

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2734**

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

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

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

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

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

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

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

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

15 Delete line 5 and insert “(2) If the local government, after public hearing
16 according to the local government’s rules,”.

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

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

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

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

1 In line 19, after the period insert “Notwithstanding any law to the con-
2 trary, the authority shall exist as a legal entity separate from the local
3 government that created the authority.”.

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

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

7 **“SECTION 3. (1) An authority shall be managed and controlled by
8 a board of directors. The initial board of directors shall be appointed
9 by the local government that created the authority. Subsequent di-
10 rectors shall be appointed as provided in this section and the rules
11 adopted by the authority.**

12 **“(2) The regular term of a member of the board is four years. The
13 board may establish special terms for positions that are shorter than
14 four years for the purpose of staggering the terms of members of the
15 board. Before the expiration of the term of a member, the board shall
16 appoint a successor whose term begins on January 1 of the year next
17 following. A member is eligible for reappointment. If there is a va-
18 cancy for any cause, the board shall make an appointment to become
19 immediately effective for the unexpired term.**

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

21 **“(a) At least one director who is also a member of the governing
22 body of the local government that created the authority;**

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

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

28 **“(d) Subject to the maximum number of directors allowed by the
29 ordinance or resolution establishing the authority, one or more direc-
30 tors who are also members of civic organizations that serve the same**

1 geographic jurisdiction as the authority and that have a purpose or
2 mission that aligns with that of the authority.

3 “(4) The board shall hold an annual meeting. The board shall select
4 from among themselves at the annual meeting a chairperson, vice
5 chairperson, secretary, treasurer and other officers as the board de-
6 termines.

7 “(5) The board shall adopt and may amend rules for calling and
8 conducting its meetings and carrying out its business and may adopt
9 an official seal. All decisions of the board shall be by motion or re-
10 solution and shall be recorded in the board’s minute book, which shall
11 be a public record. A majority of the directors of the board constitutes
12 a quorum for the transaction of business, and a majority is sufficient
13 to pass a motion or resolution.

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

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

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

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

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

26 “(2) A local government may incur debt, including the issuance of
27 bonds under any bonding authority available to the local government,
28 on behalf of an authority created by the local government and, by or-
29 dinance or resolution, deem a debt incurred under this subsection to
30 be a general obligation of the local government and a charge upon its

1 tax revenues.

2 **“SECTION 6. (1) Except as provided in subsection (2) of this section,**
3 **an authority, all assets owned by the authority, the income from those**
4 **assets, and all bonds issued by the authority, together with the cou-**
5 **pons applicable to those bonds and the income from the bonds, shall**
6 **be exempt from all taxation in the State of Oregon.**

7 **“(2) The real and personal property owned by the authority and**
8 **leased to a third party shall be subject to property taxation if the**
9 **property would be subject to taxation if owned by the lessee.”.**

10 Delete line 4 and insert:

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

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

13 In line 11, delete “Act”.

14 After line 13, insert:

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

16 **“(a) By resolution of the board of directors of the authority, filed**
17 **with the local government that created the authority, if the board**
18 **determines that dissolution of the authority is in the best interest of**
19 **the community served by the authority; or**

20 **“(b) By resolution of the local government that created the au-**
21 **thority:**

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

25 **“(B) If the local government determines that dissolution of the au-**
26 **thority is in the best interest of residents within the jurisdiction of the**
27 **local government.**

28 **“(2) Within five days after a resolution of the board is filed or a**
29 **resolution of the local government is adopted under this section, a**
30 **copy shall be filed with the secretary of the authority, if any, or with**

1 any other officer of the authority who can with reasonable diligence
2 be located.

3 “(3) If there are no members of the board of directors of the au-
4 thority, the local government shall act as or appoint a board of trus-
5 tees to act on behalf of the authority to develop and implement a plan
6 for dissolution.

7 “(4) Within 60 days after initiation of the dissolution proceeding, a
8 plan of dissolution shall be filed with the office of the clerk of the
9 county in which the authority is located and shall be available for in-
10 spection by any interested person.

11 “(5) Upon approval of dissolution by the governing body of the local
12 government that created the authority, the authority shall be declared
13 dissolved. If the local government has not appointed a board of trus-
14 tees under subsection (3) of this section:

15 “(a) The board of directors shall constitute a board of trustees that
16 shall pay the debts or procure releases of the debts and dispose of the
17 property of the authority; or

18 “(b) The board of directors may designate the local government as
19 the board of trustees for the purpose of winding up the affairs of the
20 authority.

21 “(6) After the affairs of the authority have been fully settled, all
22 books and records of the authority shall be deposited by the board of
23 trustees in the office of the county clerk of the county in which the
24 authority is located. At the same time, the board of trustees shall ex-
25 ecute under oath, and file with the local government that created the
26 authority, a statement that the authority has been dissolved and its
27 affairs liquidated. From the date of the statement, the corporate ex-
28 istence of the authority is terminated for all purposes.”.

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

30 On page 5, line 16, delete “acquired an ownership interest in” and insert

1 “becomes the owner or operator of”.

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

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

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

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

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

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

8 **“SECTION 12. (1)(a) The governing body of a local government may**
9 **adopt, by ordinance or resolution, a program that grants an abatement**
10 **against the property taxes imposed on brownfields, as defined in ORS**
11 **285A.185, located within the jurisdiction of the local government.**

12 **“(b) An abatement program adopted pursuant to paragraph (a) of**
13 **this subsection does not become effective unless the rates of taxation**
14 **of the taxing districts whose governing boards agree to the abatement**
15 **program, when combined with the rate of taxation of the local gov-**
16 **ernment that adopted the abatement program, equal 75 percent or**
17 **more of the total combined rate of taxation within the territory for**
18 **which the abatement program has been adopted.**

19 **“(c) If an abatement program becomes effective pursuant to para-**
20 **graph (b) of this subsection, the abatement shall apply to the tax levy**
21 **of all taxing districts in which a brownfield that is granted the abate-**
22 **ment is located.**

23 **“(d) The abatement shall be for eligible costs, as described in sec-**
24 **tion 13 of this 2015 Act, incurred with respect to a brownfield. The**
25 **ordinance or resolution adopting the abatement program shall specify**
26 **the percentage, up to 100 percent, of eligible costs that may be used**
27 **for purposes of the abatement in any year.**

28 **“(e) The ordinance or resolution shall allow the owner of a**
29 **brownfield to file five applications for abatement under section 13 of**
30 **this 2015 Act. The applications may be filed in nonconsecutive years.**

1 “(f) The abatement shall be granted on the same terms to all
2 brownfields within the jurisdiction of the local government that adopts
3 the abatement program.

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

7 “(B) Notwithstanding subparagraph (A) of this paragraph, the terms
8 in effect at the time a brownfield is first granted abatement shall re-
9 main in effect for the entire period for which the brownfield is eligible
10 for the abatement.

11 “(2)(a) The local government that adopts an abatement program
12 under subsection (1) of this section shall specify the eligibility re-
13 quirements in the ordinance or resolution, including, but not limited
14 to, a showing by the owner of the brownfield in an application for
15 abatement filed under section 13 of this 2015 Act:

16 “(A) That the owner or authorized representative of the owner has
17 obtained an environmental site assessment of the brownfield prepared
18 by a geologist registered under ORS 672.505 to 672.705 or a professional
19 engineer as defined in ORS 672.002.

20 “(B) If the environmental site assessment required under subpara-
21 graph (A) of this paragraph concludes that a remedial action, as de-
22 fined in ORS 465.200, is required in response to the release of a
23 hazardous substance at the brownfield, that the remedial action shall
24 be conducted pursuant to an agreement with, an order of or a program
25 or process authorized by the Department of Environmental Quality.
26 An agreement, order, program or process includes, but is not limited
27 to, the Voluntary Cleanup Program, the Independent Cleanup Path-
28 way, a consent or unilateral order or another process that the de-
29 partment may establish by rule or policy, pursuant to which the owner
30 or operator is required to perform the remedial action at the

1 **brownfield.**

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

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

9 **“(b) The department shall maintain reports submitted under para-**
10 **graph (a)(D) of this subsection as public records and make the reports**
11 **available for inspection in the manner provided in ORS 192.410 to**
12 **192.505.**

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

17 **“(a) Providing low income residential housing, as defined in ORS**
18 **307.841, on the brownfield.**

19 **“(b) Providing public park or open space land, as defined in ORS**
20 **308A.300, pursuant to a legally binding agreement with a local gov-**
21 **ernment that requires that at least 50 percent of the land provided as**
22 **public park or open space land shall be permanently provided as public**
23 **park or open space land.**

24 **“(c) Adding improvements that generate renewable energy.**

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

28 **“(e) Creating permanent jobs that pay at least the county or state**
29 **average in annual per employee compensation, or making a substan-**
30 **tial investment, in a business on the brownfield.**

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

7 “(4) The owner of a brownfield, located within the jurisdiction of a
8 local government that adopts an abatement program under subsection
9 (1) of this section, that has filed an application that meets the re-
10 quirements of section 13 of this 2015 Act shall be granted an abatement
11 for the brownfield in an amount determined under section 14 of this
12 2015 Act.

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

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

21 “(a) The address of the brownfield.

22 “(b) Evidence of the ownership of the brownfield by the person fil-
23 ing the application.

24 “(c) An affidavit signed by the owner of the brownfield under pen-
25 alty of perjury that the owner has not, by any acts or omissions,
26 caused, contributed to or exacerbated the release of a hazardous sub-
27 stance at the brownfield for which the eligible costs described in sub-
28 section (3) of this section are incurred, unless the acts or omissions
29 were in material compliance with applicable laws, standards, regu-
30 lations, licenses or permits.

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

3 “(e) Documentation of eligible costs incurred with respect to the
4 brownfield for the 12-month period ending on December 31 of the year
5 preceding the date on which the application is filed.

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

8 “(3) For purposes of this section:

9 “(a) Eligible costs may be:

10 “(A) Remedial action costs as defined in ORS 465.200, including
11 costs incurred for environmental site assessment or investigation
12 performed by a licensed professional without the oversight or approval
13 of the Department of Environmental Quality.

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

16 “(C) The costs of abating the release of hazardous substances within
17 existing site improvements.

18 “(D) The costs of new improvements constructed on the brownfield
19 for the purpose of containing hazardous substances or limiting expo-
20 sure to the release of hazardous substances.

21 “(E) The costs of managing, handling, removing, treating and dis-
22 posing of solid waste, environmental media or building materials con-
23 taining hazardous substances in the course of redeveloping the
24 brownfield.

25 “(b) Eligible costs shall be reduced by the amount of any state or
26 federal grant moneys received by the owner of the brownfield for en-
27 vironmental site assessment or investigation, or removal or remedial
28 action, at the brownfield in the year in which the eligible costs are
29 incurred.

30 “(4) For purposes of subsection (2) of this section, documentation

1 of eligible costs may include, but is not limited to, copies of contracts,
2 notes and minutes of contract negotiations, and accounts, invoices,
3 sales receipts or other payment records of purchases, sales, leases or
4 other transactions relating to the eligible costs.

5 “(5) The application shall be reviewed by the local government that
6 adopted the abatement program. Upon request, the Department of
7 Environmental Quality may consult with the local government with
8 respect to remedial action costs included in the application as eligible
9 costs. The local government may consult with the owner about the
10 application, and the owner may amend the application.

11 “(6)(a) If the local government determines that the application does
12 not meet the requirements of this section, the local government shall
13 promptly notify the owner in writing that the application is not ap-
14 proved, stating the reasons for the determination. A determination
15 under this paragraph is not reviewable, but the owner of the
16 brownfield may file an application under this section for any subse-
17 quent year.

18 “(b) If the local government determines that the application meets
19 the requirements of this section, the local government shall promptly
20 notify the owner and the assessor of the county in which the
21 brownfield is located in writing that the application is approved and
22 of the amount of the eligible costs that may be applied to the abate-
23 ment.

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

28 “SECTION 14. (1) An abatement shall be granted for the first
29 property tax year that begins on or after the date on which the ap-
30 proved application was filed under section 13 of this 2015 Act.

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

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

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

11 **“(A) Determine the effective tax rate for the property by dividing**
12 **the ad valorem taxes imposed on the property by the net assessed**
13 **value of the property used to compute the ad valorem taxes.**

14 **“(B) Determine the capitalized amount of eligible costs by dividing**
15 **the amount of eligible costs determined under paragraph (a) of this**
16 **subsection by the effective tax rate determined under subparagraph**
17 **(A) of this paragraph.**

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

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

23 **“(B) Determine what the net assessed value of the property would**
24 **have been without subtraction of the capitalized amount of eligible**
25 **costs.**

26 **“(C) Determine what the effective tax rate for the property would**
27 **have been using the net assessed value determined under subpara-**
28 **graph (B) of this paragraph.**

29 **“(D) Determine the amount of ad valorem property taxes eligible**
30 **for abatement by multiplying the net assessed value determined under**

1 subparagraph (B) of this paragraph by the effective tax rate deter-
2 mined under subparagraph (C) of this paragraph.

3 “(d)(A) The county assessor shall determine the amount of the ad
4 valorem property taxes abated by subtracting the amount of eligible
5 costs determined under paragraph (a) of this subsection from the
6 amount of ad valorem property taxes eligible for abatement deter-
7 mined under paragraph (c)(D) of this subsection.

8 “(B) If the amount of eligible costs determined under paragraph (a)
9 of this subsection exceeds the amount of ad valorem property taxes
10 eligible for abatement determined under paragraph (c)(D) of this sub-
11 section, the excess amount shall be carried forward for not more than
12 four consecutive property tax years, as necessary until the entire ex-
13 cess amount is used. Excess amounts determined under this subpara-
14 graph may be carried forward and used for a property tax year
15 regardless of whether a new application is filed for that property tax
16 year. Excess amounts determined under this subparagraph and not
17 used expire after being carried forward for four consecutive years.

18 “(3) The county assessor shall note the amount of the ad valorem
19 property taxes abated as a potential additional tax liability on the as-
20 sessment and tax rolls of the county.

21 **“SECTION 15. (1)(a) In addition to any other remedy provided by**
22 **law, the local government that adopted an abatement program under**
23 **section 12 of this 2015 Act may modify an abatement granted to a**
24 **brownfield under the abatement program on reliable documentary ev-**
25 **idence that any statement or representation in any documentation**
26 **filed pursuant to section 13 of this 2015 Act is inaccurate.**

27 “(b) The local government may revoke an abatement granted to a
28 brownfield under the abatement program on reliable documentary ev-
29 idence that the owner of the brownfield made any false statement or
30 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**
3 **county in which the brownfield is located of any modification or re-**
4 **vocation under subsection (1) of this section.**

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

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

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

15 **“(b) Any excess amounts eligible to be carried forward under sec-**
16 **tion 14 (2)(d)(B) of this 2015 Act shall be canceled.**

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

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

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

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

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

26 _____