

House Bill 2098

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Revenue)

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**.

Limits property tax exemption under strategic investment program to real property, other than land and buildings, and personal property. Indexes minimum total cost of eligible project to increase, if any, in consumer price index. Requires construction on eligible project to begin within five years and be completed within 10 years after date on which agreement between local governments and business firm is executed. Limits exempt value of property that is subject of agreement to \$25 billion. Makes school districts, education service districts and community college districts in which eligible project is located parties to community services fee distribution agreement.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the strategic investment program; creating new provisions; amending ORS 285C.606,
3 285C.609 and 307.123; and prescribing an effective date.

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

5 **SECTION 1.** ORS 307.123 is amended to read:

6 307.123. (1) Except as provided in subsection (3) of this section, real or personal property that
7 the Oregon Business Development Commission, acting pursuant to ORS 285C.606, has determined is
8 an eligible project under ORS 285C.600 to 285C.639 shall be subject to assessment and taxation as
9 follows:

10 (a) That portion of the real market value of the eligible project that equals the minimum **total**
11 cost of the project under ORS 285C.606 [(1)(c)] **(1)(a)(C)**[, *increased annually for growth at the rate*
12 *of three percent,*] shall be taxable at the taxable portion's assessed value under ORS 308.146. The
13 taxable portion of real market value[, *as adjusted,*] shall be allocated as follows until the entire
14 amount is assigned: first to [*land, second to buildings, third to*] real property machinery and equip-
15 ment and [*last*] **second** to personal property.

16 (b) The remainder of the real market value shall be exempt from taxation for a period of 15
17 years from the beginning of the tax year after the earliest of the following dates:

18 (A) The date the property is certified for occupancy or, if no certificate of occupancy is issued,
19 the date the property is used to produce a product for sale; or

20 (B) The expiration of the exemption for commercial facilities under construction under ORS
21 307.330.

22 (2) If the real market value of the property falls below the value determined under subsection
23 (1)(a) of this section, the owner or lessee shall pay taxes only on the assessed value of the property.

24 (3) Notwithstanding subsection (1) of this section, real or personal property that has received
25 an exemption under ORS 285C.175 may not be assessed under this section.

26 (4) The Department of Revenue may adopt rules and prescribe forms that the department de-
27 termines are necessary for administration of this section.

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 (5) The determination by the Oregon Business Development Commission that a project is an el-
 2 igible project that may receive a tax exemption under this section shall be conclusive, so long as
 3 the property included in the eligible project is constructed and installed in accordance with the
 4 application approved by the commission.

5 (6) Notwithstanding subsection (1) of this section, if the owner or lessee of property exempt
 6 under this section fails to pay the fee required under ORS 285C.609 (4)(b) by the end of the tax year
 7 in which it is due, the exemption shall be revoked and the property shall be fully taxable for the
 8 following tax year and for each subsequent tax year for which the fee remains unpaid. If an unpaid
 9 fee is paid after the exemption is revoked, the property shall again be eligible for the exemption
 10 provided under this section, beginning with the tax year after the payment is made. Reinstatement
 11 of the exemption under this subsection shall not extend the 15-year exemption period provided for
 12 in subsection (1)(b) of this section.

13 **SECTION 2.** ORS 285C.606 is amended to read:

14 285C.606. (1)(a) The State of Oregon, acting through the Oregon Business Development Com-
 15 mission, may determine that real **property, other than land and buildings**, and personal
 16 property, constituting a project shall receive the tax exemption provided [*in*] **under** ORS 307.123 if:

17 [(a)] (A) The project is an eligible project;

18 [(b)] (B) The project directly benefits a traded sector industry, as defined in ORS 285B.280; and

19 [(c)] (C) The total cost of the **real property, other than land and buildings, and the personal**
 20 **property, constituting the** project equals or exceeds:

21 [(A)] (i) \$100 million; or

22 [(B)] (ii) \$25 million, if the project is located in a rural area.

23 **(b)(A) The minimum total costs required under paragraph (a)(C) of this subsection shall**
 24 **be adjusted each year for the property tax year beginning on July 1 by multiplying \$100**
 25 **million and \$25 million, respectively, by the ratio of the increase, if any, in the monthly av-**
 26 **eraged U.S. City Average Consumer Price Index for the 12 consecutive months ending De-**
 27 **cember 31 of the prior calendar year over the monthly averaged index for the 12 consecutive**
 28 **months ending December 31, 2015.**

29 **(B) As used in this paragraph, “U.S. City Average Consumer Price Index” means the U.S.**
 30 **City Average Consumer Price Index for All Urban Consumers (All Items) as published by the**
 31 **Bureau of Labor Statistics of the United States Department of Labor.**

32 (2) In addition to and not in lieu of the determination described in subsection (1) of this section,
 33 the State of Oregon, acting through the Oregon Business Development Commission, shall determine
 34 that real **property, other than land and buildings**, and personal property constituting a project
 35 shall receive the tax exemption provided in ORS 307.123 if:

36 (a) The requirements of subsection (1) of this section are met; and

37 (b) The project is to be constructed or installed in a strategic investment zone established under
 38 ORS 285C.623.

39 (3) Notwithstanding subsection (1) or (2) of this section, property may not qualify for the tax
 40 exemption under ORS 307.123:

41 (a) If the property:

42 [(a)] (A) Was previously owned or leased by the business firm benefiting from the tax exemption;

43 [(b)] (B) Was previously exempt under ORS 307.123 for any period of time; or

44 [(c)] (C) If located in a strategic investment zone, is not newly constructed or newly installed
 45 property[.]; **or**

1 **(b) Unless construction on the eligible project that the property constitutes is begun**
 2 **within five years, and completed within 10 years, after the date on which the agreement re-**
 3 **quired under ORS 285C.609 (4) is executed.**

4 (4) The State of Oregon, acting through the State Treasurer, may authorize and issue revenue
 5 bonds for an eligible project that qualifies for exemption under ORS 307.123 if the project also is
 6 eligible for funding through the issuance of revenue bonds under ORS 285B.320 to 285B.371.

7 (5) A business firm that will be benefited by an eligible project shall enter into a first-source
 8 hiring agreement with a publicly funded job training provider that will remain in effect until the end
 9 of the tax exemption period.

10 (6) If an eligible project is leased or subleased to any person, the lessee shall be required to pay
 11 property taxes levied upon or with respect to the leased premises only in accordance with ORS
 12 307.123.

13 (7) For purposes of determining the assessment and taxation of the eligible project in ORS
 14 307.123 and the calculation of the community services fee in ORS 285C.609 (4)(b), the Oregon Busi-
 15 ness Development Commission, when it determines that the project is an eligible project, shall:

- 16 (a) Describe the real and personal property to be included in the eligible project;
- 17 (b) Establish the maximum value of the property subject to exemption; or
- 18 (c) Employ a comparable method to define the eligible project.

19 (8) Property of an eligible project that is currently exempt under ORS 307.123 may remain ex-
 20 empt for any remaining period of exemption allowed under ORS 307.123 upon the property being
 21 acquired by a business firm that is different from the business firm that initially benefited from the
 22 exemption, if the acquiring firm satisfies all applicable requirements under ORS 285C.600 to 285C.639
 23 and assumes the obligations, conditions, requirements and other terms of the agreement described
 24 in ORS 285C.609 (4).

25 **SECTION 3.** ORS 285C.609 is amended to read:

26 285C.609. (1) A determination under ORS 285C.606 (1) by the Oregon Business Development
 27 Commission that a project shall be exempt from property taxation under ORS 307.123 must be re-
 28 quested by official action of the governing body of the county taken at a regular or duly called
 29 special meeting thereof by the affirmative vote of a majority of its members.

30 (2) The governing body of any Oregon county shall forward appropriate prospective eligible
 31 projects to the Oregon Business Development Department for processing.

32 (3) For purposes of this section, for projects located on a federally recognized Oregon Indian
 33 reservation, the governing body of a county shall be considered to be the governing body of the
 34 federally recognized Oregon Indian tribe.

35 (4)(a) The county may not make the request under subsection (1) of this section unless, after a
 36 public hearing[:],

37 [*(a)*] the county and, if the proposed eligible project will be located within a city, the city have
 38 entered into an agreement with the business firm, as described in this subsection.

39 (b) The agreement [*provides*] **must provide** for the payment of a fee by the business firm, as
 40 follows:

41 (A) The fee shall be for community services support that relates to the direct impact of the el-
 42 igible project on public services.

43 (B) The fee shall be in an amount equal to 25 percent of the property taxes that would, but for
 44 the exemption, be due on the exempt property in each assessment year, but not exceeding \$2 million
 45 in any year or, if the eligible project is located in a rural area, \$500,000 in any year.

1 (C) The fee shall be paid annually during the tax exemption period, as of a date set forth in the
2 agreement.

3 (c) The agreement [*provides*] **must provide** for the refunding or crediting of overpayments, for
4 interest on late payments or underpayments and for the manner in which the appeal of the assessed
5 value of the property included in the project will affect the fee.

6 **(d) The property that is the subject of an agreement may not have a total exempt value**
7 **greater than \$25 billion.**

8 (5) The agreement described in subsection (4) of this section may provide for any other re-
9 quirements related to the project.

10 (6)(a) The fee collected under subsection (4)(b) of this section shall be distributed by the county
11 based on an agreement. The agreement is effective only if:

12 (A) The county [*and*], the city, if any, **and all school districts, education service districts**
13 **and community college districts** in which the eligible project is located have entered into the
14 agreement; and

15 (B) Local taxing districts listed in ORS 198.010 or 198.180 that constitute at least 75 percent of
16 the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180 in the code
17 area in which the eligible project is located have entered into the agreement.

18 (b) If an effective agreement is not entered into under paragraph (a) of this subsection within
19 three months after the date of the determination by the commission under ORS 285C.606 (1), the
20 commission shall, by official action, establish a formula for distributing the fee collected under
21 subsection (4)(b) of this section.

22 **SECTION 4. The amendments to ORS 285C.606, 285C.609 and 307.123 by sections 1 to 3 of**
23 **this 2015 Act apply to property determined, pursuant to ORS 285C.606 (1), to be exempt under**
24 **ORS 307.123, on or after the effective date of this 2015 Act.**

25 **SECTION 5. This 2015 Act takes effect on the 91st day after the date on which the 2015**
26 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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