

Enrolled
Senate Bill 246

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business, Transportation and Economic Development)

CHAPTER

AN ACT

Relating to the Oregon Industrial Site Readiness Program; creating new provisions; amending ORS 285C.635 and 316.502; appropriating money; limiting expenditures; and prescribing an effective date.

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

SECTION 1. The Legislative Assembly finds that:

- (1) Traded sector industries are the foundation of state and regional economic development strategies for long-term prosperity and job creation.**
- (2) Industrial development that provides new traded sector jobs reinforces the economies of local and regional communities and contributes to the economic recovery of the State of Oregon.**
- (3) There is a shortage of market-ready regional industrial sites in this state. Project sponsors have limited financial tools to facilitate development of significant and complex industrial sites that are appropriate for traded sector industrial use.**
- (4) Public assistance is necessary to overcome development-related constraints and to incentivize industrial site development in this state.**
- (5) The State of Oregon has a significant interest in the success of regional economic development strategies and is the primary beneficiary from increased income tax revenues generated by such economic development. These revenues should be shared and invested in facilitating significant site development for traded sector industrial use in this state.**

SECTION 2. As used in sections 1 to 5 of this 2013 Act:

- (1) "Compensation" has the meaning given that term pursuant to rules adopted by the Oregon Business Development Department.**
- (2) "Eligible employer" means an employer that:**
 - (a) Has entered into a contract with a project sponsor to conduct a business in the traded sector industry on a regionally significant industrial site; and**
 - (b) Has hired full-time employees who are residents of this state and whose compensation averages at least 150 percent of the county or state average wage, whichever is less.**
- (3) "Estimated incremental income tax revenues" means the Oregon personal income tax revenues that are estimated pursuant to section 4 of this 2013 Act to be substantially equivalent to the amount of tax that employees of an eligible employer who are hired after the eligible employer enters into a contract with a qualified project sponsor to conduct a**

traded sector business on a certified regionally significant industrial site will be required to pay under ORS chapter 316 as a result of compensation paid to the employees by the eligible employer in the tax years beginning with the tax year following the fifth tax year in which a project sponsor was qualified under section 3 of this 2013 Act.

(4) "Industrial use" means employment activities, including but not limited to manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution, transshipment and research and development, that generate income from the production, handling or distribution of goods or services, including goods or services in the traded sector.

(5) "Project sponsor" means:

(a) A public owner of a regionally significant industrial site that is investing in preparation of the site for industrial use by a third party; or

(b) A public entity that has entered into a development or other agreement with the private owner of a regionally significant industrial site to prepare the site for industrial use.

(6) "Regionally significant industrial site" means an area planned and zoned for industrial use that:

(a)(A) Contains a site or sites, including brownfields, that are suitable for the location of new industrial uses or the expansion of existing industrial uses and that can provide significant additional employment in the region;

(B) Has site characteristics that give the area significant competitive advantages that are difficult or impossible to replicate in the region; and

(C) Has superior access to transportation and freight infrastructure, including but not limited to rail, port, airport, multimodal freight or transshipment facilities and other major transportation facilities or routes; or

(b) Is land designated by Metro, as defined in ORS 197.015, as a regionally significant industrial area.

(7) "Traded sector" has the meaning given that term in ORS 285A.010.

(8) "Wage" has the meaning given that term pursuant to rules adopted by the Oregon Business Development Department.

SECTION 3. (1) In consultation with the Department of Revenue, the Oregon Business Development Department shall establish and administer the Oregon Industrial Site Readiness Program. The purpose of the program is to:

(a) Enter into tax reimbursement arrangements with qualified project sponsors pursuant to subsection (5) of this section; or

(b) Provide loans, including forgivable loans, to qualified project sponsors pursuant to subsection (5) of this section.

(2)(a) Subject to standards and procedures that the Oregon Business Development Department shall establish by rule, the department shall certify regionally significant industrial sites for inclusion in the program.

(b) A regionally significant industrial site certified under this section must be an industrial site that is planned and zoned for industrial use.

(3) A project sponsor may apply to participate in the program by submitting an application and development plan in writing in a form prescribed by the department by rule.

(4) The department shall establish by rule criteria and standards for the qualification of project sponsors to participate in the program.

(5) Upon qualification of a project sponsor under this section, and before July 1, 2023, the department may:

(a) Enter into a tax reimbursement arrangement with the project sponsor pursuant to which the project sponsor shall receive an amount equal to 50 percent of the estimated incremental income tax revenues generated by an eligible employer per tax year, beginning with the tax year following the fifth tax year in which a project sponsor is qualified under this section, until the total investment of the qualified project sponsor in the eligible site

preparation costs, including interest, established under subsection (7) of this section has been recovered, at which time the tax reimbursement arrangement shall end; or

(b) Enter into a loan agreement with the project sponsor under terms and conditions specified and required by the department. In making a determination to enter into a loan agreement with the project sponsor, the department shall consider the reasonableness of the project sponsor's estimated costs to prepare the site for industrial use, including but not limited to eligible site preparation costs established by the department pursuant to subsection (7) of this section. The agreement may specify that a portion of the loan may be forgiven if the project sponsor enters into a contract with an eligible employer to conduct a business in the traded sector industry on a regionally significant industrial site within seven years after the project sponsor was qualified under this section.

(6)(a) The total amount of the loan that may be forgiven under subsection (5) of this section is the lesser of:

(A) Fifty percent of the total cost of eligible site preparation costs; or

(B) Fifty percent of the amount of the estimated incremental income tax revenues for the eligible employer for the term of the loan.

(b) Loan forgiveness may not be allowed under subsection (5) of this section if any portion of the loan that would not be forgiven would be repaid by the project sponsor with state funds received from any source.

(7) The department shall establish, by rule, eligible site preparation costs including, but not limited to, some or all of the following:

(a) Acquisition and assembly costs associated with creating large development parcels.

(b) Transportation improvements such as access roads, intersections, turning lanes, signals, sidewalks, curbs, transit stops and storm drains.

(c) Water and sewer infrastructure.

(d) Natural resource mitigation.

(e) Site grading activities.

(f) Environmental remediation and mitigation activities to address brownfields issues in accordance with state and federally approved remediation plans.

(g) Planning, engineering and administrative costs associated with applying for necessary local, state and federal permits.

(h) Interest-carrying costs incurred by a project sponsor for amounts borrowed to develop a regionally significant industrial site, not to exceed 20 percent of the total amount forgiven, if any, under subsection (5) of this section.

(8) The total amount of tax reimbursement arrangements and loan amounts authorized under this section may not exceed \$10 million per year.

(9) Funds received pursuant to a tax reimbursement arrangement or a loan agreement under subsection (5) of this section may not be used for the payment of:

(a) A penalty or fine; or

(b) Environmental remediation activities conducted at a regionally significant industrial site that is listed or proposed to be listed as a national priority pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) for which the project sponsor, eligible employer or any party to the tax reimbursement arrangement or loan agreement is liable under 42 U.S.C. 9607 at that regionally significant industrial site.

(10) The department shall adopt rules to administer and implement the provisions of this section including, but not limited to, the development of performance measures for eligible employers regarding job creation and compensation under section 2 (2)(b) of this 2013 Act.

SECTION 4. (1) Beginning with the tax year following the fifth tax year in which a project sponsor was qualified under section 3 of this 2013 Act, on or before April 1 following each tax year in which employees of an eligible employer will be required to pay personal income taxes under ORS chapter 316, the eligible employer and the project sponsor with which the eligible

employer has entered into a contract under sections 1 to 5 of this 2013 Act shall submit a report to the Oregon Business Development Department, in addition to any other reporting or filing requirement, that contains the annual amount of taxable income and total compensation paid to employees of the eligible employer and any other information that may be required by the Oregon Business Development Department and the Oregon Department of Administrative Services under this section.

(2) Upon receipt of information compiled under subsection (1) of this section, the Oregon Department of Administrative Services shall determine the annual amount of estimated incremental income tax revenues generated by an eligible employer per tax year, beginning with the tax year following the fifth tax year in which a project sponsor was qualified under section 3 of this 2013 Act.

(3) In determining the amount of estimated incremental income tax revenues generated by an eligible employer under this section, the Oregon Department of Administrative Services may rely on reasonable techniques of estimation, if appropriate.

(4) Not later than May 15 of each fiscal year, the Oregon Department of Administrative Services shall certify the amounts determined under subsection (2) of this section to the Department of Revenue, the Legislative Revenue Officer and the Legislative Fiscal Officer.

(5) Not later than June 15 of each fiscal year, after receiving the certification under subsection (4) of this section, the Department of Revenue shall transfer to the Oregon Industrial Site Readiness Program Fund established in section 5 of this 2013 Act an amount equal to 50 percent of the amount of estimated incremental income tax revenues certified under subsection (4) of this section.

(6) The Department of Revenue shall retain unreceipted revenue from the tax imposed under ORS chapter 316 in an amount necessary to make the transfers required under subsection (5) of this section. The department shall make the transfers out of the unreceipted revenue in lieu of paying the revenue over to the State Treasurer for deposit in the General Fund.

(7) The Oregon Business Development Department and the Oregon Department of Administrative Services shall adopt rules necessary to administer this section. The Department of Revenue may adopt rules necessary to administer this section.

SECTION 5. The Oregon Industrial Site Readiness Program Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon Industrial Site Readiness Program Fund consists of amounts deposited in the fund and other moneys transferred to the fund, including but not limited to moneys transferred by the Department of Revenue to the fund under section 4 of this 2013 Act. Amounts in the fund are continuously appropriated to the Oregon Business Development Department for the purposes of entering into tax reimbursement arrangements and making loans under section 3 of this 2013 Act and paying the costs and expenses of the Oregon Business Development Department in connection with the implementation and administration of sections 1 to 5 of this 2013 Act.

SECTION 6. ORS 285C.635 is amended to read:

285C.635. (1) Upon receipt of information compiled under ORS 285C.615, the Oregon Department of Administrative Services shall determine the annual amount of personal income tax revenue attributable to each eligible project for which an eligible business firm received a property tax exemption under ORS 307.123. **The amount of personal income tax revenue attributable to each eligible project under this subsection may not include personal income tax revenue attributable to the estimated incremental income tax revenues generated by an eligible employer in connection with a tax reimbursement arrangement or loan agreement that has been entered into under the Oregon Industrial Site Readiness Program established by section 3 of this 2013 Act.**

(2) In determining the amount of personal income tax revenue attributable to each eligible project, the department may rely on reasonable techniques of estimation, if appropriate.

(3) In each fiscal year, the department shall transfer 50 percent of the cumulative amount for all eligible projects determined under subsection (1) of this section to the Shared Services Fund established in ORS 285C.639.

(4) The department shall adopt rules necessary to administer this section.

SECTION 7. ORS 316.502 is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds **and amounts described in section 4 of this 2013 Act**, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of \$1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.262 and 315.266 and section 17, chapter 906, Oregon Laws 2007.

SECTION 8. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (1), chapter _____, Oregon Laws 2013 (Enrolled House Bill 5028), for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from lottery moneys allocated from the Administrative Services Economic Development Fund to the Oregon Business Development Department, is increased by \$179,254 for the Oregon Industrial Site Readiness Program.

SECTION 9. The Oregon Business Development Department shall report on the Oregon Industrial Site Readiness Program to the committees of the Seventy-eighth Legislative Assembly with authority over the subject area of economic development during the 2015 regular session.

SECTION 10. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Passed by Senate July 3, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House July 6, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State