

**PROPOSED AMENDMENTS TO
HOUSE BILL 3030**

1 In line 2 of the printed bill, after “substances;” delete the rest of the line
2 and insert “creating new provisions; amending ORS 285A.188; appropriating
3 money; and prescribing an effective date.”.

4 Delete lines 4 through 28 and insert:

5 **“SECTION 1. (1) As used in this section:**

6 **“(a) ‘Brownfield’ has the meaning given that term in ORS 285A.185**
7 **and includes any portion of the environment contaminated by haz-**
8 **ardous substances in this state.**

9 **“(b) ‘Environment’ and ‘hazardous substance’ have the meanings**
10 **given those terms in ORS 465.200.**

11 **“(c) ‘Environmental action’ has the meaning given that term in**
12 **ORS 285A.188.**

13 **“(2) The Oregon Business Development Department, in consultation**
14 **with the Department of Environmental Quality, shall provide financial**
15 **assistance under ORS 285.188 to public and private owners of**
16 **brownfields and other properties contaminated with hazardous sub-**
17 **stances to assess those properties as to the need for environmental**
18 **action.**

19 **“SECTION 2. ORS 285A.188 is amended to read:**

20 **“285A.188. (1) As used in this section:**

21 **“(a) ‘Environmental action’ means activities undertaken to:**

22 **“(A) Determine if a release has occurred or may occur, if the release or**

1 potential release poses a significant threat to human health or the environ-
2 ment or if additional remedial actions may be required at the site;

3 “(B) Conduct a remedial investigation and a feasibility study;

4 “(C) Plan for remedial action or removal action; *[or]*

5 “(D) Conduct a remedial action or removal action at a site[.]; **or**

6 **“(E) Demolish structures containing hazardous substances.**

7 “(b) ‘Facility,’ ‘hazardous substance,’ ‘release,’ ‘remedial action’ and ‘re-
8 moval’ have the meanings given those terms in ORS 465.200.

9 “(c) ‘Substantial public benefit’ includes, but is not limited to:

10 “(A) The generation of funding or other resources facilitating substantial
11 remedial action at a facility in accordance with this section;

12 “(B) A commitment to perform substantial remedial action at a facility
13 in accordance with this section;

14 “(C) Productive reuse of a vacant or abandoned industrial or commercial
15 facility; or

16 “(D) Development of a facility by a municipality or a nonprofit organiza-
17 tion to address an important public purpose.

18 “(2) There is created within the State Treasury a revolving fund known
19 as the Brownfields Redevelopment Fund, separate and distinct from the
20 General Fund. Interest earned by the fund shall be credited to the fund.
21 Moneys in the Brownfields Redevelopment Fund are continuously appropri-
22 ated to the Oregon Business Development Department and shall be used:

23 **“(a) To fund loans and grants for environmental actions on properties**
24 **that are brownfields, as defined in ORS 285A.185.**

25 **“(b) To provide financial assistance for environmental actions under**
26 **section 1 of this 2013 Act.**

27 “(3)(a) Subject to paragraph (b) of this subsection, when making a loan
28 or grant for an environmental action, the Oregon Business Development
29 Department shall give priority to persons who, at the time of applying for
30 the loan or grant, are not liable under ORS 465.255 for a release of a haz-

1 arduous substance at the property at which the environmental action is to be
2 conducted. No more than 60 percent of the total amount of the Brownfields
3 Redevelopment Fund in any biennium shall be awarded to persons who are
4 liable with respect to the subject property under ORS 465.255. A person is
5 not eligible to receive a loan or grant from moneys in the Brownfields Re-
6 development Fund if the person has knowingly violated applicable laws or
7 regulations or has knowingly violated or failed to comply with an order of
8 the Department of Environmental Quality, if such action or inaction has
9 resulted in one or more of the following:

10 “(A) Contribution to or exacerbation of existing contamination at the fa-
11 cility;

12 “(B) Release of a hazardous substance at the facility; or

13 “(C) Interference with necessary investigation or remedial actions at the
14 facility.

15 “(b) Notwithstanding paragraph (a) of this subsection:

16 “(A) When making a grant to a municipality, the Oregon Business De-
17 velopment Department shall give priority to municipalities that provide
18 matching funds from a loan under this section, from another source or from
19 both.

20 “(B) When making a grant to an entity that is not a municipality, the
21 department shall require that:

22 “(i) The recipient is not liable for the subject property under ORS 465.255;

23 “(ii) The environmental action provides a substantial public benefit; and

24 “(iii) The recipient provides matching funds from a loan under this sec-
25 tion, from another source or from both.

26 “(c) The department may establish by rule circumstances in which the
27 department may waive or subsidize the interest on a short-term loan.

28 “(4) When making a loan or grant for an environmental action, the de-
29 partment shall consider:

30 “(a) The extent to which actual or perceived contamination prevents the

1 property from being fully utilized;

2 “(b) The need for providing public assistance, after considering the diffi-
3 culty of obtaining financing from other sources or of obtaining financing at
4 reasonable rates and terms;

5 “(c) The degree to which redevelopment of the property provides oppor-
6 tunity for achieving protection of human health or the environment by re-
7 ducing or eliminating the contamination of the property and for contributing
8 to the economic health and diversity of the area;

9 “(d) The probability of the success of the intended use or the degree to
10 which redevelopment of the property provides a public purpose following re-
11 mediation of the property;

12 “(e) Compliance with the land use plan of the local government with ju-
13 risdiction over the property; and

14 “(f) Endorsement from the local government with jurisdiction over the
15 property.

16 “(5) Before making a loan or grant decision pursuant to this section, the
17 Oregon Business Development Department shall consult with the Department
18 of Environmental Quality.

19 “(6) The Oregon Business Development Department may use a portion of
20 the Brownfields Redevelopment Fund to:

21 “(a) Pay for administrative costs of environmental actions;

22 “(b) Pay for administrative costs associated with administering the pro-
23 gram and fund; and

24 “(c) Satisfy contracts entered into as required to ensure that environ-
25 mental reviews are conducted in a manner consistent with existing environ-
26 mental cleanup laws and rules.

27 “(7) The department shall adopt rules necessary to carry out the require-
28 ments of this section. The department shall develop procedures to ensure that
29 activities for which loans or grants are made are consistent with existing
30 environmental cleanup laws and rules.

1 **“SECTION 3. In addition to and not in lieu of any other appropri-**
2 **ation, there is appropriated to the Oregon Business Development De-**
3 **partment, for the biennium beginning July 1, 2013, out of the General**
4 **Fund, the amount of \$10 million to be credited to the Brownfields Re-**
5 **development Fund for the purposes set forth in ORS 285A.188 and**
6 **section 1 of this 2013 Act.**

7 **“SECTION 4. Section 5 of this 2013 Act is added to and made a part**
8 **of ORS chapter 308.**

9 **“SECTION 5. (1) As used in this section:**

10 **“(a) ‘Hazardous substance,’ ‘release,’ ‘remedial action’ and**
11 **‘removal’ have the meanings given those terms in ORS 465.200.**

12 **“(b) ‘Hazardous substance release’ means the release of a hazardous**
13 **substance.**

14 **“(2) For the assessment year that begins immediately after the first**
15 **year in which property is discovered to contain a hazardous substance**
16 **release, the real market value of the property shall be determined**
17 **under ORS 308.205 and rules adopted by the Department of Revenue.**

18 **“(3) For each of the 10 assessment years immediately following the**
19 **assessment year described in subsection (2) of this section, if the**
20 **owner of the property has not made substantial efforts to cure the**
21 **hazardous substance release in the previous assessment year, the de-**
22 **termination of real market value under ORS 308.205 shall be made al-**
23 **lowing for a declining percentage of adjustment for the hazardous**
24 **substance release pursuant to a schedule adopted by the Department**
25 **of Revenue by rule, until no adjustment is allowed for the hazardous**
26 **substance release in the 10th year.**

27 **“(4)(a) If the owner of the property commences substantial removal**
28 **or remedial action to cure the hazardous substance release beginning**
29 **with the assessment year immediately following the year in which the**
30 **removal or remedial action commences, and for every assessment year**

1 immediately following a year in which substantial removal or remedial
2 action continues on the property, the real market value of the prop-
3 erty shall be determined under ORS 308.205 and rules adopted by the
4 Department of Revenue.

5 “(b) For purposes of this subsection, the owner of the property may
6 not be considered to have commenced or continued substantial re-
7 moval or remedial action to cure the hazardous substance release on
8 the property for any assessment year unless:

9 “(A) In the assessment year in which the removal or remedial
10 action commences, the owner enters the property into a state or fed-
11 eral cleanup program, or both; and

12 “(B) Within 30 days after the end of each assessment year, the
13 owner obtains from the Department of Environmental Quality or, if
14 applicable, the United States Environmental Protection Agency, a
15 written determination that the owner made substantial efforts to cure
16 the hazardous substance release during the immediately preceding as-
17 sessment year.

18 “(5) If the removal or remedial action described in subsection (4)
19 of this section ends without curing the hazardous substance release
20 for each of the 10 assessment years immediately following the year in
21 which the removal or remedial action ends, the determination of real
22 market value under ORS 308.205 shall be made allowing for a declining
23 percentage of the most recent adjustment for the hazardous substance
24 release pursuant to a schedule adopted by the Department of Revenue
25 by rule, until no adjustment is allowed for the hazardous substance
26 release in the 10th year.

27 “(6) Notwithstanding any other provision of law, beginning with the
28 20th consecutive assessment year following the assessment year de-
29 scribed in subsection (2) of this section, the real market value of a
30 contaminated site must be determined without adjustment for the

1 **hazardous substance release.**

2 **“SECTION 6. Section 5 of this 2013 Act applies to real property on**
3 **which a hazardous substance release is discovered on or after the ef-**
4 **fective date of this 2013 Act.**

5 **“SECTION 7. This 2013 Act takes effect on the 91st day after the**
6 **date on which the 2013 regular session of the Seventy-seventh Legis-**
7 **lative Assembly adjourns sine die.”.**

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