

# D R A F T

## SUMMARY

Provides that brownfield granted property tax incentive benefit under program adopted pursuant to chapter 96, Oregon Laws 2016, may be granted any other special assessment, exemption or partial exemption for which such property is eligible. Provides that total amount of all property tax benefits granted to brownfield under any law may not reduce property tax liability below zero for any property tax year. Provides that eligible costs of brownfield for purposes of determining property tax incentive benefit under chapter 96, Oregon Laws 2016, shall be reduced by any special assessment, exemption or partial exemption granted to brownfield under any law other than chapter 96, Oregon Laws 2016.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to property tax incentive benefits for brownfields; creating new  
3 provisions; amending sections 1 and 3, chapter 96, Oregon Laws 2016; and  
4 prescribing an effective date.

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

6 **SECTION 1.** Section 1, chapter 96, Oregon Laws 2016, is amended to read:

7 **Sec. 1.** (1) The governing body of a city or county, or of a port organized  
8 under ORS chapter 777 or 778, may adopt an ordinance or resolution pro-  
9 viding for programs that offer either or both of the following ad valorem  
10 property tax incentive benefits:

11 (a) Special assessment of any land that constitutes a brownfield, as de-  
12 fined in ORS 285A.185, located within the respective jurisdiction of the city,  
13 county or port.

14 (b) Exemption or partial exemption of improvements and personal prop-  
15 erty on land described in paragraph (a) of this subsection.

1 (2)(a) An ordinance or resolution adopted under this section shall specify  
2 the eligibility requirements for the programs, including, but not limited to,  
3 a showing by the owner of a brownfield in an application filed under section  
4 2, [*of this 2016 Act*] **chapter 96, Oregon Laws 2016:**

5 (A) That the owner or authorized representative of the owner has ob-  
6 tained, as applicable, a site evaluation, preliminary assessment, confirmation  
7 of release or remedial investigation of the brownfield prepared by a geologist  
8 registered under ORS 672.505 to 672.705 or a professional engineer as defined  
9 in ORS 672.002.

10 (B) If the site evaluation, preliminary assessment, confirmation of release  
11 or remedial investigation required under subparagraph (A) of this paragraph  
12 concludes that a remedial action, as defined in ORS 465.200, is required in  
13 response to the release of a hazardous substance at the brownfield, that the  
14 remedial action shall be conducted pursuant to an agreement with, an order  
15 of or a program or process authorized by the Department of Environmental  
16 Quality under ORS 465.200 to 465.455 and 465.900.

17 (C) That the owner is in compliance with any agreement, order, program  
18 or process governing the conduct of the remedial action under subparagraph  
19 (B) of this paragraph.

20 (D) That the report of the site evaluation, preliminary assessment, con-  
21 firmation of release or remedial investigation required under subparagraph  
22 (A) of this paragraph, and a report prepared by a geologist or professional  
23 engineer showing that any remedial action has complied with any applicable  
24 agreement, order, program or process authorized by the department and with  
25 any other applicable state law administered by the department, have been  
26 submitted to the department.

27 (b) Notwithstanding paragraph (a) of this subsection, property is not eli-  
28 gible for tax incentive programs adopted pursuant to this section if, at the  
29 time an application for the property is filed under section 2, [*of this 2016*  
30 *Act*] **chapter 96, Oregon Laws 2016**, the property is:

31 (A) Subject to assessment under ORS 308.505 to 308.681;

- 1 (B) State-appraised industrial property as defined in ORS 306.126; or
- 2 (C) A federal Superfund site.

3 (c) For any property tax year[,]:

4 (A) Property **that is granted benefits under a tax incentive program**  
5 **adopted pursuant to this section may be granted** any other special as-  
6 **essment, exemption or partial exemption for which the property is eligible**  
7 *[may not be granted benefits under a tax incentive program adopted pursuant*  
8 *to this section].*

9 (B) **The total amount of all special assessments, exemptions and**  
10 **partial exemptions granted to property may not reduce the property**  
11 **tax liability of the property below zero.**

12 (3)(a)(A) An ordinance or resolution adopted under this section shall  
13 specify the period, not to exceed 10 years, for which the property tax incen-  
14 tive program benefits may be granted.

15 (B) The ordinance or resolution may allow for an additional period, not  
16 to exceed five years, based on criteria set forth in the ordinance or resolu-  
17 tion.

18 (b) Property may be granted a tax incentive program benefit under this  
19 section until the earlier of:

20 (A) The expiration of the period for which the property is eligible for the  
21 benefit under paragraph (a) of this subsection; or

22 (B) The date on which the dollar amount of the benefit equals the eligible  
23 costs for the property as determined under section 3, *[of this 2016 Act]*  
24 **chapter 96, Oregon Laws 2016.**

25 (c) If a city, county or port adopts both a special assessment and an ex-  
26 emption or partial exemption program, the two program benefits must be  
27 granted concurrently for any property.

28 (d) The city, county or port may adopt any other provisions relating to  
29 the property tax incentive programs that do not conflict with the require-  
30 ments of sections 1 to 7, *[of this 2016 Act]* **chapter 96, Oregon Laws 2016.**

31 (4)(a) The city, county or port may amend or repeal an ordinance or re-

1 solution adopted under this section at any time.

2 (b) Notwithstanding paragraph (a) of this subsection, property that is re-  
3 ceiving a tax incentive program benefit under this section when the ordi-  
4 nance or resolution is amended or repealed shall continue to receive the  
5 benefit pursuant to the provisions of the ordinance or resolution in effect  
6 when the property was initially granted the benefit.

7 (5)(a) An ordinance or resolution adopted under this section does not be-  
8 come effective unless the rates of taxation of the taxing districts located  
9 within territory of the city, county or port whose governing boards agree to  
10 the property tax incentive programs, when combined with the rate of taxa-  
11 tion of the city, county or port that adopted the ordinance or resolution,  
12 equal 75 percent or more of the total combined rate of taxation within the  
13 territory of the city, county or port.

14 (b) If an ordinance or resolution becomes effective pursuant to paragraph  
15 (a) of this subsection, the property tax incentive programs shall be effective  
16 for the tax levies of all taxing districts in which a brownfield that is granted  
17 a property tax incentive program benefit is located.

18 **SECTION 2.** Section 3, chapter 96, Oregon Laws 2016, is amended to read:

19 **Sec. 3.** (1) For purposes of sections 1 to 7, [*of this 2016 Act*] **chapter 96,**  
20 **Oregon Laws 2016,** eligible costs equal the discounted present value of es-  
21 timated after-tax costs directly related to the remaining work necessary to  
22 remove, contain or treat the contamination of a brownfield.

23 (2) Eligible costs may include:

24 (a) Remedial action costs as defined in ORS 465.200, including costs for  
25 a site evaluation, preliminary assessment, confirmation of release or remedial  
26 investigation performed by a geologist or professional engineer without the  
27 oversight or approval of the Department of Environmental Quality.

28 (b) The costs of demolishing existing improvements on the brownfield as  
29 necessary for removal or remedial action, as those terms are defined in ORS  
30 465.200.

31 (c) The costs of abating the release of hazardous substances within ex-

1 isting improvements on the brownfield.

2 (d) The costs of new improvements constructed on the brownfield for the  
3 purpose of containing hazardous substances or limiting exposure to the re-  
4 lease of hazardous substances.

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

8 (f) The costs of environmental audits, surety bonds, insurance, engineer-  
9 ing and legal fees and monitoring other than water monitoring.

10 (3) For purposes of section 2 (2)(e), *[of this 2016 Act]* **chapter 96, Oregon**  
11 **Laws 2016**, documentation of eligible costs may include, but is not limited  
12 to, bids, cost estimates, remediation plans, copies of contracts, notes and  
13 minutes of contract negotiations, and accounts, invoices, sales receipts and  
14 other payment records of purchases, sales, leases and other transactions re-  
15 lating to the eligible costs.

16 (4) Eligible costs shall be reduced by the amount of:

17 (a) Any state, federal or other grant moneys, tax credits, insurance pro-  
18 ceeds or legal settlements received by the owner of the brownfield to offset  
19 eligible costs for the brownfield; **and**

20 (b) **Any special assessment, exemption or partial exemption granted**  
21 **to the property to offset eligible costs, other than those granted under**  
22 **sections 1 to 7, chapter 96, Oregon Laws 2016.**

23 **SECTION 3. The amendments to sections 1 and 3, chapter 96,**  
24 **Oregon Laws 2016, by sections 1 and 2 of this 2019 Act apply to property**  
25 **tax years beginning on or after July 1, 2020.**

26 **SECTION 4. This 2019 Act takes effect on the 91st day after the date**  
27 **on which the 2019 regular session of the Eightieth Legislative Assem-**  
28 **bly adjourns sine die.**

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