **SECTION 4.** ORS 285B.286 is amended to read:

19 285B.286. For traded sector industries, the Economic and Community Development Department
 20 shall undertake industry development activities that may include, but are not limited to, all of the
 21 following:

22 (1) Focus groups and other meetings and related studies to identify traded sector industry
 23 members and issues of common concern within an industry.

24 (2) State technical and financial support for formation of industry associations, publication of
 25 association directories and related efforts to create or expand the activities of industry associations.

26 (3) Helping establish research consortia.

27 (4) Joint training and education programs and curricula related to the specific needs of traded
 28 sector industries.

29 (5) Cooperative market development activities.

30 (6) Analysis of the need, feasibility and cost for establishing product certification and testing
 31 facilities and services.

32 (7) State technical and financial support to facilitate certification of sites as ready for develop-
 33 ment for traded sector industry. The support may include performing site assessments to determine
 34 the costs associated with development of individual sites.

35 **(8) Assistance to traded sector and cluster affiliated Oregon businesses and consortia in**
 36 **making investments that advance industry related development activities or other identified**
 37 **competitiveness objectives of existing Oregon cluster businesses.**

38 **SECTION 5.** ORS 285B.290 is amended to read:

39 285B.290. The Industry Outreach Fund is established in the State Treasury, separate and distinct
 40 from the General Fund. The Industry Outreach Fund shall consist of all moneys credited to the fund,
 41 including moneys from the Administrative Services Economic Development Fund. Interest earned by
 42 the Industry Outreach Fund shall be credited to the fund. Moneys in the fund are continuously ap-
 43 propriated to the Economic and Community Development Department [*for all of the following pur-*
 44 *poses:*]

45 [(1)] to provide funds for activities outlined in ORS [285B.266] **285B.286.**

1 *[(2) To assist traded sector and cluster affiliated Oregon businesses and consortia in making in-*
 2 *vestments that advance industry related development activities or other identified competitiveness ob-*
 3 *jectives of existing Oregon cluster businesses.]*

4 **SECTION 6.** ORS 285C.140 is amended to read:

5 285C.140. (1)(a) Any eligible business firm seeking to have property exempt from property taxa-
 6 tion under ORS 285C.175 shall, before the commencement of direct site preparation activities or the
 7 construction, addition, modification or installation of qualified property in an enterprise zone, and
 8 before the hiring of eligible employees, apply for authorization under this section.

9 (b) The application shall be made on a form prescribed by the Department of Revenue and the
 10 Economic and Community Development Department.

11 (c) The application shall be filed with the sponsor of the zone. A sponsor may require that the
 12 application filed with the sponsor be accompanied by a filing fee. If required, the filing fee may not
 13 exceed the greater of \$200 or one-tenth of one percent of the value of the investment in qualified
 14 property that is proposed in the application for authorization. The filing fee may be required for the
 15 filing of applications only after the sponsor adopts a policy, consistent with Economic and Commu-
 16 nity Development Department rules, authorizing the imposition of the filing fee.

17 (2) The application shall contain the following information:

18 (a) A description of the nature of the firm's current and proposed business operations inside the
 19 boundary of the enterprise zone;

20 (b) A description and estimated value of the qualified property to be constructed, added, modi-
 21 fied or installed inside the boundary of the enterprise zone;

22 (c) The number of employees of the firm that are employed within the enterprise zone, averaged
 23 over the previous 12 months, and an estimate of the number of employees that will be hired by the
 24 firm;

25 (d) A commitment to meet all requirements of ORS 285C.200 and 285C.215, and to verify com-
 26 pliance with these requirements;

27 (e) A commitment to satisfy all additional conditions for authorization that are imposed by the
 28 enterprise zone sponsor under ORS 285C.150, 285C.155 or 285C.205 or pursuant to an agreement
 29 entered into under ORS 285C.160, and to verify compliance with these additional conditions;

30 (f) A commitment to renew the application, consistent with ORS 285C.165, every two years while
 31 the zone exists if the firm has not filed a claim under ORS 285C.220 that is based on the application;
 32 and

33 (g) Any other information considered necessary by the Department of Revenue and the Eco-
 34 nomic and Community Development Department.

35 (3) After an application is submitted to a sponsor, the business firm may revise or amend the
 36 application. An amendment or revision may not be made on or after January 1 of the first assess-
 37 ment year for which the qualified property associated with the application is exempt under ORS
 38 285C.175.

39 (4) If an application for authorization appears to be complete and the proposed investment ap-
 40 pears to be eligible for authorization, the sponsor and the business firm shall conduct a preauthori-
 41 zation consultation. The county assessor shall be timely notified and have the option to participate
 42 in the consultation. The consultation shall:

43 (a) Identify issues with the potential to affect compliance with relevant exemption requirements,
 44 including but not limited to enterprise zone boundary amendments;

45 (b) Arrange for methods and procedures to establish and verify compliance with applicable re-

1 requirements; and

2 (c) Identify the person who is obligated to notify the county assessor if requirements are not
3 being satisfied.

4 (5) Upon completion of the consultation, the sponsor shall prepare a written summary of the
5 consultation made under subsection (4) of this section, attach the summary to the application and
6 forward the application to the county assessor of each county in which the zone is located for re-
7 view by the assessor.

8 (6) Following the preauthorization [*conference*] **consultation** under subsection (4) of this section,
9 the sponsor and the county assessor shall authorize the business firm by approving the application,
10 if the sponsor and county assessor determine that:

11 (a) The current or proposed operations of the business firm in the enterprise zone result in the
12 firm being eligible under ORS 285C.135; and

13 (b) The firm has made the commitments and provided the other information required under
14 subsection (2) of this section.

15 (7) If the business firm seeking authorization is an eligible business firm described in ORS
16 285C.135 (5)(b), the sponsor must, as a condition to approving the application, make a formal finding
17 that the business firm is an eligible business firm under ORS 285C.135 and that the size of the pro-
18 posed investment, the employment at the facility of the firm or the nature of the activities under-
19 taken by the firm within the enterprise zone will significantly enhance the local economy, promote
20 the purposes for which the zone was created and increase employment within the zone.

21 (8) The approval of both the sponsor and the county assessor under this section shall be prima
22 facie evidence that the qualified property of the business firm will receive the property tax ex-
23 emption under ORS 285C.175. In approving the application, the sponsor and county assessor shall
24 provide proof of approval as directed by the Economic and Community Development Department.

25 (9) If the sponsor or county assessor fails or refuses to authorize the business firm, the business
26 firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall
27 provide copies of the firm’s appeal to the sponsor, county assessor, the Department of Revenue and
28 the Economic and Community Development Department.

29 (10) Authorization under this section does not ensure that property constructed, added, modified
30 or installed by the authorized business firm will receive property tax exemption under ORS 285C.175.
31 The sponsor and the county assessor are not liable in any way if the Department of Revenue or the
32 county assessor later determines that an authorized business firm does not satisfy the requirements
33 for an exemption on qualified property.

34 (11) Notwithstanding subsection (1) of this section, if an eligible business firm has begun or
35 completed the construction, addition, modification or installation of property that meets the quali-
36 fications of ORS 285C.180, and the property has not yet been subject to property tax, then, for pur-
37 poses of ORS 285C.050 to 285C.250, the firm shall be authorized under this section if the firm files
38 an application that is allowed under subsection (12) of this section and is otherwise authorized under
39 this section.

40 (12) Late submission of an application under this section is allowed if:

41 (a) A rule permits late submissions of applications under this section; or

42 (b) The Department of Revenue waives filing deadline requirements under this section. The de-
43 partment shall issue a letter to the eligible business firm and zone sponsor setting forth the waiver
44 under this paragraph.