

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2734

By COMMITTEE ON TRANSPORTATION AND ECONOMIC DEVELOPMENT

April 27

1 On page 1 of the printed A-engrossed bill, delete lines 8 through 16 and insert:

2 **“SECTION 1. As used in sections 1 to 8 of this 2015 Act:**

3 **“(1) ‘Authority’ means any public land bank authority created pursuant to sections 1 to**
4 **8 of this 2015 Act.**

5 **“(2) ‘Brownfield’ has the meaning given that term in ORS 285A.185.**

6 **“(3) ‘Local government’ means a local government as defined in ORS 174.116 or a inter-**
7 **governmental entity created under an intergovernmental agreement between two units of**
8 **local government under ORS 190.010.**

9 **“(4) ‘Remedial action,’ ‘remedial action costs’ and ‘removal’ have the meanings given**
10 **those terms in ORS 465.200.”.**

11 On page 2, line 1, delete “governing body of a”.

12 In line 3, delete “or reutilizing” and insert “, reutilizing or restoring”.

13 Delete line 5 and insert:

14 **“(2) If the local government, after public hearing according to the local government’s rules,”.**

15 In line 7, delete “6” and insert “8” and delete “governing body” and insert “local
16 government”.

17 In line 12, delete “nor” and insert “or”.

18 In line 13, after “their” insert “initial” and delete “shall” and insert “may”.

19 In line 15, delete “6” and insert “8”.

20 In line 19, after the period insert “Notwithstanding any law to the contrary, the authority shall
21 exist as a legal entity separate from the local government that created the authority.”.

22 In line 21, delete “6” and insert “8” and after the period delete the rest of the line and delete
23 lines 22 through 45.

24 On page 3, delete lines 1 and 2 and insert:

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

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

35 **“(3) The board of directors must include:**

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

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

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

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

11 “(4) The board shall hold an annual meeting. The board shall select from among them-
12 selves at the annual meeting a chairperson, vice chairperson, secretary, treasurer and other
13 officers as the board determines.

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

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

22 “(7) A director is not entitled to compensation for service on the board of an
23 authority.”.

24 In line 4, delete “or reutilizing” and insert “, reutilizing or restoring”.

25 On page 4, delete lines 1 through 3 and insert:

26 “**SECTION 5.** (1) Except as provided in subsection (2) of this section, the debts, obli-
27 gations and other liabilities of an authority are not a general or other obligation or liability
28 of the local government that created the authority.

29 “(2) A local government may incur debt, including the issuance of bonds under any
30 bonding authority available to the local government, on behalf of an authority created by the
31 local government and, by ordinance or resolution, deem a debt incurred under this sub-
32 section to be a general obligation of the local government and a charge upon its tax reven-
33 ues.

34 “**SECTION 6.** (1) Except as provided in subsection (2) of this section, an authority, all
35 assets owned by the authority, the income from those assets, and all bonds issued by the
36 authority, together with the coupons applicable to those bonds and the income from the
37 bonds, shall be exempt from all taxation in the State of Oregon.

38 “(2) The real and personal property owned by the authority and leased to a third party
39 shall be subject to property taxation if the property would be subject to taxation if owned
40 by the lessee.”.

41 Delete line 4 and insert:

42 “**SECTION 7.** (1) An authority shall keep”.

43 In line 10, after “authority” delete the rest of the line.

44 In line 11, delete “Act”.

45 After line 13, insert:

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

2 **“(a) By resolution of the board of directors of the authority, filed with the local govern-**
3 **ment that created the authority, if the board determines that dissolution of the authority is**
4 **in the best interest of the community served by the authority; or**

5 **“(b) By resolution of the local government that created the authority:**

6 **“(A) If the board of directors of the authority, at the time of the annual meeting of the**
7 **board, has not appointed board members to fill vacancies on the board as required by section**
8 **3 of this 2015 Act; or**

9 **“(B) If the local government determines that dissolution of the authority is in the best**
10 **interest of residents within the jurisdiction of the local government.**

11 **“(2) Within five days after a resolution of the board is filed or a resolution of the local**
12 **government is adopted under this section, a copy shall be filed with the secretary of the**
13 **authority, if any, or with any other officer of the authority who can with reasonable diligence**
14 **be located.**

15 **“(3) If there are no members of the board of directors of the authority, the local gov-**
16 **ernment shall act as or appoint a board of trustees to act on behalf of the authority to de-**
17 **velop and implement a plan for dissolution.**

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

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

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

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

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

34 In line 14, delete “7” and insert “9”.

35 On page 5, line 16, delete “acquired an ownership interest in” and insert “becomes the owner
36 or operator of”.

37 On page 6, line 15, delete “8” and insert “10”.

38 In line 35, delete “6” and insert “8”.

39 In line 41, delete “9” and insert “11”.

40 On page 7, line 18, delete “6” and insert “8”.

41 Delete lines 27 through 45 and delete pages 8 through 10.

42 On page 11, delete lines 1 through 27 and insert:

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

1 **ment.**

2 **“(b) An abatement program adopted pursuant to paragraph (a) of this subsection does**
3 **not become effective unless the rates of taxation of the taxing districts whose governing**
4 **boards agree to the abatement program, when combined with the rate of taxation of the local**
5 **government that adopted the abatement program, equal 75 percent or more of the total**
6 **combined rate of taxation within the territory for which the abatement program has been**
7 **adopted.**

8 **“(c) If an abatement program becomes effective pursuant to paragraph (b) of this sub-**
9 **section, the abatement shall apply to the tax levy of all taxing districts in which a brownfield**
10 **that is granted the abatement is located.**

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

15 **“(e) The ordinance or resolution shall allow the owner of a brownfield to file five appli-**
16 **cations for abatement under section 13 of this 2015 Act. The applications may be filed in**
17 **nonconsecutive years.**

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

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

22 **“(B) Notwithstanding subparagraph (A) of this paragraph, the terms in effect at the time**
23 **a brownfield is first granted abatement shall remain in effect for the entire period for which**
24 **the brownfield is eligible for the abatement.**

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

29 **“(A) That the owner or authorized representative of the owner has obtained an environ-**
30 **mental site assessment of the brownfield prepared by a geologist registered under ORS**
31 **672.505 to 672.705 or a professional engineer as defined in ORS 672.002.**

32 **“(B) If the environmental site assessment required under subparagraph (A) of this par-**
33 **agraph concludes that a remedial action, as defined in ORS 465.200, is required in response**
34 **to the release of a hazardous substance at the brownfield, that the remedial action shall be**
35 **conducted pursuant to an agreement with, an order of or a program or process authorized**
36 **by the Department of Environmental Quality. An agreement, order, program or process in-**
37 **cludes, but is not limited to, the Voluntary Cleanup Program, the Independent Cleanup**
38 **Pathway, a consent or unilateral order or another process that the department may establish**
39 **by rule or policy, pursuant to which the owner or operator is required to perform the re-**
40 **medial action at the brownfield.**

41 **“(C) That the owner is in compliance with any agreement, order, program or process**
42 **required under subparagraph (B) of this paragraph.**

43 **“(D) That the report of the environmental site assessment required under subparagraph**
44 **(A) of this paragraph, and a report prepared by a geologist or professional engineer showing**
45 **that any remedial action has complied with applicable state law administered by the depart-**

1 ment, have been submitted to the department.

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

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

8 “(a) Providing low income residential housing, as defined in ORS 307.841, on the
9 brownfield.

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

14 “(c) Adding improvements that generate renewable energy.

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

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

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

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

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

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

34 “(a) The address of the brownfield.

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

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

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

43 “(e) Documentation of eligible costs incurred with respect to the brownfield for the
44 12-month period ending on December 31 of the year preceding the date on which the appli-
45 cation is filed.

1 “(f) Documentation supporting an amount of additional abatement allowed under section
2 12 (3) of this 2015 Act.

3 “(3) For purposes of this section:

4 “(a) Eligible costs may be:

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

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

10 “(C) The costs of abating the release of hazardous substances within existing site im-
11 provements.

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

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

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

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

25 “(5) The application shall be reviewed by the local government that adopted the abate-
26 ment program. Upon request, the Department of Environmental Quality may consult with
27 the local government with respect to remedial action costs included in the application as el-
28 igible costs. The local government may consult with the owner about the application, and the
29 owner may amend the application.

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

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

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

42 “SECTION 14. (1) An abatement shall be granted for the first property tax year that be-
43 gins on or after the date on which the approved application was filed under section 13 of this
44 2015 Act.

45 “(2) The abatement shall be computed as follows:

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

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

7 “(A) Determine the effective tax rate for the property by dividing the ad valorem taxes
8 imposed on the property by the net assessed value of the property used to compute the ad
9 valorem taxes.

10 “(B) Determine the capitalized amount of eligible costs by dividing the amount of eligible
11 costs determined under paragraph (a) of this subsection by the effective tax rate determined
12 under subparagraph (A) of this paragraph.

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

14 “(A) Subtract the capitalized amount of eligible costs determined under paragraph (b)(B)
15 of this subsection from the real market value of the property for the current assessment
16 year.

17 “(B) Determine what the net assessed value of the property would have been without
18 subtraction of the capitalized amount of eligible costs.

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

21 “(D) Determine the amount of ad valorem property taxes eligible for abatement by
22 multiplying the net assessed value determined under subparagraph (B) of this paragraph by
23 the effective tax rate determined under subparagraph (C) of this paragraph.

24 “(d)(A) The county assessor shall determine the amount of the ad valorem property taxes
25 abated by subtracting the amount of eligible costs determined under paragraph (a) of this
26 subsection from the amount of ad valorem property taxes eligible for abatement determined
27 under paragraph (c)(D) of this subsection.

28 “(B) If the amount of eligible costs determined under paragraph (a) of this subsection
29 exceeds the amount of ad valorem property taxes eligible for abatement determined under
30 paragraph (c)(D) of this subsection, the excess amount shall be carried forward for not more
31 than four consecutive property tax years, as necessary until the entire excess amount is
32 used. Excess amounts determined under this subparagraph may be carried forward and used
33 for a property tax year regardless of whether a new application is filed for that property tax
34 year. Excess amounts determined under this subparagraph and not used expire after being
35 carried forward for four consecutive years.

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

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

43 “(b) The local government may revoke an abatement granted to a brownfield under the
44 abatement program on reliable documentary evidence that the owner of the brownfield made
45 any false statement or representation in any documentation filed pursuant to section 13 of

1 **this 2015 Act.**

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

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

7 **“(4) If the local government revokes the abatement:**

8 **“(a) There shall be added to the property tax roll for the next following property tax year,**
9 **an amount equal to the potential additional tax liability noted on the tax rolls under section**
10 **14 (3) of this 2015 Act for all of the previous property tax years for which the abatement was**
11 **granted.**

12 **“(b) Any excess amounts eligible to be carried forward under section 14 (2)(d)(B) of this**
13 **2015 Act shall be canceled.**

14 **“(5) Additional property taxes imposed on a brownfield under this section shall be col-**
15 **lected and distributed in the same manner as other ad valorem property taxes.**

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

18 In line 31, delete “14” and insert “16”.

19 On page 14, line 11, delete “6” and insert “8”.

20 In line 36, delete “15” and insert “17”.

21
