

Senate Bill 1565

Sponsored by Senators BOQUIST, BURDICK, Representatives EVANS, DAVIS; Senators BEYER, EDWARDS, FERRIOLI, GELSER, GIROD, HASS, 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 (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 **as introduced**.

Authorizes city or county to adopt exemption for newly constructed or installed industrial improvements with cost of initial investment of at least \$1 million. Provides that qualified property must be owned or leased by applicant and used through final year of exemption for purpose and at location identified in application. Requires city or county to specify period of three to five years during which exemption is granted and decreasing percentage of exemption to be granted during specified period. Provides cap on exemption equal to specified percentage of real market value of qualified property. Requires exemption to be granted to all eligible industrial improvements on same terms in effect on date application is submitted. Prohibits stacking of exemptions or special assessments other than exemption for commercial facilities under construction. Allows city or county to amend or terminate exemption but provides that industrial improvements granted exemption continue to receive exemption under terms in effect at time exemption was first granted. Authorizes city or county to grant deferral of property taxes instead of exemption within same parameters. Provides for clawbacks of tax exemption savings or deferred taxes upon disqualification of industrial improvements.

Sunset authority of city or county to adopt exemption or deferral on January 2, 2027. Provides that industrial improvements granted exemption or deferral before sunset date continue to receive exemption or deferral under terms in effect at time granted.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property tax benefits; and prescribing an effective date.

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

4 **SECTION 1. (1) As used in sections 1 to 4 of this 2016 Act:**

5 (a) **"Eligible property" means newly constructed or installed improvements classified as**
6 **industrial under rules established by the Department of Revenue pursuant to ORS 308.215**
7 **(1)(a)(C), and associated personal property, that have a cost of initial investment to the**
8 **purchaser of at least \$1 million.**

9 (b) **"Qualified property" means eligible property for which an application for exemption**
10 **or deferral has been approved under section 2 of this 2016 Act.**

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

14 (b) **The terms of the exemption must conform to the provisions of sections 1 to 4 of this**
15 **2016 Act. In addition, an ordinance or resolution adopted under this subsection may include**
16 **requirements for the exemption related to economic development, including but not limited**
17 **to the number of new or retained employees in the Oregon workforce of the taxpayer, mini-**
18 **imum compensation for new or retained employees, first source hiring agreements and local**
19 **procurement plans, that do not conflict with the provisions of sections 1 to 4 of this 2016**

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 Act.

2 (3)(a) Qualified property must be:

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

4 Act.

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

7 (b) The exemption:

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

11 (B) Shall be granted:

12 (i) Only for qualified property that was first placed in service after the ordinance or re-
13 solution was adopted; and

14 (ii) At a progressively decreasing percentage of assessed value over a period of three to
15 five years, in conformity with subsection (4) of this section.

16 (4)(a) Notwithstanding ORS 307.032:

17 (A) For the first property tax year for which qualified property is granted exemption
18 pursuant to this section, the maximum assessed value and the assessed value of the qualified
19 property shall be determined under ORS 308.153. For purposes of this subparagraph, the
20 qualified property's assessed value shall be determined without subtracting the amount of
21 the exemption.

22 (B) For each subsequent property tax year for which the qualified property is granted
23 exemption, the maximum assessed value and the assessed value of the qualified property
24 shall be determined under ORS 308.146. For purposes of this subparagraph, the qualified
25 property's assessed value from the prior year shall be determined without subtracting the
26 amount of the exemption.

27 (b) Except as provided in paragraph (d) of this subsection, the exemption shall be granted
28 to the qualified property in the following amounts and shall be subtracted from the assessed
29 value of the qualified property as determined under paragraph (a) of this subsection:

30 (A) For the first property tax year, the exemption shall be in an amount equal to 100
31 percent of the cost of initial investment;

32 (B) For the second property tax year, the exemption shall be in an amount equal to 80
33 percent of the cost of initial investment;

34 (C) For the third property tax year, the exemption shall be in an amount equal to 60
35 percent of the cost of initial investment;

36 (D) For the fourth property tax year, the exemption shall be in an amount equal to 40
37 percent of the cost of initial investment;

38 (E) For the fifth property tax year, the exemption shall be in an amount equal to 20
39 percent of the cost of initial investment; and

40 (F) For the sixth and all subsequent property tax years, no exemption may be granted
41 under this section.

42 (c) For purposes of computing the amount of the exemption under this subsection, the
43 cost of initial investment shall be the lesser of the actual cost of initial investment or \$25
44 million.

45 (d) The city or county may specify in the ordinance or resolution:

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

2 (B) The number of years for which the exemption shall be granted. The exemption may
3 be disallowed by the city or county for the fourth and all subsequent property tax years.

4 (C) The percentage of the cost of initial investment that shall be subtracted from the
5 assessed value of the qualified property for each year of the exemption.

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

9 (e) Notwithstanding any other provision of this section, for any property tax year the
10 total amount of the exemption computed under this subsection may not be greater than 100
11 percent of the total real market value of the qualified property multiplied by the ratio de-
12 scribed in ORS 308.153 (1)(b) for the immediately preceding property tax year.

13 (5)(a) An exemption granted under an ordinance or resolution adopted pursuant to this
14 section applies:

15 (A) To all property tax levies of the city or county that adopted the ordinance or resol-
16 ution; or

17 (B) To all property tax levies of all taxing districts in which qualified property is located
18 if, upon request of the city or county that adopted the ordinance or resolution, the rates of
19 taxation of the taxing districts whose governing bodies agree to grant the exemption, when
20 combined with the rate of taxation of the city or county, equal 51 percent or more of the
21 total combined rate of taxation on the qualified property.

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

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

30 (6)(a) A city or county may adopt at any time an ordinance or resolution amending the
31 terms of an exemption granted pursuant to this section or a deferral pursuant to section 3
32 of this 2016 Act, or terminating the exemption or deferral, within the city or county.

33 (b) Notwithstanding an ordinance or resolution adopted under paragraph (a) of this sub-
34 section, qualified property that has been granted an exemption pursuant to this section, or
35 a deferral pursuant to section 3 of this 2016 Act, shall continue to receive the exemption or
36 deferral under the terms in effect at the time the exemption or deferral was first granted,
37 including the decisions of the taxing districts under subsection (5)(a) of this section.

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

41 (b) Otherwise eligible property that has received another property tax exemption or spe-
42 cial assessment is not eligible for the exemption or deferral.

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

45 **SECTION 2.** (1)(a) A city or county that adopts an ordinance or resolution pursuant to

1 section 1 of this 2016 Act shall prescribe exemption application forms and the information
2 required to be included in the application.

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

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

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

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

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

18 (B) On or before April 1 of the property tax year, if the application is accompanied by a
19 late filing fee of \$200 and the applicant demonstrates good and sufficient cause, as defined in
20 ORS 307.162, for failing to file a timely application or is a first-time filer, as defined in ORS
21 307.162.

22 (c)(A) An application may be filed as provided in paragraph (b) of this subsection
23 notwithstanding that there are no grounds for hardship as required for late filing under ORS
24 307.475.

25 (B) If an application filed as provided in paragraph (b) of this subsection is not accom-
26 panied by the late filing fee or if the late filing fee is not otherwise paid, an exemption may
27 not be granted for the property tax year to which the application relates.

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

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

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

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

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

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

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

40 (c) If the property is eligible for the exemption under paragraph (a) of this subsection
41 and the application meets the requirements of the ordinance or resolution of the city or
42 county, the governing body of the city or county shall:

43 (A) Approve the application; and

44 (B) Notify the assessor of the county in which the qualified property is located and, if the
45 qualified property is state-appraised industrial property, the Department of Revenue of the

1 approval and include with the notification such information as is necessary for the assessor
2 or department to perform their respective duties with respect to the qualified property.

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

8 (5) For each property tax year that qualified property is granted exemption pursuant to
9 this section, the assessor of the county in which the qualified property is located shall enter
10 on the assessment and tax roll the notation "potential additional tax liability."

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

18 (2)(a) For each property tax year that qualified property is granted deferral pursuant to
19 this section, and until the taxes have been added to the assessment and tax roll under sub-
20 section (3) of this section, the assessor of the county in which the qualified property is lo-
21 cated shall enter on the assessment and tax roll the notation "deferred additional tax
22 liability."

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

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

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

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

34 (b) Deferred additional taxes collected pursuant to this section shall be:

35 (A) Deemed to be assessed and imposed in the property tax year for which the taxes were
36 imposed and deferred.

37 (B) Distributed only to the taxing districts to whose property tax levies the deferral ap-
38 plies under section 1 (5)(a) of this 2016 Act.

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

44 (4) If any qualified property granted deferral under this section is sold or otherwise
45 transferred or is moved out of the county, the lien for the deferred additional taxes added

1 under this section shall attach and the deferred additional taxes are due and payable as of
2 the day before the sale or transfer or, if the qualified property is removed from the county,
3 five days before the removal, whichever is earlier.

4 **SECTION 4.** (1) If qualified property granted exemption pursuant to section 1 of this 2016
5 Act, or deferral pursuant to section 3 of this 2016 Act, is not used for the purpose, or at the
6 location, identified in the application approved under section 2 of this 2016 Act in any year
7 through the final assessment year of the exemption or deferral, the assessor of the county
8 in which the qualified property is located shall immediately disqualify the property for the
9 exemption or deferral and the disqualified property shall be assessed and taxed in the same
10 manner as other property is assessed and taxed.

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

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

19 **SECTION 5.** (1) Sections 1 to 4 of this 2016 Act are repealed on January 2, 2027.

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

24 **SECTION 6.** This 2016 Act takes effect on the 91st day after the date on which the 2016
25 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.
26