

# B-Engrossed House Bill 2734

Ordered by the House April 27  
Including House Amendments dated March 19 and April 27

Sponsored by Representative READ, Senator HANSELL, Representative FREDERICK; Representative HUFFMAN,  
Senator ROBLAN (Presession 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.

Authorizes [*governing body of*] local government to create by ordinance or resolution Land Bank Authority as municipal corporation.

Authorizes authority to have powers necessary to acquire, rehabilitate, redevelop, [*or*] reutilize **or restore** brownfield properties. Authorizes authority to bring action to recover remedial action costs or damages and authorizes court in such action to allow authority to recover costs, expert witness fees, reasonable attorney fees and prejudgment or preaward interest.

**Provides process for dissolution of authority.**

Exempts authority, under certain circumstances, from liability for spill or release of oil or hazardous material existing on property as of date [*of authority's acquisition of ownership or operation*] **authority becomes owner or operator** of property.

Requires authority to be managed and controlled by board of directors. Sets forth duties of board.

Authorizes [*governing body of city or county to grant*] **local government to adopt program granting** property tax abatement against taxes imposed on [*brownfield*] **brownfields** in amount equal to **specified percentage** of certain remediation costs. **Provides that program becomes effective only upon certain threshold level of concurrence by local taxing districts.** Provides that [*abatement may equal 100 percent of tax liability and that additional abatement in excess of 100 percent of tax liability may be carried forward if governing body*] **additional abatement may be granted if local government** adopts additional requirements in connection with development of [*brownfield*] **brownfields.** **Provides that amounts of abatement in excess of tax liability may be carried forward for four consecutive property tax years. Provides for clawback of abated amounts if abatement of brownfield revoked for cause.**

## A BILL FOR AN ACT

1  
2 Relating to remediation of contaminated property; creating new provisions; and amending ORS  
3 244.050, 465.255, 466.640 and 468B.310.

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

## LAND BANK AUTHORITIES

### SECTION 1. As used in sections 1 to 8 of this 2015 Act:

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9 (1) "Authority" means any public land bank authority created pursuant to sections 1 to  
10 **8 of this 2015 Act.**

11 (2) "Brownfield" has the meaning given that term in ORS 285A.185.

12 (3) "Local government" means a local government as defined in ORS 174.116 or a inter-  
13 governmental entity created under an intergovernmental agreement between two units of  
14 local government under ORS 190.010.

15 (4) "Remedial action," "remedial action costs" and "removal" have the meanings given  
16 those terms in ORS 465.200.

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       **SECTION 2.** (1) A local government may, upon its own motion, consider whether it is  
2       advisable to create an authority for the purpose of acquiring, rehabilitating, redeveloping,  
3       reutilizing or restoring brownfield properties that are located within the geographic bounda-  
4       ries over which the local government has jurisdiction.

5       (2) If the local government, after public hearing according to the local government's  
6       rules, determines that it is wise and desirable to create in an authority the powers and duties  
7       set forth in sections 1 to 8 of this 2015 Act, the local government shall by ordinance or re-  
8       solution create such an authority. The ordinance or resolution shall set forth:

9       (a) The name of the authority, which shall be "The Land Bank Authority of (local gov-  
10       ernment), Oregon" or other similar distinctive name.

11       (b) The number of directors of the authority, which must be an odd number not less than  
12       five or more than 11.

13       (c) The names of the initial directors and their initial terms of service, which may not  
14       exceed four years.

15       (d) Other provisions that may be appropriate and not inconsistent with sections 1 to 8  
16       of this 2015 Act or the laws of Oregon.

17       (3) Upon the adoption of an ordinance or resolution under subsection (2) of this section,  
18       the authority shall be deemed established as a municipal corporation of the state and as a  
19       body corporate and politic exercising public powers. Notwithstanding any law to the contrary,  
20       the authority shall exist as a legal entity separate from the local government that created  
21       the authority.

22       (4) An authority organized under this section shall have all the powers and duties con-  
23       tained in sections 1 to 8 of this 2015 Act.

24       **SECTION 3.** (1) An authority shall be managed and controlled by a board of directors.  
25       The initial board of directors shall be appointed by the local government that created the  
26       authority. Subsequent directors shall be appointed as provided in this section and the rules  
27       adopted by the authority.

28       (2) The regular term of a member of the board is four years. The board may establish  
29       special terms for positions that are shorter than four years for the purpose of staggering the  
30       terms of members of the board. Before the expiration of the term of a member, the board  
31       shall appoint a successor whose term begins on January 1 of the year next following. A  
32       member is eligible for reappointment. If there is a vacancy for any cause, the board shall  
33       make an appointment to become immediately effective for the unexpired term.

34       (3) The board of directors must include:

35       (a) At least one director who is also a member of the governing body of the local gov-  
36       ernment that created the authority;

37       (b) At least one director who represents the largest municipal corporation within the  
38       geographic jurisdiction of the local government that is not a school district;

39       (c) At least one director who represents the largest school district within the geographic  
40       jurisdiction of the local government; and

41       (d) Subject to the maximum number of directors allowed by the ordinance or resolution  
42       establishing the authority, one or more directors who are also members of civic organiza-  
43       tions that serve the same geographic jurisdiction as the authority and that have a purpose  
44       or mission that aligns with that of the authority.

45       (4) The board shall hold an annual meeting. The board shall select from among them-

1 selves at the annual meeting a chairperson, vice chairperson, secretary, treasurer and other  
2 officers as the board determines.

3 (5) The board shall adopt and may amend rules for calling and conducting its meetings  
4 and carrying out its business and may adopt an official seal. All decisions of the board shall  
5 be by motion or resolution and shall be recorded in the board's minute book, which shall be  
6 a public record. A majority of the directors of the board constitutes a quorum for the  
7 transaction of business, and a majority is sufficient to pass a motion or resolution.

8 (6) The board may employ employees and agents as the board deems appropriate and  
9 provide for their compensation. The employees and agents of the authority are not employees  
10 or agents of the local government that created the authority.

11 (7) A director is not entitled to compensation for service on the board of an authority.

12 **SECTION 4.** (1) An authority shall have all powers necessary to accomplish the purposes  
13 of acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties, in-  
14 cluding without limitation the power to:

15 (a) Sue and be sued, plead and be impleaded in all actions, suits or proceedings brought  
16 by or against the authority.

17 (b) Acquire, hold, use, enjoy and convey, lease or otherwise dispose of any interest in:

18 (A) Brownfield properties within the authority's geographic jurisdiction;

19 (B) Properties undergoing removal or remedial action under the supervision or approval  
20 of the Department of Environmental Quality that are within the authority's geographic ju-  
21 risdiction; and

22 (C) Personal property.

23 (c) Conduct removal or remedial action on real property in which the authority has a  
24 property interest under an agreement with the Department of Environmental Quality.

25 (d) Assist parties that are interested in acquiring a property interest in real property  
26 held by the authority with entering into an agreement with the Department of Environ-  
27 mental Quality under ORS 465.327.

28 (e) Enter into contracts with any person.

29 (f) Borrow moneys and issue notes and revenue bonds for the purpose of carrying out the  
30 authority's powers.

31 (g) Invest moneys into property, securities or other instruments.

32 (h) Obtain insurance.

33 (i) Solicit and accept grants, gifts or other assistance from a public or private source.

34 (j) Develop and prepare plans or reports to evaluate the authority and to guide future  
35 improvements to the processes and operations of the authority.

36 (k) Develop priorities for the use of property of the authority that may include, but are  
37 not limited to, public use, affordable housing, open space and commercial or industrial de-  
38 velopment.

39 (L) Adopt and amend ordinances and resolutions.

40 (2) An authority may establish an advisory committee to advise the board of directors  
41 of the authority on the interests of the community in the actions of the board and the au-  
42 thority. If a committee is established, a member of the committee shall serve as a liaison  
43 between the board of the authority and a community of interest affected by a decision or  
44 proposed decision of the board.

45 (3) An authority shall give public notice of a proposed disposition of any interest in real

1 property held by the authority. The notice shall allow 30 days for the public to comment on  
2 the proposed disposition. The authority shall provide responses to comments prior to final  
3 disposition of the property interest.

4 (4) An authority shall annually prepare and submit a report to the Governor and, in the  
5 manner described in ORS 192.245, submit the report to the Legislative Assembly. The report  
6 must summarize the activity of the authority, including a list of real properties in which the  
7 authority has acquired or disposed of a property interest, the method of acquisition or dis-  
8 position, the price paid or received for each property and additional information as requested  
9 by the Governor, the President of the Senate or the Speaker of the House of Representatives.

10 **SECTION 5.** (1) Except as provided in subsection (2) of this section, the debts, obligations  
11 and other liabilities of an authority are not a general or other obligation or liability of the  
12 local government that created the authority.

13 (2) A local government may incur debt, including the issuance of bonds under any bond-  
14 ing authority available to the local government, on behalf of an authority created by the local  
15 government and, by ordinance or resolution, deem a debt incurred under this subsection to  
16 be a general obligation of the local government and a charge upon its tax revenues.

17 **SECTION 6.** (1) Except as provided in subsection (2) of this section, an authority, all as-  
18 sets owned by the authority, the income from those assets, and all bonds issued by the au-  
19 thority, together with the coupons applicable to those bonds and the income from the bonds,  
20 shall be exempt from all taxation in the State of Oregon.

21 (2) The real and personal property owned by the authority and leased to a third party  
22 shall be subject to property taxation if the property would be subject to taxation if owned  
23 by the lessee.

24 **SECTION 7.** (1) An authority shall keep a record of the authority's remedial action costs.

25 (2) Notwithstanding any law to the contrary, an authority may, based on the record  
26 compiled by the authority under subsection (1) of this section, bring an action to recover  
27 from a person liable under ORS 465.255 or 465.260 the amount of the authority's remedial  
28 action costs.

29 (3) In an action brought by an authority to recover remedial action costs under ORS  
30 465.255 (1) or damages under ORS 468B.310 (1), the court may allow the authority to recover  
31 costs, expert witness fees, reasonable attorney fees and prejudgment or preaward interest  
32 if the authority prevails in the action.

33 **SECTION 8.** (1) Dissolution of an authority may be initiated:

34 (a) By resolution of the board of directors of the authority, filed with the local govern-  
35 ment that created the authority, if the board determines that dissolution of the authority is  
36 in the best interest of the community served by the authority; or

37 (b) By resolution of the local government that created the authority:

38 (A) If the board of directors of the authority, at the time of the annual meeting of the  
39 board, has not appointed board members to fill vacancies on the board as required by section  
40 3 of this 2015 Act; or

41 (B) If the local government determines that dissolution of the authority is in the best  
42 interest of residents within the jurisdiction of the local government.

43 (2) Within five days after a resolution of the board is filed or a resolution of the local  
44 government is adopted under this section, a copy shall be filed with the secretary of the  
45 authority, if any, or with any other officer of the authority who can with reasonable diligence

1 **be located.**

2 (3) **If there are no members of the board of directors of the authority, the local govern-**  
3 **ment shall act as or appoint a board of trustees to act on behalf of the authority to develop**  
4 **and implement a plan for dissolution.**

5 (4) **Within 60 days after initiation of the dissolution proceeding, a plan of dissolution shall**  
6 **be filed with the office of the clerk of the county in which the authority is located and shall**  
7 **be available for inspection by any interested person.**

8 (5) **Upon approval of dissolution by the governing body of the local government that**  
9 **created the authority, the authority shall be declared dissolved. If the local government has**  
10 **not appointed a board of trustees under subsection (3) of this section:**

11 (a) **The board of directors shall constitute a board of trustees that shall pay the debts**  
12 **or procure releases of the debts and dispose of the property of the authority; or**

13 (b) **The board of directors may designate the local government as the board of trustees**  
14 **for the purpose of winding up the affairs of the authority.**

15 (6) **After the affairs of the authority have been fully settled, all books and records of the**  
16 **authority shall be deposited by the board of trustees in the office of the county clerk of the**  
17 **county in which the authority is located. At the same time, the board of trustees shall exe-**  
18 **cute under oath, and file with the local government that created the authority, a statement**  
19 **that the authority has been dissolved and its affairs liquidated. From the date of the state-**  
20 **ment, the corporate existence of the authority is terminated for all purposes.**

21 **SECTION 9.** ORS 465.255 is amended to read:

22 465.255. (1) **The following persons shall be strictly liable for those remedial action costs incurred**  
23 **by the state or any other person that are attributable to or associated with a facility and for dam-**  
24 **ages for injury to or destruction of any natural resources caused by a release:**

25 (a) **Any owner or operator at or during the time of the acts or omissions that resulted in the**  
26 **release.**

27 (b) **Any owner or operator who became the owner or operator after the time of the acts or**  
28 **omissions that resulted in the release, and who knew or reasonably should have known of the re-**  
29 **lease when the person first became the owner or operator.**

30 (c) **Any owner or operator who obtained actual knowledge of the release at the facility during**  
31 **the time the person was the owner or operator of the facility and then subsequently transferred**  
32 **ownership or operation of the facility to another person without disclosing such knowledge.**

33 (d) **Any person who, by any acts or omissions, caused, contributed to or exacerbated the release,**  
34 **unless the acts or omissions were in material compliance with applicable laws, standards, regu-**  
35 **lations, licenses or permits.**

36 (e) **Any person who unlawfully hinders or delays entry to, investigation of or removal or reme-**  
37 **dial action at a facility.**

38 (2) **Except as provided in subsection (1)(c) to (e) of this section and subsection (4) of this section,**  
39 **the following persons shall not be liable for remedial action costs incurred by the state or any other**  
40 **person that are attributable to or associated with a facility, or for damages for injury to or de-**  
41 **struction of any natural resources caused by a release:**

42 (a) **Any owner or operator who became the owner or operator after the time of the acts or**  
43 **omissions that resulted in a release, and who did not know and reasonably should not have known**  
44 **of the release when the person first became the owner or operator.**

45 (b) **Any owner or operator if the release at the facility was caused solely by one or a combina-**

1 tion of the following:

2 (A) An act of God. "Act of God" means an unanticipated grave natural disaster or other natural  
3 phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not  
4 have been prevented or avoided by the exercise of due care or foresight.

5 (B) An act of war.

6 (C) Acts or omissions of a third party, other than an employee or agent of the person asserting  
7 this defense, or other than a person whose acts or omissions occur in connection with a contractual  
8 relationship, existing directly or indirectly, with the person asserting this defense. As used in this  
9 subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other  
10 instruments transferring title or possession.

11 (3) Except as provided in subsection (1)(c) to (e) of this section or subsection (4) of this section,  
12 the following persons shall not be liable for remedial action costs incurred by the state or any other  
13 person that are attributable to or associated with a facility, or for damages for injury to or de-  
14 struction of any natural resources caused by a release:

15 (a) A unit of state or local government that acquired ownership or control of a facility in the  
16 following ways:

17 (A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat,  
18 bankruptcy, tax delinquency or abandonment; or

19 (B) Through the exercise of eminent domain authority by purchase or condemnation.

20 (b) A person who acquired a facility by inheritance or bequest.

21 (c) Any fiduciary exempted from liability in accordance with rules adopted by the Environmental  
22 Quality Commission under ORS 465.440.

23 **(d) An authority that becomes the owner or operator of the facility as authorized in**  
24 **section 4 of this 2015 Act.**

25 (4) Notwithstanding the exclusions from liability provided for specified persons in subsections  
26 (2) and (3) of this section such persons shall be liable for remedial action costs incurred by the state  
27 or any other person that are attributable to or associated with a facility, and for damages for injury  
28 to or destruction of any natural resources caused by a release, to the extent that the person's acts  
29 or omissions contribute to such costs or damages, if the person:

30 (a) Obtained actual knowledge of the release and then failed to promptly notify the Department  
31 of Environmental Quality and exercise due care with respect to the hazardous substance concerned,  
32 taking into consideration the characteristics of the hazardous substance in light of all relevant facts  
33 and circumstances; or

34 (b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions  
35 of a third party and the reasonably foreseeable consequences of such acts or omissions.

36 (5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective  
37 to transfer from any person who may be liable under this section, to any other person, the liability  
38 imposed under this section. Nothing in this section shall bar any agreement to insure, hold harmless  
39 or indemnify a party to such agreement for any liability under this section.

40 (b) A person who is liable under this section shall not be barred from seeking contribution from  
41 any other person for liability under ORS 465.200 to 465.545 and 465.900.

42 (c) Nothing in ORS 465.200 to 465.545 and 465.900 shall bar a cause of action that a person liable  
43 under this section or a guarantor has or would have by reason of subrogation or otherwise against  
44 any person.

45 (d) Nothing in this section shall restrict any right that the state or any person might have under

1 federal statute, common law or other state statute to recover remedial action costs or to seek any  
2 other relief related to a release.

3 (6) To establish, for purposes of subsection (1)(b) of this section or subsection (2)(a) of this sec-  
4 tion, that the person did or did not have reason to know, the person must have undertaken, at the  
5 time of acquisition, all appropriate inquiry into the previous ownership and uses of the property  
6 consistent with good commercial or customary practice in an effort to minimize liability.

7 (7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS  
8 465.200 to 465.545 and 465.900 for costs or damages as a result of actions taken or omitted in the  
9 course of rendering care, assistance or advice in accordance with rules adopted under ORS 465.400  
10 or at the direction of the department or its authorized representative, with respect to an incident  
11 creating a danger to public health, safety, welfare or the environment as a result of any release of  
12 a hazardous substance. This paragraph shall not preclude liability for costs or damages as the result  
13 of negligence on the part of such person.

14 (b) No state or local government shall be liable under ORS 465.200 to 465.545 and 465.900 for  
15 costs or damages as a result of actions taken in response to an emergency created by the release  
16 of a hazardous substance generated by or from a facility owned by another person. This paragraph  
17 shall not preclude liability for costs or damages as a result of gross negligence or intentional mis-  
18 conduct by the state or local government. For the purpose of this paragraph, reckless, willful or  
19 wanton misconduct shall constitute gross negligence.

20 (c) This subsection shall not alter the liability of any person covered by subsection (1) of this  
21 section.

22 **SECTION 10.** ORS 466.640 is amended to read:

23 466.640. (1) Any person owning or having control over any oil or hazardous material spilled or  
24 released or threatening to spill or release shall be strictly liable without regard to fault for the spill  
25 or release or threatened spill or release. However, in any action to recover damages, the person  
26 shall be relieved from strict liability without regard to fault if the person can prove that the spill  
27 or release of oil or hazardous material was caused by:

28 (a) An act of war or sabotage or an act of God.

29 (b) Negligence on the part of the United States Government or the State of Oregon.

30 (c) An act or omission of a third party without regard to whether any such act or omission was  
31 or was not negligent.

32 (2) Notwithstanding the provisions of subsection (1) of this section:

33 (a) A person who has entered into, and is in compliance with, an administrative agreement under  
34 ORS 465.327 is not liable to the State of Oregon for any spill or release of oil or hazardous material  
35 at a facility that is subject to ORS 465.200 to 465.545 existing as of the date of the person's acqui-  
36 sition of ownership or operation of the facility, to the extent provided in ORS 465.327.

37 (b) A person who has entered into, and is in compliance with, a judicial consent judgment or  
38 an administrative consent order under ORS 465.327 is not liable to the State of Oregon or any per-  
39 son for any spill or release of oil or hazardous material at a facility that is subject to ORS 465.200  
40 to 465.545 existing as of the date of the person's acquisition of ownership or operation of the facility,  
41 to the extent provided in ORS 465.327.

42 (c) **An authority created under sections 1 to 8 of this 2015 Act is not liable to the State**  
43 **of Oregon or any person for any spill or release of oil or hazardous material at a facility that**  
44 **is subject to ORS 465.200 to 465.545 existing as of the date of the authority's acquisition of**  
45 **ownership or operation of the facility, to the extent provided in ORS 465.327 for a person that**

1 **has entered into, and is in compliance with, an administrative agreement, judicial consent**  
2 **judgment or an administrative consent order.**

3 **SECTION 11.** ORS 468B.310 is amended to read:

4 468B.310. (1) Any person owning oil or having control over oil which enters the waters of the  
5 state in violation of ORS 468B.305 shall be strictly liable, without regard to fault, for the damages  
6 to persons or property, public or private, caused by such entry. However, in any action to recover  
7 damages, the person shall be relieved from strict liability without regard to fault if the person can  
8 prove that the oil to which the damages relate, entered the waters of the state by causes set forth  
9 in ORS 468B.305 (2).

10 (2) Nothing in this section shall be construed as limiting the right of a person owning or having  
11 control of oil to maintain an action for the recovery of damages against another person for an act  
12 or omission of such other person resulting in the entry of oil into the waters of the state for which  
13 the person owning or having control of such oil is liable under subsection (1) of this section.

14 (3) Notwithstanding the provisions of subsections (1) and (2) of this section:

15 (a) A person who has entered into, and is in compliance with, an administrative agreement under  
16 ORS 465.327 is not liable to the State of Oregon for any entry of oil into the waters of the state from  
17 a facility that is subject to ORS 465.200 to 465.545 and 468B.300 to 468B.500 that occurred before  
18 the date of the person's acquisition of ownership or operation of the facility, to the extent provided  
19 in ORS 465.327.

20 (b) A person who has entered into, and is in compliance with, a judicial consent judgment or  
21 an administrative consent order under ORS 465.327 is not liable to the State of Oregon or any per-  
22 son for any entry of oil into the waters of the state from a facility that is subject to ORS 465.200  
23 to 465.545 and 468B.300 to 468B.500 that occurred before the date of the person's acquisition of  
24 ownership or operation of the facility, to the extent provided in ORS 465.327.

25 **(c) An authority created under sections 1 to 8 of this 2015 Act is not liable to the State**  
26 **of Oregon or any person for any entry of oil into the waters of this state from a facility that**  
27 **is subject to ORS 465.200 to 465.545 and 468B.300 to 468B.500 that occurred before the date**  
28 **of the authority's acquisition of ownership or operation of the facility, to the extent provided**  
29 **in ORS 465.327 for a person that has entered into, and is in compliance with, an administra-**  
30 **tive agreement, judicial consent judgment or an administrative consent.**

31  
32 **PROPERTY TAX ABATEMENT**

33  
34 **SECTION 12.** (1)(a) **The governing body of a local government may adopt, by ordinance**  
35 **or resolution, a program that grants an abatement against the property taxes imposed on**  
36 **brownfields, as defined in ORS 285A.185, located within the jurisdiction of the local govern-**  
37 **ment.**

38 (b) **An abatement program adopted pursuant to paragraph (a) of this subsection does not**  
39 **become effective unless the rates of taxation of the taxing districts whose governing boards**  
40 **agree to the abatement program, when combined with the rate of taxation of the local gov-**  
41 **ernment that adopted the abatement program, equal 75 percent or more of the total com-**  
42 **bined rate of taxation within the territory for which the abatement program has been**  
43 **adopted.**

44 (c) **If an abatement program becomes effective pursuant to paragraph (b) of this sub-**  
45 **section, the abatement shall apply to the tax levy of all taxing districts in which a brownfield**



1 that is granted the abatement is located.

2 (d) The abatement shall be for eligible costs, as described in section 13 of this 2015 Act,  
3 incurred with respect to a brownfield. The ordinance or resolution adopting the abatement  
4 program shall specify the percentage, up to 100 percent, of eligible costs that may be used  
5 for purposes of the abatement in any year.

6 (e) The ordinance or resolution shall allow the owner of a brownfield to file five applica-  
7 tions for abatement under section 13 of this 2015 Act. The applications may be filed in non-  
8 consecutive years.

9 (f) The abatement shall be granted on the same terms to all brownfields within the ju-  
10 risdiction of the local government that adopts the abatement program.

11 (g)(A) The local government may amend the abatement program in the same manner as  
12 the abatement program was adopted, or may cancel the abatement program, at any time.

13 (B) Notwithstanding subparagraph (A) of this paragraph, the terms in effect at the time  
14 a brownfield is first granted abatement shall remain in effect for the entire period for which  
15 the brownfield is eligible for the abatement.

16 (2)(a) The local government that adopts an abatement program under subsection (1) of  
17 this section shall specify the eligibility requirements in the ordinance or resolution, includ-  
18 ing, but not limited to, a showing by the owner of the brownfield in an application for  
19 abatement filed under section 13 of this 2015 Act:

20 (A) That the owner or authorized representative of the owner has obtained an environ-  
21 mental site assessment of the brownfield prepared by a geologist registered under ORS  
22 672.505 to 672.705 or a professional engineer as defined in ORS 672.002.

23 (B) If the environmental site assessment required under subparagraph (A) of this para-  
24 graph concludes that a remedial action, as defined in ORS 465.200, is required in response to  
25 the release of a hazardous substance at the brownfield, that the remedial action shall be  
26 conducted pursuant to an agreement with, an order of or a program or process authorized  
27 by the Department of Environmental Quality. An agreement, order, program or process in-  
28 cludes, but is not limited to, the Voluntary Cleanup Program, the Independent Cleanup  
29 Pathway, a consent or unilateral order or another process that the department may establish  
30 by rule or policy, pursuant to which the owner or operator is required to perform the re-  
31 medial action at the brownfield.

32 (C) That the owner is in compliance with any agreement, order, program or process re-  
33 quired under subparagraph (B) of this paragraph.

34 (D) That the report of the environmental site assessment required under subparagraph  
35 (A) of this paragraph, and a report prepared by a geologist or professional engineer showing  
36 that any remedial action has complied with applicable state law administered by the depart-  
37 ment, have been submitted to the department.

38 (b) The department shall maintain reports submitted under paragraph (a)(D) of this  
39 subsection as public records and make the reports available for inspection in the manner  
40 provided in ORS 192.410 to 192.505.

41 (3) The ordinance or resolution adopted under subsection (1) of this section may allow  
42 an additional abatement in an amount stated in the ordinance or resolution for one or more  
43 of the following purposes in connection with development of brownfields:

44 (a) Providing low income residential housing, as defined in ORS 307.841, on the  
45 brownfield.

1 (b) Providing public park or open space land, as defined in ORS 308A.300, pursuant to a  
2 legally binding agreement with a local government that requires that at least 50 percent of  
3 the land provided as public park or open space land shall be permanently provided as public  
4 park or open space land.

5 (c) Adding improvements that generate renewable energy.

6 (d) Having at least 50 percent of remedial actions being performed by minority or women  
7 business enterprises or disadvantaged business enterprises, as those terms are defined in  
8 ORS 200.100.

9 (e) Creating permanent jobs that pay at least the county or state average in annual per  
10 employee compensation, or making a substantial investment, in a business on the brownfield.

11 (f) Performing removal, as defined in ORS 465.200, or remedial action at a brownfield on  
12 which hospital buildings or community health care facilities are to be constructed, in an area  
13 designated as having unmet health care needs in the most recent areas of unmet health care  
14 need in rural Oregon report issued by the Office of Rural Health.

15 (4) The owner of a brownfield, located within the jurisdiction of a local government that  
16 adopts an abatement program under subsection (1) of this section, that has filed an applica-  
17 tion that meets the requirements of section 13 of this 2015 Act shall be granted an abatement  
18 for the brownfield in an amount determined under section 14 of this 2015 Act.

19 **SECTION 13.** (1) The owner of a brownfield seeking an abatement, under an abatement  
20 program adopted under section 12 of this 2015 Act, against the property taxes imposed on the  
21 brownfield for a property tax year must file an application on or before March 15 preceding  
22 the beginning of the property tax year for which the abatement is claimed.

23 (2) The application must be filed with the local government that adopted the abatement  
24 program under section 12 of this 2015 Act and must include:

25 (a) The address of the brownfield.

26 (b) Evidence of the ownership of the brownfield by the person filing the application.

27 (c) An affidavit signed by the owner of the brownfield under penalty of perjury that the  
28 owner has not, by any acts or omissions, caused, contributed to or exacerbated the release  
29 of a hazardous substance at the brownfield for which the eligible costs described in sub-  
30 section (3) of this section are incurred, unless the acts or omissions were in material com-  
31 pliance with applicable laws, standards, regulations, licenses or permits.

32 (d) An explanation of how all applicable eligibility requirements with respect to the  
33 brownfield have been met.

34 (e) Documentation of eligible costs incurred with respect to the brownfield for the  
35 12-month period ending on December 31 of the year preceding the date on which the appli-  
36 cation is filed.

37 (f) Documentation supporting an amount of additional abatement allowed under section  
38 12 (3) of this 2015 Act.

39 (3) For purposes of this section:

40 (a) Eligible costs may be:

41 (A) Remedial action costs as defined in ORS 465.200, including costs incurred for envi-  
42 ronmental site assessment or investigation performed by a licensed professional without the  
43 oversight or approval of the Department of Environmental Quality.

44 (B) The costs of demolishing site improvements as necessary for removal or remedial  
45 action, as those terms are defined in ORS 465.200.

1 (C) The costs of abating the release of hazardous substances within existing site im-  
2 provements.

3 (D) The costs of new improvements constructed on the brownfield for the purpose of  
4 containing hazardous substances or limiting exposure to the release of hazardous substances.

5 (E) The costs of managing, handling, removing, treating and disposing of solid waste,  
6 environmental media or building materials containing hazardous substances in the course  
7 of redeveloping the brownfield.

8 (b) Eligible costs shall be reduced by the amount of any state or federal grant moneys  
9 received by the owner of the brownfield for environmental site assessment or investigation,  
10 or removal or remedial action, at the brownfield in the year in which the eligible costs are  
11 incurred.

12 (4) For purposes of subsection (2) of this section, documentation of eligible costs may  
13 include, but is not limited to, copies of contracts, notes and minutes of contract negotiations,  
14 and accounts, invoices, sales receipts or other payment records of purchases, sales, leases  
15 or other transactions relating to the eligible costs.

16 (5) The application shall be reviewed by the local government that adopted the abatement  
17 program. Upon request, the Department of Environmental Quality may consult with the local  
18 government with respect to remedial action costs included in the application as eligible costs.  
19 The local government may consult with the owner about the application, and the owner may  
20 amend the application.

21 (6)(a) If the local government determines that the application does not meet the re-  
22 quirements of this section, the local government shall promptly notify the owner in writing  
23 that the application is not approved, stating the reasons for the determination. A determi-  
24 nation under this paragraph is not reviewable, but the owner of the brownfield may file an  
25 application under this section for any subsequent year.

26 (b) If the local government determines that the application meets the requirements of  
27 this section, the local government shall promptly notify the owner and the assessor of the  
28 county in which the brownfield is located in writing that the application is approved and of  
29 the amount of the eligible costs that may be applied to the abatement.

30 (c) If the local government has not notified the owner under this subsection within 60  
31 days after the application is filed, the application and the amount of eligible costs claimed  
32 on the application shall be deemed approved.

33 **SECTION 14.** (1) An abatement shall be granted for the first property tax year that be-  
34 gins on or after the date on which the approved application was filed under section 13 of this  
35 2015 Act.

36 (2) The abatement shall be computed as follows:

37 (a) The amount of abated eligible costs for any property tax year equals the sum of the  
38 percentage of eligible costs approved under section 13 of this 2015 Act, and any amount of  
39 additional abatement, allowed by the local government and listed on the newly approved ap-  
40 plication, plus any amounts carried forward under paragraph (d)(B) of this subsection.

41 (b) Using information from the most recent assessment and tax roll for the property  
42 constituting the brownfield, the assessor of the county in which the property is located shall:

43 (A) Determine the effective tax rate for the property by dividing the ad valorem taxes  
44 imposed on the property by the net assessed value of the property used to compute the ad  
45 valorem taxes.

1       **(B) Determine the capitalized amount of eligible costs by dividing the amount of eligible**  
2 **costs determined under paragraph (a) of this subsection by the effective tax rate determined**  
3 **under subparagraph (A) of this paragraph.**

4       **(c) For purposes of the current assessment and tax roll, the county assessor shall:**

5       **(A) Subtract the capitalized amount of eligible costs determined under paragraph (b)(B)**  
6 **of this subsection from the real market value of the property for the current assessment**  
7 **year.**

8       **(B) Determine what the net assessed value of the property would have been without**  
9 **subtraction of the capitalized amount of eligible costs.**

10       **(C) Determine what the effective tax rate for the property would have been using the net**  
11 **assessed value determined under subparagraph (B) of this paragraph.**

12       **(D) Determine the amount of ad valorem property taxes eligible for abatement by multi-**  
13 **plying the net assessed value determined under subparagraph (B) of this paragraph by the**  
14 **effective tax rate determined under subparagraph (C) of this paragraph.**

15       **(d)(A) The county assessor shall determine the amount of the ad valorem property taxes**  
16 **abated by subtracting the amount of eligible costs determined under paragraph (a) of this**  
17 **subsection from the amount of ad valorem property taxes eligible for abatement determined**  
18 **under paragraph (c)(D) of this subsection.**

19       **(B) If the amount of eligible costs determined under paragraph (a) of this subsection**  
20 **exceeds the amount of ad valorem property taxes eligible for abatement determined under**  
21 **paragraph (c)(D) of this subsection, the excess amount shall be carried forward for not more**  
22 **than four consecutive property tax years, as necessary until the entire excess amount is**  
23 **used. Excess amounts determined under this subparagraph may be carried forward and used**  
24 **for a property tax year regardless of whether a new application is filed for that property tax**  
25 **year. Excess amounts determined under this subparagraph and not used expire after being**  
26 **carried forward for four consecutive years.**

27       **(3) The county assessor shall note the amount of the ad valorem property taxes abated**  
28 **as a potential additional tax liability on the assessment and tax rolls of the county.**

29       **SECTION 15.** **(1)(a) In addition to any other remedy provided by law, the local govern-**  
30 **ment that adopted an abatement program under section 12 of this 2015 Act may modify an**  
31 **abatement granted to a brownfield under the abatement program on reliable documentary**  
32 **evidence that any statement or representation in any documentation filed pursuant to sec-**  
33 **tion 13 of this 2015 Act is inaccurate.**

34       **(b) The local government may revoke an abatement granted to a brownfield under the**  
35 **abatement program on reliable documentary evidence that the owner of the brownfield made**  
36 **any false statement or representation in any documentation filed pursuant to section 13 of**  
37 **this 2015 Act.**

38       **(2) The local government shall promptly notify the assessor of the county in which the**  
39 **brownfield is located of any modification or revocation under subsection (1) of this section.**

40       **(3) If the local government makes a modification that results in an increase in ad**  
41 **valorem property taxes for a prior property tax year, the amount of the increase shall be**  
42 **added to the next assessment and tax roll.**

43       **(4) If the local government revokes the abatement:**

44       **(a) There shall be added to the property tax roll for the next following property tax year,**  
45 **an amount equal to the potential additional tax liability noted on the tax rolls under section**

1 **14 (3) of this 2015 Act for all of the previous property tax years for which the abatement was**  
2 **granted.**

3 **(b) Any excess amounts eligible to be carried forward under section 14 (2)(d)(B) of this**  
4 **2015 Act shall be canceled.**

5 **(5) Additional property taxes imposed on a brownfield under this section shall be collected**  
6 **and distributed in the same manner as other ad valorem property taxes.**

7 **(6) Additional property taxes collected under this section shall be deemed to have been**  
8 **imposed in the year to which the additional taxes relate.**

9  
10 **CONFORMING AMENDMENTS**

11  
12 **SECTION 16.** ORS 244.050 is amended to read:

13 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon  
14 Government Ethics Commission a verified statement of economic interest as required under this  
15 chapter:

16 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the  
17 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

18 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem  
19 judicial officer who does not otherwise serve as a judicial officer.

20 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

21 (d) The Deputy Attorney General.

22 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the  
23 Secretary of the Senate and the Chief Clerk of the House of Representatives.

24 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and  
25 vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

26 (g) The following state officers:

27 (A) Adjutant General.

28 (B) Director of Agriculture.

29 (C) Manager of State Accident Insurance Fund Corporation.

30 (D) Water Resources Director.

31 (E) Director of Department of Environmental Quality.

32 (F) Director of Oregon Department of Administrative Services.

33 (G) State Fish and Wildlife Director.

34 (H) State Forester.

35 (I) State Geologist.

36 (J) Director of Human Services.

37 (K) Director of the Department of Consumer and Business Services.

38 (L) Director of the Department of State Lands.

39 (M) State Librarian.

40 (N) Administrator of Oregon Liquor Control Commission.

41 (O) Superintendent of State Police.

42 (P) Director of the Public Employees Retirement System.

43 (Q) Director of Department of Revenue.

44 (R) Director of Transportation.

45 (S) Public Utility Commissioner.

- 1 (T) Director of Veterans' Affairs.
- 2 (U) Executive director of Oregon Government Ethics Commission.
- 3 (V) Director of the State Department of Energy.
- 4 (W) Director and each assistant director of the Oregon State Lottery.
- 5 (X) Director of the Department of Corrections.
- 6 (Y) Director of the Oregon Department of Aviation.
- 7 (Z) Executive director of the Oregon Criminal Justice Commission.
- 8 (AA) Director of the Oregon Business Development Department.
- 9 (BB) Director of the Office of Emergency Management.
- 10 (CC) Director of the Employment Department.
- 11 (DD) Chief of staff for the Governor.
- 12 (EE) Administrator of the Office for Oregon Health Policy and Research.
- 13 (FF) Director of the Housing and Community Services Department.
- 14 (GG) State Court Administrator.
- 15 (HH) Director of the Department of Land Conservation and Development.
- 16 (II) Board chairperson of the Land Use Board of Appeals.
- 17 (JJ) State Marine Director.
- 18 (KK) Executive director of the Oregon Racing Commission.
- 19 (LL) State Parks and Recreation Director.
- 20 (MM) Public defense services executive director.
- 21 (NN) Chairperson of the Public Employees' Benefit Board.
- 22 (OO) Director of the Department of Public Safety Standards and Training.
- 23 (PP) Executive director of the Higher Education Coordinating Commission.
- 24 (QQ) Executive director of the Oregon Watershed Enhancement Board.
- 25 (RR) Director of the Oregon Youth Authority.
- 26 (SS) Director of the Oregon Health Authority.
- 27 (TT) Deputy Superintendent of Public Instruction.
- 28 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- 29 (i) Every elected city or county official.
- 30 (j) Every member of a city or county planning, zoning or development commission.
- 31 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
- 32 cipal administrator of the city or county.
- 33 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 34 (m) Every member of a governing body of a metropolitan service district and the executive of-
- 35 ficer thereof.
- 36 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 37 (o) The chief administrative officer and the financial officer of each common and union high
- 38 school district, education service district and community college district.
- 39 (p) Every member of the following state boards and commissions:
- 40 (A) Board of Geologic and Mineral Industries.
- 41 (B) Oregon Business Development Commission.
- 42 (C) State Board of Education.
- 43 (D) Environmental Quality Commission.
- 44 (E) Fish and Wildlife Commission of the State of Oregon.
- 45 (F) State Board of Forestry.

- 1 (G) Oregon Government Ethics Commission.
- 2 (H) Oregon Health Policy Board.
- 3 (I) State Board of Higher Education.
- 4 (J) Oregon Investment Council.
- 5 (K) Land Conservation and Development Commission.
- 6 (L) Oregon Liquor Control Commission.
- 7 (M) Oregon Short Term Fund Board.
- 8 (N) State Marine Board.
- 9 (O) Mass transit district boards.
- 10 (P) Energy Facility Siting Council.
- 11 (Q) Board of Commissioners of the Port of Portland.
- 12 (R) Employment Relations Board.
- 13 (S) Public Employees Retirement Board.
- 14 (T) Oregon Racing Commission.
- 15 (U) Oregon Transportation Commission.
- 16 (V) Water Resources Commission.
- 17 (W) Workers' Compensation Board.
- 18 (X) Oregon Facilities Authority.
- 19 (Y) Oregon State Lottery Commission.
- 20 (Z) Pacific Northwest Electric Power and Conservation Planning Council.
- 21 (AA) Columbia River Gorge Commission.
- 22 (BB) Oregon Health and Science University Board of Directors.
- 23 (CC) Capitol Planning Commission.
- 24 (DD) Higher Education Coordinating Commission.
- 25 (EE) Oregon Growth Board.
- 26 (FF) Early Learning Council.
- 27 (q) The following officers of the State Treasurer:
- 28 (A) Deputy State Treasurer.
- 29 (B) Chief of staff for the office of the State Treasurer.
- 30 (C) Director of the Investment Division.
- 31 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 32 or 777.915 to 777.953.
- 33 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
- 34 (t) Every member of a governing board of a public university with a governing board listed in
- 35 ORS 352.054.
- 36 **(u) Every member of the board of directors of an authority created under sections 1 to**
- 37 **8 of this 2015 Act.**
- 38 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 39 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
- 40 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
- 41 and 244.090.
- 42 (3) By April 15 next after the filing deadline for the primary election, each candidate described
- 43 in subsection (1) of this section shall file with the commission a statement of economic interest as
- 44 required under ORS 244.060, 244.070 and 244.090.
- 45 (4) Within 30 days after the filing deadline for the general election, each candidate described in

1 subsection (1) of this section who was not a candidate in the preceding primary election, or who  
2 was nominated for public office described in subsection (1) of this section at the preceding primary  
3 election by write-in votes, shall file with the commission a statement of economic interest as re-  
4 quired under ORS 244.060, 244.070 and 244.090.

5 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or  
6 appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections  
7 (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the  
8 filing deadline for the statewide general election.

9 (6) If a statement required to be filed under this section has not been received by the commis-  
10 sion within five days after the date the statement is due, the commission shall notify the public of-  
11 ficial or candidate and give the public official or candidate not less than 15 days to comply with the  
12 requirements of this section. If the public official or candidate fails to comply by the date set by the  
13 commission, the commission may impose a civil penalty as provided in ORS 244.350.

14  
15 **UNIT CAPTIONS**

16  
17 **SECTION 17. The unit captions used in this 2015 Act are provided only for the conven-**  
18 **ience of the reader and do not become part of the statutory law of this state or express any**  
19 **legislative intent in the enactment of this 2015 Act.**