

Senate Bill 1017

Sponsored by Senator BONAMICI, Representative DOHERTY; Senators BATES, BURDICK, COURTNEY, DEVLIN, DINGFELDER, GEORGE, HASS, METSGER, MONNES ANDERSON, MONROE, ROSENBAUM, SCHRADER, TELFER, VERGER, WINTERS, Representatives CANNON, CLEM, GREENLICK, HARKER, MAURER (Pre-session filed.)

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**.

Creates exception to maximum loan amount permitted from Oregon Business Development Fund for certain applicants proposing business development projects. Increases maximum amount of loan that may be approved by Director of Oregon Business Development Department.

Expands eligibility for entrepreneurial development loan to include any business already operating. Increases maximum amount of annual revenue business may have for purpose of loan eligibility. Changes collateral requirement for entrepreneurial development loan.

Appropriates moneys from Tax Amnesty Fund to Oregon Business Development Department.

Sunsets June 30, 2011.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to loans for economic development; creating new provisions; amending ORS 285B.059,
3 285B.080, 285B.746 and 285B.749; appropriating money; and declaring an emergency.

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

5 **SECTION 1.** ORS 285B.059 is amended to read:

6 285B.059. (1) The Oregon Business Development Commission may approve a business develop-
7 ment project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation,
8 the commission finds that:

9 (a) The proposed business development project is feasible and a reasonable risk from practical
10 and economic standpoints, and that the loan has reasonable prospect of repayment.

11 (b) The applicant can provide good and sufficient collateral for the loan.

12 (c) Moneys in the Oregon Business Development Fund are or will be available for the proposed
13 business development project.

14 (d) There is a need for the proposed business development project.

15 (e) The applicant has not received or entered into a contract or contracts exceeding \$1 million
16 with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days.

17 (2)(a) **Except as provided in paragraph (b) of this subsection**, the total amount of moneys
18 loaned from the fund for [*any*] a business development project [*shall*] **may** not exceed 50 percent of
19 the cost of the project.

20 **(b) The total amount of moneys loaned from the fund for a business development project**
21 **may exceed 50 percent of the cost of the project if two or more lenders have denied requests**
22 **from the applicant to commit to participate in the financing of the project and the applicant**
23 **has no other available financing.**

24 (3)(a) [*Except when the applicant is a county or municipality or when there are payments other*
25 *than the scheduled principal and interest payments, no money shall*] **Except as provided in para-**

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 **graph (b) of this subsection, moneys may not** be loaned from the fund for *[any]* a business de-
 2 velopment project unless there exists a commitment from a commercial or private lender, or a local
 3 development group, to participate in the financing of the project.

4 **(b) Moneys may be loaned from the fund for a business development project without a**
 5 **commitment from a commercial or private lender, or a local development group, to partic-**
 6 **ipate in the financing of the project if:**

7 **(A) The applicant is a county or municipality;**

8 **(B) There are payments other than the scheduled principal and interest payments; or**

9 **(C) Two or more lenders have denied requests from the applicant to commit to partic-**
 10 **ipate in the financing of the project and the applicant has no other available financing.**

11 (4) To encourage private sector and local development group participation in the financing of
 12 business development projects, the commission may subordinate the security position of the fund to
 13 that of other lenders.

14 (5) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending
 15 from the fund *[are]* **is** reserved for loans to certified emerging small business enterprises which are
 16 located in or draw their workforces from within distressed areas as determined by the Oregon
 17 Business Development Department in cooperation with the Employment Department of this state.
 18 Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be
 19 added to the amount reserved for loans to such businesses in the subsequent fiscal year. If the
 20 Oregon Business Development Department is unable to obtain a sufficient number of approvable
 21 applications to meet the requirements of this subsection, it may, notwithstanding the limitations
 22 imposed by ORS 285B.050 (2)(g)(B), make loans to service and retail businesses operated by emerging
 23 small business enterprises.

24 **SECTION 2.** ORS 285B.080 is amended to read:

25 285B.080. (1) The Oregon Business Development Commission may appoint the Director of the
 26 Oregon Business Development Department as the commission's representative and agent in all mat-
 27 ters pertaining to ORS 285B.050 to 285B.098.

28 (2) The director shall ensure that all provisions of ORS 285B.050 to 285B.098 are complied with
 29 and that appropriately trained personnel are employed to properly administer the fiscal and other
 30 portions of ORS 285B.050 to 285B.098.

31 (3) The director shall have the authority in the director's sole discretion to approve loans for
 32 business development projects in the amount of *[\$100,000]* **\$250,000** or less and to disburse funds for
 33 such projects.

34 **SECTION 3.** ORS 285B.746 is amended to read:

35 285B.746. (1) The Oregon Business Development Department may approve a loan requested in
 36 an application filed under ORS 285B.743 if, after investigation, it finds that:

37 (a) The applicant is enrolled in a small business management program with a small business
 38 development center or certified entity;

39 (b) The applicant has prepared a business plan for the business, which has been reviewed by a
 40 small business development center or other entity certified by the department to review business
 41 plans; and

42 (c) The applicant is not effectively owned or controlled by another business entity or other
 43 person that, either by itself or when combined with the applicant, is not eligible for a loan under
 44 ORS 285B.740 to 285B.758.

45 (2) In addition to the requirements for loan approval described in subsection (1) of this section,

1 in order to obtain a loan under ORS 285B.740 to 285B.758, an applicant must also satisfy *[two]* **one**
 2 of the following conditions:

3 *[(a) The business or proposed business, at the time of application, must not have been operating for*
 4 *more than 36 months.]*

5 *[(b)]* **(a)** The business must have annual revenues of *[less than \$175,000]* **\$500,000 or less** in the
 6 12-month period immediately preceding the date of application.

7 *[(c)]* **(b)** The business or proposed business *[is]* **must be** owned, in whole or in part, by a person
 8 certified as having a severe disability by the Department of Human Services or the Commission for
 9 the Blind.

10 **SECTION 4.** ORS 285B.749 is amended to read:

11 285B.749. (1) The Oregon Business Development Department may approve an entrepreneurial
 12 development loan under ORS 285B.740 to 285B.758 if, after investigation, it finds that:

13 (a) The loan has a reasonable prospect of repayment from cash flow and collateral and *[that the*
 14 *loan is fully secured by collateral value]* **is secured by good and sufficient collateral;** and

15 (b) The applicant provides equity funds for the project in the form of cash or property in an
 16 amount equal to or greater than 20 percent of the amount of the loan.

17 (2) The department shall determine the amount of the initial loan and any subsequent loan to
 18 the borrower. The maximum of all loans to a borrower from the Oregon Entrepreneurial Develop-
 19 ment Loan Fund may not exceed \$70,000.

20 (3) Entrepreneurial development loans shall be made for a period not exceeding five years at a
 21 rate of interest that does not exceed 18 percent per annum.

22 **SECTION 5.** ORS 285B.059, as amended by section 1 of this 2010 Act, is amended to read:

23 285B.059. (1) The Oregon Business Development Commission may approve a business develop-
 24 ment project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation,
 25 the commission finds that:

26 (a) The proposed business development project is feasible and a reasonable risk from practical
 27 and economic standpoints, and that the loan has reasonable prospect of repayment.

28 (b) The applicant can provide good and sufficient collateral for the loan.

29 (c) Moneys in the Oregon Business Development Fund are or will be available for the proposed
 30 business development project.

31 (d) There is a need for the proposed business development project.

32 (e) The applicant has not received or entered into a contract or contracts exceeding \$1 million
 33 with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days.

34 (2)*[(a) Except as provided in paragraph (b) of this subsection,]* The total amount of moneys loaned
 35 from the fund for a business development project may not exceed 50 percent of the cost of the
 36 project.

37 *[(b) The total amount of moneys loaned from the fund for a business development project may ex-*
 38 *ceed 50 percent of the cost of the project if two or more lenders have denied requests from the applicant*
 39 *to commit to participate in the financing of the project and the applicant has no other available fi-*
 40 *nancing.]*

41 (3)*[(a) Except as provided in paragraph (b) of this subsection,]* **Except when the applicant is a**
 42 **county or municipality or when there are payments other than the scheduled principal and**
 43 **interest payments,** moneys may not be loaned from the fund for a business development project
 44 unless there exists a commitment from a commercial or private lender, or a local development group,
 45 to participate in the financing of the project.

1 *[(b) Moneys may be loaned from the fund for a business development project without a commitment*
 2 *from a commercial or private lender, or a local development group, to participate in the financing of*
 3 *the project if:]*

4 *[(A) The applicant is a county or municipality;]*

5 *[(B) There are payments other than the scheduled principal and interest payments; or]*

6 *[(C) Two or more lenders have denied requests from the applicant to commit to participate in the*
 7 *financing of the project and the applicant has no other available financing.]*

8 (4) To encourage private sector and local development group participation in the financing of
 9 business development projects, the commission may subordinate the security position of the fund to
 10 that of other lenders.

11 (5) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending
 12 from the fund is reserved for loans to certified emerging small business enterprises which are lo-
 13 cated in or draw their workforces from within distressed areas as determined by the Oregon Busi-
 14 ness Development Department in cooperation with the Employment Department of this state. Any
 15 amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added
 16 to the amount reserved for loans to such businesses in the subsequent fiscal year. If the Oregon
 17 Business Development Department is unable to obtain a sufficient number of approvable applications
 18 to meet the requirements of this subsection, it may, notwithstanding the limitations imposed by ORS
 19 285B.050 (2)(g)(B), make loans to service and retail businesses operated by emerging small business
 20 enterprises.

21 **SECTION 6.** ORS 285B.080, as amended by section 2 of this 2010 Act, is amended to read:

22 285B.080. (1) The Oregon Business Development Commission may appoint the Director of the
 23 Oregon Business Development Department as the commission's representative and agent in all mat-
 24 ters pertaining to ORS 285B.050 to 285B.098.

25 (2) The director shall ensure that all provisions of ORS 285B.050 to 285B.098 are complied with
 26 and that appropriately trained personnel are employed to properly administer the fiscal and other
 27 portions of ORS 285B.050 to 285B.098.

28 (3) The director shall have the authority in the director's sole discretion to approve loans for
 29 business development projects in the amount of [~~\$250,000~~] **\$100,000** or less and to disburse funds for
 30 such projects.

31 **SECTION 7.** ORS 285B.746, as amended by section 3 of this 2010 Act, is amended to read:

32 285B.746. (1) The Oregon Business Development Department may approve a loan requested in
 33 an application filed under ORS 285B.743 if, after investigation, it finds that:

34 (a) The applicant is enrolled in a small business management program with a small business
 35 development center or certified entity;

36 (b) The applicant has prepared a business plan for the business, which has been reviewed by a
 37 small business development center or other entity certified by the department to review business
 38 plans; and

39 (c) The applicant is not effectively owned or controlled by another business entity or other
 40 person that, either by itself or when combined with the applicant, is not eligible for a loan under
 41 ORS 285B.740 to 285B.758.

42 (2) In addition to the requirements for loan approval described in subsection (1) of this section,
 43 in order to obtain a loan under ORS 285B.740 to 285B.758, an applicant must also satisfy [*one*] **two**
 44 of the following conditions:

45 **(a) The business or proposed business, at the time of application, must not have been**

1 **operating for more than 36 months.**

2 [(a)] (b) The business must have annual revenues of [\$500,000 or less] **less than \$175,000** in the
 3 12-month period immediately preceding the date of application.

4 [(b)] (c) The business or proposed business must be owned, in whole or in part, by a person
 5 certified as having a severe disability by the Department of Human Services or the Commission for
 6 the Blind.

7 **SECTION 8.** ORS 285B.749, as amended by section 4 of this 2010 Act, is amended to read:

8 285B.749. (1) The Oregon Business Development Department may approve an entrepreneurial
 9 development loan under ORS 285B.740 to 285B.758 if, after investigation, it finds that:

10 (a) The loan has a reasonable prospect of repayment from cash flow and collateral and [*is se-*
 11 *cured by good and sufficient collateral*] **that the loan is fully secured by collateral value**; and

12 (b) The applicant provides equity funds for the project in the form of cash or property in an
 13 amount equal to or greater than 20 percent of the amount of the loan.

14 (2) The department shall determine the amount of the initial loan and any subsequent loan to
 15 the borrower. The maximum of all loans to a borrower from the Oregon Entrepreneurial Develop-
 16 ment Loan Fund may not exceed \$70,000.

17 (3) Entrepreneurial development loans shall be made for a period not exceeding five years at a
 18 rate of interest that does not exceed 18 percent per annum.

19 **SECTION 9.** The amendments to ORS 285B.059, 285B.080, 285B.746 and 285B.749 by
 20 sections 5 to 8 of this 2010 Act become operative on July 1, 2011.

21 **SECTION 10.** In addition to and not in lieu of any other appropriation, there is appro-
 22 priated to the Oregon Business Development Department, for the biennium ending June 30,
 23 2011, out of the Tax Amnesty Fund created under section 7, chapter 710, Oregon Laws 2009,
 24 the amount of \$_____ for the purpose of carrying out the provisions of ORS 285B.050 to
 25 285B.098.

26 **SECTION 11.** This 2010 Act being necessary for the immediate preservation of the public
 27 peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect
 28 on its passage.

29 _____