

House Bill 2933

Sponsored by Representative SHIELDS

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 subsidies.

Requires public disclosure of development subsidy. Limits development subsidies based on cost and quality of jobs created. Provides for recapture of development subsidies from businesses in default on obligations. Creates cause of action for aggrieved taxpayers.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

3 Whereas while the state and its local government units have granted numerous economic de-
4 velopment subsidies in the last 25 years, the real wage levels and health care coverage of working
5 families have declined; and

6 Whereas when workers receive low wages and poor benefits, their jobs often impose hidden
7 taxpayer costs upon other citizens in the form of Medicaid, food stamps, earned income tax credits
8 and other forms of public assistance to the working poor and their families; and

9 Whereas citizen participation in economic development has been impeded by a lack of readily
10 accessible information regarding expenditures and outcomes; and

11 Whereas in order to improve the effectiveness of expenditures for economic development and to
12 ensure that these expenditures achieve the goal of raising living standards for working families, it
13 is necessary to collect, analyze and make available to the public information regarding those
14 expenditures and to impose certain safeguards for their use; now, therefore,

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

16 **SECTION 1. As used in sections 1 to 7 of this 2009 Act:**

17 **(1) "Corporate parent" means any person, association, corporation, joint venture, part-**
18 **nership or other entity that owns or controls 50 percent or more of a recipient.**

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

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

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

26 **(3) "Development subsidy" means any expenditure of public funds with a value of at least**
27 **\$25,000 for the purpose of stimulating economic development within the state, including but**
28 **not limited to bonds, grants, loans, loan guarantees, enterprise zones, empowerment zones,**
29 **tax increment financing, grants, fee waivers, land price subsidies, matching funds, tax sub-**

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 **tractions, tax exemptions, tax credits or other tax expenditures.**

2 (4) **“Full-time job” means a job in which an individual is employed by a recipient for at**
 3 **least 35 hours per week.**

4 (5) **“Granting body” means any agency, board, office, public benefit corporation or au-**
 5 **thority of the state or a local government unit that provides a development subsidy.**

6 (6) **“Local government unit” means an agency, board, commission, office, public benefit**
 7 **corporation or public authority of a political subdivision of the state.**

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

12 (8) **“Part-time job” means a job in which an individual is employed by a recipient for less**
 13 **than 35 hours per week.**

14 (9) **“Project site” means the site of a project for which any development subsidy is pro-**
 15 **vided.**

16 (10) **“Property-taxing entity” means any entity that levies taxes upon real or personal**
 17 **property.**

18 (11) **“Recipient” means any person, association, corporation, joint venture, partnership**
 19 **or other entity that receives a development subsidy.**

20 (12) **“Small business” means a recipient whose corporate parent, and all of its subsid-**
 21 **aries, employed fewer than 20 full-time employees or had total gross receipts of less than**
 22 **\$1 million dollars during the calendar year.**

23 (13) **“State” means an agency, board, commission, office, public benefit corporation or**
 24 **public authority of the state.**

25 (14) **“Subsidy value” means the face value of any and all development subsidies provided**
 26 **to a recipient.**

27 (15) **“Temporary job” means a job in which an individual is hired for a season or for a**
 28 **limited period of time.**

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

33 (a) **The amount of uncollected state tax revenues resulting from every tax credit, sub-**
 34 **traction, exemption, reduction, deferral or other tax expenditure provided to a recipient by**
 35 **the state or a local government unit, including but not limited to taxes on gross receipts,**
 36 **income, sales, use, raw materials, excise, property, utilities and inventory.**

37 (b) **The name of each recipient that claimed any tax credit, subtraction, exemption, re-**
 38 **duction, deferral or other tax expenditure under paragraph (a) of this subsection of any value**
 39 **equal to or greater than \$5,000, together with the dollar amount received by each such re-**
 40 **ipient.**

41 (c) **The aggregate amount of tax credits, subtractions, exemptions, reductions, deferrals**
 42 **or other tax expenditures of less than \$5,000 received by a recipient and the number of re-**
 43 **ipients so aggregated for each tax expenditure.**

44 (d) **All state-appropriated expenditures for economic development, including line item**
 45 **budgets for every state-funded entity concerned with economic development, including but**

1 not limited to the Economic and Community Development Department, the Employment
 2 Department, vocational education programs, state university research programs, manufac-
 3 turing extension service, the State Workforce Investment Board, the Oregon Economic and
 4 Community Development Commission, industrial development authorities, regional develop-
 5 ment authorities and finance authorities.

6 (2) The Department of Revenue shall submit a report of the amounts in subsection (1)(a)
 7 to (c) of this section to the Economic and Community Development Department at the end
 8 of the applicable fiscal year for inclusion in the Unified Economic Development Report. The
 9 Economic and Community Development Department may append the Department of Revenue
 10 report to the Unified Economic Development Report rather than separately reporting the
 11 amounts.

12 **SECTION 3.** (1) Each local taxing district shall submit a report to the Department of
 13 Revenue regarding any real property in the local taxing district’s jurisdiction that has re-
 14 ceived a property tax reduction during the fiscal year. The report shall contain information
 15 including but not limited to:

- 16 (a) The name of the property owner;
- 17 (b) The address of the property;
- 18 (c) The start and end dates of the property tax reduction;
- 19 (d) The schedule of the tax reduction;
- 20 (e) Each tax reduction for the property; and
- 21 (f) The amount of property tax revenue not paid to the taxing entity as a result of the
 22 reduction.

23 (2) Each local taxing district shall also submit a report to the department setting forth
 24 the total property tax revenue not paid to the district during the fiscal year as a result of
 25 all property tax reductions in the local taxing district’s jurisdiction.

26 (3) The reports required under subsections (1) and (2) of this section must be prepared
 27 on forms provided by the department and submitted to the department by the local taxing
 28 district no later than three months after the end of the fiscal year.

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

32 (5) If a local taxing district fails to submit the reports required under this section to the
 33 department within the prescribed time, the department shall notify the State Treasurer and
 34 the Economic and Community Development Department, whereupon the State Treasurer or
 35 the Economic and Community Development Department shall withhold further payments of
 36 any development subsidy to the delinquent district until the local taxing district files the
 37 reports with the department.

38 (6) As used in this section, “property tax reduction” means an exemption, partial ex-
 39 emption, special assessment, deferral or other property tax benefit applicable to the prop-
 40 erty.

41 **SECTION 4.** (1) Each granting body, together with the applicant for a development sub-
 42 sidy, shall complete an application for the development subsidy on a form provided by the
 43 Economic and Community Development Department. The information required on the appli-
 44 cation shall include the following:

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

1 (b) The name, street and mailing addresses and telephone number of the chief officer of
2 the granting body.

3 (c) The name, street and mailing addresses and telephone number of the chief officer of
4 the applicant's corporate parent.

5 (d) The name, street and mailing addresses and telephone number of the chief officer of
6 the applicant.

7 (e) The street address of the project site.

8 (f) The three-digit North American Industry Classification System number of the project
9 site.

10 (g) The total number of individuals employed by the applicant at the project site on the
11 date of the application, broken down by full-time, part-time and temporary jobs.

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

15 (i) The number of new jobs to be created by the applicant at the project site, broken down
16 by full-time, part-time and temporary jobs.

17 (j) The average hourly wage to be paid to all current and new employees at the project
18 site, broken down by full-time, part-time and temporary jobs, and further broken down by
19 wage groups as follows:

20 (A) From minimum wage to \$1 above minimum wage;

21 (B) From \$1.01 above minimum wage to \$2 above minimum wage;

22 (C) From \$2.01 above minimum wage to \$3 above minimum wage;

23 (D) From \$3.01 above minimum wage to \$4 above minimum wage;

24 (E) From \$4.01 above minimum wage to \$5 above minimum wage;

25 (F) From \$5.01 above minimum wage to \$6 above minimum wage;

26 (G) From \$6.01 above minimum wage to \$7 above minimum wage;

27 (H) From \$7.01 above minimum wage to \$8 above minimum wage;

28 (I) From \$8.01 above minimum wage to \$9 above minimum wage;

29 (J) From \$9.01 above minimum wage to \$10 above minimum wage;

30 (K) From \$10.01 above minimum wage to \$11 above minimum wage; and

31 (L) From \$11.01 above minimum wage to \$12 above minimum wage.

32 (k) The development subsidy or development subsidies sought in the application, and the
33 value of such subsidy or subsidies.

34 (L) For project sites located in a Metropolitan Statistical Area, as defined by the federal
35 Office of Management and Budget, the average hourly wage paid to nonmanagerial employees
36 in the state for the industries involved at the project, as established by the United States
37 Bureau of Labor Statistics.

38 (m) For project sites located outside of a Metropolitan Statistical Area with a population
39 exceeding 400,000, the average weekly wage paid to nonmanagerial employees in the county
40 for industries involved at the project site, as established by the United States Department
41 of Commerce.

42 (n) The type and amount of health care coverage to be provided by the applicant within
43 90 days of commencement of employment at the project site, including any costs to be borne
44 by the employees.

45 (o) A list of all development subsidies that the applicant is requesting, and the name of

1 any other granting body from which a development subsidy is sought.

2 (p) A statement as to whether the development subsidy may reduce employment at any
3 other site controlled by the applicant or its corporate parent, within or outside the state,
4 resulting from automation, merger, acquisition, corporate restructuring or other business
5 activity.

6 (q) A certification by the chief officer of the applicant as to the accuracy of the applica-
7 tion.

8 (2) If the granting body approves the application, the granting body shall send a copy of
9 the application to the Economic and Community Development Department within 15 days of
10 the approval. If the application is not approved, the granting body shall retain the application
11 in the records of the granting body.

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

15 (a) The report shall include the following information:

16 (A) The application tracking number;

17 (B) The name, street and mailing addresses, telephone number and chief officer of the
18 granting body;

19 (C) The name, street and mailing addresses, telephone number and chief officer of the
20 recipient;

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

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

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

28 (G) A statement as to whether the use of the development subsidy during the previous
29 fiscal year reduced employment at any other site controlled by the recipient or its corporate
30 parent, within or outside the state, as a result of automation, merger, acquisition, corporate
31 restructuring or other business activity; and

32 (H) A signed certification by the chief officer of the granting body as to the accuracy of
33 the progress report.

34 (b) On all subsequent annual progress reports, the granting body shall indicate whether
35 the recipient is still in compliance with the recipient's job creation, wage and benefit goals
36 and whether the corporate parent is still in compliance with the corporate parent's state
37 employment requirement.

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

40 (2)(a) No later than 15 days after the second anniversary of the date of subsidy, the
41 granting body shall file with the department a two-year progress report including the same
42 information as required under paragraph (b) of this subsection. The recipient shall certify
43 as to the accuracy of such report.

44 (b) The granting body shall state in the two-year progress report whether the recipient
45 has achieved the recipient's job creation, wage and benefit goals and whether the corporate

1 parent has maintained 90 percent of the employment of the corporate parent in the state.

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

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

8 (4) A recipient that fails to provide the granting body with information or access required
 9 under this section is subject to a fine of not less than \$500 per day to commence within 10
 10 working days after the February 1 deadline, and of not less than \$1,000 per day to commence
 11 20 days after such deadline.

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

13 (1) The cost per job created or maintained by the development subsidy is less than
 14 \$35,000. The cost per job shall be determined by dividing the amount of the development
 15 subsidy by the number of full-time jobs required under the application approved by the
 16 granting body;

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

19 (3) The average wage paid to employees at the project site equals or exceeds the wages
 20 established under section 4 (1)(L) or (m) of this 2009 Act by:

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

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

23 **SECTION 7.** (1) A recipient shall fulfill its job creation, wage and benefit goals for the
 24 project within two years after the date of the development subsidy. The recipient shall
 25 maintain the wage and benefit goals as long as the development subsidy is in effect or for
 26 not less than five years, whichever is longer.

27 (2) The corporate parent of a recipient must maintain at least 90 percent of the corporate
 28 parent's employment in the state for as long as the development subsidy is in effect or for
 29 not less than five years, whichever is longer.

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

32 (a) Upon a failure by the recipient to create the required number of jobs or to pay the
 33 required wages or benefits, the amount recaptured shall be based on the pro rata amount
 34 by which the unfulfilled jobs, wages or benefits bear to the total amount of the development
 35 subsidy.

36 (b) Upon a failure of the corporate parent to maintain 90 percent of the corporate par-
 37 ent's employment in the state, the rate of recapture shall equal twice the percentage by
 38 which such employment is less than 90 percent.

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

43 (5) If a recipient fails to fulfill the requirements for a development subsidy in three con-
 44 secutive calendar years, the granting body shall notify the Economic and Community Devel-
 45 opment Department and the recipient that the recipient is in default. The recipient shall

1 repay to the granting body all remaining value of the development subsidy not previously
2 repaid, no later than 180 calendar days of the date of the notice of default.

3 **SECTION 8.** If a granting body fails to enforce any provision in sections 1 to 7 of this 2009
4 Act, any individual who paid personal income taxes to the state in the calendar year prior
5 to the year in dispute, or any organization representing such taxpayers, is entitled to bring
6 a civil action in state court to compel enforcement under sections 1 to 7 of this 2009 Act.
7 The court shall award reasonable attorney fees and costs to the prevailing taxpayer or or-
8 ganization.

9 **SECTION 9.** All records required to be prepared or maintained under sections 1 to 7 of
10 this 2009 Act, including but not limited to applications, progress reports, recapture notices
11 and other related records or proceedings, shall be subject to disclosure under public records
12 law.

13 **SECTION 10.** Nothing in sections 1 to 7 of this 2009 Act shall require or authorize any
14 recipient to reduce wages or benefits established under any collective bargaining agreement
15 or state or federal prevailing wage law.

16 **SECTION 11.** This 2009 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
18 on its passage.