

Enrolled Senate Bill 1565

Sponsored by Senators BOQUIST, BURDICK, Representatives EVANS, DAVIS; Senators BEYER, DEVLIN, EDWARDS, FERRIOLI, GELSNER, GIROD, HASS, JOHNSON, KNOPP, MONNES ANDERSON, RILEY, ROSENBAUM, SHIELDS, STEINER HAYWARD, THATCHER, THOMSEN, Representatives BARKER, BARRETO, BOONE, DOHERTY, ESQUIVEL, FAGAN, GILLIAM, GOMBERG, HACK, HOYLE, KENNEMER, KRIEGER, NOSSE, OLSON, WHISNANT, WILLIAMSON, WILSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to property tax benefits; creating new provisions; amending ORS 184.484; and prescribing an effective date.

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

SECTION 1. (1) As used in sections 1 to 5 of this 2016 Act:

(a) "Eligible location" means land and improvements that are located in a rural area.

(b) "Eligible property" means improvements classified as industrial under rules established by the Department of Revenue pursuant to ORS 308.215 (1)(a)(C), and associated personal property, that:

(A) Are newly constructed or installed at an eligible location; and

(B) Have a cost of initial investment to the purchaser of at least \$1 million and not more than \$25 million.

(c) "Qualified property" means eligible property for which an application has been approved under section 2 of this 2016 Act.

(d) "Rural area" means an area located entirely outside of the urban growth boundary of a city with a population of 40,000 or more, as the urban growth boundary is acknowledged on the date on which an applicant submits an application for eligible property under section 2 of this 2016 Act.

(2)(a) The governing body of a city or county may adopt an ordinance or resolution granting a property tax exemption for eligible property located within the boundaries of the city or county, respectively.

(b) The terms of the exemption must conform to the provisions of sections 1 to 5 of this 2016 Act. In addition, an ordinance or resolution adopted under this subsection shall establish standards for the imposition of conditions described in section 2 (4) of this 2016 Act.

(3)(a) Qualified property must be:

(A) Owned or leased by the applicant filing the application under section 2 of this 2016 Act.

(B) Used through the final year of exemption for the purpose, and at the location, identified in the application filed under section 2 of this 2016 Act.

(b) The exemption:

(A) May be granted to eligible property only if the first assessment year to which the application filed under section 2 of this 2016 Act relates is the first assessment year that begins after the eligible property was first placed in service; and

(B) Shall be granted only for qualified property that was first placed in service after the ordinance or resolution was adopted.

(4)(a) The exemption shall be granted as a 100 percent exemption of the real market value of the qualified property for any three out of five consecutive property tax years.

(b) Notwithstanding paragraph (a) of this subsection, the city or county may specify in the ordinance or resolution:

(A) A minimum cost of initial investment greater than \$1 million.

(B) Any number of years not greater than five for which the exemption shall be granted.

(C) The percentage of the real market value of the qualified property granted exemption for each year.

(D) Different schedules in each property tax year for the years and percentages described in subparagraphs (B) and (C) of this paragraph, depending on the minimum costs of initial investment of the qualified property.

(5)(a) An ordinance or resolution adopted pursuant to this section may not take effect unless, upon request of the city or county that adopted the ordinance or resolution, the rates of taxation of the taxing districts whose governing bodies agree to grant the exemption, when combined with the rate of taxation of the city or county, equal 75 percent or more of the total combined rate of taxation on the qualified property.

(b) Upon the taking effect of the ordinance or resolution, the exemption shall apply to all property tax levies of all taxing districts in which qualified property is located.

(c) The decisions of the taxing districts under paragraph (a) of this subsection may not be changed but are not binding with respect to an ordinance or resolution adopted pursuant to subsection (6) of this section or a new ordinance or resolution adopted pursuant to subsection (2) of this section.

(d) All qualified property shall be granted exemption under this section, or deferral under section 3 of this 2016 Act, on the same terms provided in the ordinance or resolution adopted or amended by the city or county and in effect on the date the application is submitted under section 2 of this 2016 Act.

(6)(a) A city or county may adopt at any time an ordinance or resolution amending the terms of an exemption granted pursuant to this section or a deferral granted pursuant to section 3 of this 2016 Act, subject to approval of the taxing districts under subsection (5)(a) of this section, or terminating the exemption or deferral.

(b) Notwithstanding an ordinance or resolution adopted under paragraph (a) of this subsection, qualified property that has been granted an exemption pursuant to this section, or a deferral pursuant to section 3 of this 2016 Act, shall continue to receive the exemption or deferral under the terms in effect at the time the exemption or deferral was first granted.

(7) If a city or county proposes an ordinance or resolution providing for an exemption on terms other than the terms provided in subsection (4)(a) of this section, the ordinance or resolution may not take effect unless the governing body of the city or county, as applicable, receives testimony from the county assessor at a public hearing on the question regarding the cost and administration of the proposed terms of the exemption.

(8)(a) Qualified property granted an exemption pursuant to this section, or a deferral pursuant to section 3 of this 2016 Act, is not eligible for any other property tax exemption or special assessment.

(b) Otherwise eligible property that has received another property tax exemption or special assessment is not eligible for the exemption or deferral.

(c) Paragraphs (a) and (b) of this subsection do not apply to the exemption granted under ORS 307.330.

SECTION 2. (1)(a) The governing body of a city or county that adopts an ordinance or resolution pursuant to section 1 of this 2016 Act shall prescribe exemption application forms and the information required to be included in the application.

(b) If eligible property is located in a city and county, each of which has adopted an ordinance or resolution under section 1 of this 2016 Act, the applicant shall elect the exemption the applicant wishes to receive for the eligible property by submitting the application to the city or county, as applicable.

(c) If the initial cost of investment of the eligible property exceeds \$25 million, the applicant shall specify in the application the items of eligible property having a total cost of initial investment of \$25 million for which the exemption is sought.

(d) An application must be accompanied by an application fee fixed by the city or county, as applicable, in an amount determined to compensate the city or county for the actual costs of processing the application.

(2)(a) An application must be submitted for review to the city or county, as applicable, on or before March 1 preceding the property tax year to which the application relates.

(b) Notwithstanding paragraph (a) of this subsection, an application may be filed under this section for the current property tax year:

(A) On or before December 31 of the property tax year, if the application is accompanied by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value as of the most recent assessment date of the eligible property to which the application relates.

(B) On or before April 1 of the property tax year, if the application is accompanied by a late filing fee of \$200 and the applicant demonstrates good and sufficient cause, as defined in ORS 307.162, for failing to file a timely application or is a first-time filer, as defined in ORS 307.162.

(c)(A) An application may be filed as provided in paragraph (b) of this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

(B) A late filing fee collected under paragraph (b) of this subsection must be deposited in the general fund of the city or county, as applicable.

(d) If the ownership of all property included in the application for a prior year remains unchanged, a new application is not required.

(3)(a) Upon receipt of an application submitted pursuant to subsection (2) of this section, the city or county, as applicable, shall determine as soon as practicable:

(A) Whether the property to which the application relates is eligible property located within the boundaries of the city or county;

(B) The cost of initial investment of the eligible property to the purchaser; and

(C) The date on which the eligible property was first placed in service.

(b) If any determination made pursuant to paragraph (a) of this subsection renders the property ineligible for the exemption, the application shall be rejected.

(4) If the property is eligible for the exemption under subsection (3) of this section, the application meets the requirements of the ordinance or resolution of the city or county and the governing body of the city or county and the applicant have agreed to conditions under section 5 of this 2016 Act, the governing body shall adopt a resolution:

(a) Approving the application;

(b) Stating the conditions; and

(c) Notifying the assessor of the county in which the qualified property is located and, if the qualified property is state-appraised industrial property, the Department of Revenue of the approval and including with the notification such information as is necessary for the assessor and department to perform their respective duties with respect to the qualified property.

(5) Provided all other requirements of ORS 305.275 are met, the cost of initial investment of the qualified property as determined under this section may be appealed pursuant to ORS 305.275 even if, for purposes of ORS 305.275 (1)(a), the governing body of the city makes the determination of the cost. The rejection of an application on any basis other than the cost of initial investment may not be appealed.

(6) For each property tax year that qualified property is granted exemption pursuant to this section, the assessor of the county in which the qualified property is located:

(a) Shall enter on the assessment and tax roll the notation “potential additional tax liability”; and

(b) May impose and collect a fee in an amount determined by the assessor to compensate the assessor for the actual costs of administering the exemption for the qualified property.

SECTION 3. (1)(a) The governing body of a city or county that adopts an ordinance or resolution pursuant to section 1 of this 2016 Act may, at the time of adoption, elect to grant the amount of the exemption as computed under section 1 (4) of this 2016 Act as a deferral of property taxes rather than as an exemption. Except as otherwise provided in this section, all provisions of sections 1, 2 and 4 of this 2016 Act apply to a property tax deferral elected in accordance with this section. The election to defer rather than exempt property taxes may be changed only in the manner provided by section 1 (6) of this 2016 Act.

(b) An ordinance or resolution that grants a deferral pursuant to paragraph (a) of this subsection may not take effect unless the governing body of the city or county, as applicable, receives testimony from the county assessor at a public hearing on the question regarding the cost and administration of the proposed terms of the deferral.

(2)(a) For each property tax year that qualified property is granted deferral pursuant to this section, and until the taxes have been added to the assessment and tax roll under subsection (3) of this section, the assessor of the county in which the qualified property is located:

(A) Shall enter on the assessment and tax roll the notation “deferred additional tax liability”; and

(B) May impose and collect a fee in an amount determined by the assessor to compensate the assessor for the actual costs of administering the deferral for the qualified property.

(b) Interest shall not accrue on taxes deferred pursuant to this section during the period of deferral.

(3)(a) Taxes deferred pursuant to this section shall be added to the taxes extended against the qualified property on the assessment and tax roll as follows:

(A) The deferred additional taxes for the first property tax year for which deferral was granted shall be added to the tax extended against the qualified property on the assessment and tax roll for the first property tax year that begins after the period of deferral ends; and

(B) The deferred additional taxes for the second, third, fourth and fifth property tax years, as applicable, shall be added to the tax extended against the qualified property on the assessment and tax roll for the second, third, fourth and fifth property tax years, respectively, that begin after the period of deferral ends.

(b) Deferred additional taxes collected pursuant to this section shall be deemed to be assessed and imposed in the property tax year for which the taxes were imposed and deferred.

(c) Deferred additional taxes added to the tax extended against the qualified property may be paid to the tax collector prior to the completion of the assessment and tax roll to which the tax is to be added, pursuant to ORS 311.370. The tax collector may apply prepayments of deferred additional taxes under this paragraph for one or more future property tax years to the taxes imposed on the next following assessment and tax roll.

(4) If any qualified property granted deferral under this section is sold or otherwise transferred or is moved out of the county, the lien for the deferred additional taxes added under this section shall attach and the deferred additional taxes are due and payable as of

the day before the sale or transfer or, if the qualified property is removed from the county, five days before the removal, whichever is earlier.

SECTION 4. (1) The assessor of the county in which qualified property is located shall immediately disqualify the property for an exemption granted pursuant to section 1 of this 2016 Act, or deferral granted pursuant to section 3 of this 2016 Act, and the disqualified property shall be assessed and taxed in the same manner as other property is assessed and taxed, if, in any year through the final assessment year of the exemption or deferral:

(a) The qualified property is not used for the purpose, or at the location, identified in the application approved under section 2 of this 2016 Act; or

(b) The applicant fails to comply with the conditions established and agreed to under section 5 of this 2016 Act.

(2)(a) If the disqualified property was granted an exemption, additional taxes shall be assessed against the property for the first property tax year following the disqualification in an amount equal to the difference between the taxes assessed against the property and the taxes that would have been assessed against the property without the exemption, for the number of years that the exemption was granted.

(b) If the disqualified property was granted a deferral, deferred additional taxes shall be assessed against the property for the first property tax year following the disqualification in an amount equal to the deferred taxes for all years for which the deferral was granted.

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

(a) "Annual average employment of the applicant" means the average employment of the applicant, calculated over the 12 months preceding the date of the application submitted under section 2 of this 2016 Act.

(b) "Employment of the applicant" means the number of employees working for the applicant a majority of their time in eligible operations at locations in this state.

(c) "First-source hiring agreement" means an agreement between an applicant and a publicly funded job training provider whereby the provider refers qualified candidates to the firm for new jobs and job openings in the firm.

(2) An application for exemption may not be approved under section 2 of this 2016 Act unless the applicant and the governing body of the city or county have agreed to, and the applicant has complied with, the conditions of this section.

(3) The applicant must agree to enter into a first-source hiring agreement with the governing body of the city or county for the period of the exemption.

(4) No later than the date on which the application is submitted, the employment of the applicant may not be less than the greater of:

(a) 110 percent of the annual average employment of the applicant; or

(b) The annual average employment of the applicant plus one employee.

(5)(a) The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is more than 30 miles from the eligible location. This subsection applies to the transfer of any of the applicant's operations to an eligible location from another part of the state, if the closure or permanent curtailment in the other part of the state decreased the applicant's employment in the other part of the state.

(b) The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is 30 miles or less from the eligible location unless the employment of the applicant at the eligible location and at the other locations from which employees were transferred has been increased to not less than 110 percent of the annual average employment of the firm at the eligible location and the other locations from which the employees were transferred.

(6) The governing body of the city or county may establish other reasonable conditions related to economic development with respect to the qualified property, including greater employment requirements under this section.

(7) The conditions established under this subsection may be modified at the request of the applicant at any time before the beginning of the first property tax year for which the exemption is granted.

(8) The governing body of the city or county shall establish procedures for monitoring and verifying the compliance of the applicant with the conditions imposed under this section and shall require the applicant to agree to the procedures as a condition for granting the exemption.

(9) The conditions established under this subsection shall be set forth in the resolution adopted under section 2 (4) of this 2016 Act and shall remain in effect throughout the period for which the exemption is granted.

SECTION 6. (1) Sections 1 to 5 of this 2016 Act are repealed on January 2, 2024.

(2) Notwithstanding the date specified in subsection (1) of this section, newly constructed or installed industrial improvements that are granted exemption or deferral under an ordinance or resolution adopted pursuant to section 1 of this 2016 Act shall continue to receive the exemption or deferral under the provisions of the ordinance or resolution.

SECTION 7. (1) As soon as practicable after December 1 of each year, a city or county that has granted a property tax exemption or deferral pursuant to sections 1 to 5 of this 2016 Act shall submit the following information from the current property tax year to the Department of Revenue:

- (a) The kind and value of the qualified property;
- (b) The name of the owner or lessee that submitted the application approved under section 2 of this 2016 Act;
- (c) The real market value of the qualified property;
- (d) The amount of ad valorem property taxes that were not imposed on the property because of the exemption or deferral;
- (e) The number of years and the percentage of real market value for which the exemption or deferral was granted; and
- (f) A copy of the employment and other conditions established for the property under section 2 (4) of this 2016 Act.

(2) The department shall submit the information in a report to the Chief State Information Officer for posting on the Oregon transparency website under ORS 184.484.

SECTION 8. ORS 184.484 is amended to read:

184.484. (1) For each statute that authorizes a tax expenditure with a purpose connected to economic development and that is listed in subsection (2) of this section, the state agency charged with certifying or otherwise administering the tax expenditure shall submit a report to the State Chief Information Officer. If a statute does not exist to authorize a state agency to certify or otherwise administer the tax expenditure, or if a statute does not provide for certification or administration of the tax expenditure, the Department of Revenue shall submit the report.

(2) This section applies to:

(a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 315.141, 315.331, 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124, 317.391 and 317.394 **and sections 1 to 5 of this 2016 Act.**

(b) Grants awarded under ORS 469B.256 in any tax year in which certified renewable energy contributions are received as provided in ORS 315.326.

(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

(d) ORS 316.116, if the allowed credit exceeds \$2,000.

(3) The following information, if the information is already available in an existing database the state agency maintains, must be included in the report required under this section:

(a) The name of each taxpayer or applicant approved for the allowance of a tax expenditure or a grant award under ORS 469B.256.

(b) The address of each taxpayer or applicant.

(c) The total amount of credit against tax liability, reduction in taxable income or exemption from property taxation granted to each taxpayer or applicant.

(d) Specific outcomes or results required by the tax expenditure program and information about whether the taxpayer or applicant meets those requirements. This information must be based on data the state agency has already collected and analyzed in the course of administering the tax expenditure. Statistics must be accompanied by a description of the methodology employed in the statistics.

(e) An explanation of the state agency's certification decision for each taxpayer or applicant, if applicable.

(f) Any additional information that the taxpayer or applicant submits and that the state agency relies on in certifying the determination.

(g) Any other information that state agency personnel deem valuable as providing context for the information described in this subsection.

(4) The information reported under subsection (3) of this section may not include proprietary information or information that is exempt from disclosure under ORS 192.410 to 192.505 or 314.835.

(5) No later than September 30 of each year, a state agency described in subsection (1) of this section shall submit to the State Chief Information Officer the information required under subsection (3) of this section as applicable to applications for allowance of tax expenditures the state agency approved during the agency fiscal year ending during the current calendar year. The information must then be posted on the Oregon transparency website described in ORS 184.483 no later than December 31 of the same year.

(6)(a) In addition to the information described in subsection (3) of this section, the State Chief Information Officer shall post on the Oregon transparency website:

(A) Copies of all reports that the State Chief Information Officer, the Department of Revenue or the Oregon Business Development Department receives from counties and other local governments relating to properties in enterprise zones that have received tax exemptions under ORS 285C.170, 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone; and

(B) Copies of any annual reports that agencies described in subsection (1) of this section are required by law to produce regarding the administration of statutes listed in subsection (2) of this section.

(b) The reports must be submitted to the State Chief Information Officer in a manner and format that the State Chief Information Officer prescribes.

(7) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the State Chief Information Officer.

(8) The information described in this section must be provided to the Oregon transparency website by posting reports and providing links to existing information systems applications in accordance with standards established by the State Chief Information Officer.

SECTION 9. This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by Senate February 19, 2016

Repassed by Senate March 3, 2016

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House March 2, 2016

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2016

Approved:

.....M,....., 2016

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2016

.....
Jeanne P. Atkins, Secretary of State