

B-Engrossed
House Bill 3146

Ordered by the House July 1
Including House Amendments dated April 21 and July 1

Sponsored by Representative SMITH G

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.

Defines "qualified rural county" to mean, for certain economic development programs, county outside all metropolitan statistical areas in which total property taxes imposed by all taxing districts equal at least 1.3 percent of total assessed value of all taxable property in county. Lowers, for qualified rural counties, compensation requirements for such economic development programs while creating wage floors for all counties.

Lowers, for counties outside all metropolitan statistical areas, [*wage*] **compensation** requirements for certain economic development programs from at least 150 percent of certain county or state measurements to at least 130 percent of such county or state measurements.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to wage requirements for certain economic development programs; creating new provisions;
3 amending ORS 285B.600, 285C.050, 285C.160, 285C.400, 285C.412 and 285C.503; and prescribing
4 an effective date.

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

6 **SECTION 1.** ORS 285C.160 is amended to read:

7 285C.160. (1) An eligible business firm seeking authorization under ORS 285C.140 and the spon-
8 sor of the enterprise zone in which the firm intends to invest may enter into a written agreement
9 to extend the period during which the qualified property is exempt from taxation under ORS
10 285C.175 if the firm complies with the terms of the agreement.

11 (2) The period for which the qualified property is to continue to be exempt must be set forth in
12 the agreement and may not exceed two additional tax years.

13 (3) In order for an agreement under this section to extend the period of exemption, the agree-
14 ment must be executed on or before the date on which the firm is authorized, and:

15 (a) If the enterprise zone is a rural enterprise zone or an urban enterprise zone located inside
16 a metropolitan statistical area of fewer than 400,000 residents, the agreement must require that the
17 firm [*meet both of the following*]:

18 (A)(i) Annually compensate all new employees hired by the firm at an average rate of [*not less*
19 *than*] **at least** 150 percent of the county average annual wage for each assessment year during the
20 tax exemption period, as determined at the time of authorization[.]; **or**

21 **(ii) If the enterprise zone is located in a qualified rural county, annually compensate all**
22 **new employees hired by the firm at an average rate of at least 130 percent of the county**
23 **average annual wage for each assessment year during the tax exemption period, as deter-**
24 **mined at the time of authorization; and**

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 (B) **Meet** any additional requirement that the sponsor may reasonably request.

2 (b) **Notwithstanding paragraph (a)(A) of this subsection, the average wage received by the**
3 **newly hired employees must equal or exceed 100 percent of the average wage in the county.**

4 [(b)] (c) If the enterprise zone is an urban enterprise zone located inside a metropolitan statisti-
5 cal area of 400,000 residents or more, the agreement must require that the firm meet any additional
6 requirement the sponsor may reasonably require.

7 (4) If a firm enters into an agreement under this section that includes a compensation require-
8 ment under subsection (3)(a)(A) of this section and the firm subsequently submits one or more
9 statements of continued intent under ORS 285C.165, notwithstanding the terms of the agreement
10 made under this section, for each statement of continued intent submitted, the county average an-
11 nual wage under subsection (3)(a)(A) of this section shall be adjusted to a level that is current with
12 the statement.

13 **SECTION 2.** ORS 285C.050 is amended to read:

14 285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

15 (1) "Assessment date" and "assessment year" have the meanings given those terms in ORS
16 308.007.

17 (2) "Authorized business firm" means an eligible business firm that has been authorized under
18 ORS 285C.140.

19 (3) "Business firm" means a person operating or conducting one or more trades or businesses,
20 a people's utility district organized under ORS chapter 261 or a joint operating agency formed under
21 ORS chapter 262, but does not include any other governmental agency, municipal corporation or
22 nonprofit corporation.

23 (4) "County average annual wage" means:

24 (a) The most recently available average annual covered payroll for the county in which the en-
25 terprise zone is located, as determined by the Employment Department; or

26 (b) If the enterprise zone is located in more than one county, the highest county average annual
27 wage as determined under paragraph (a) of this subsection.

28 (5) "Electronic commerce" means engaging in commercial or retail transactions predominantly
29 over the Internet or a computer network, utilizing the Internet as a platform for transacting busi-
30 ness, or facilitating the use of the Internet by other persons for business transactions, and may be
31 further defined by the Oregon Business Development Department by rule.

32 (6) "Eligible business firm" means a firm engaged in an activity described under ORS 285C.135
33 that may file an application for authorization under ORS 285C.140.

34 (7) "Employee" means a person who works more than 32 hours per week, but does not include
35 a person with a temporary or seasonal job or a person hired solely to construct qualified property.

36 (8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by
37 order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the
38 areas designated by the Director of the Oregon Business Development Department under ORS
39 285C.080 before October 5, 2015, an area designated under ORS 285C.065, a federal enterprise zone
40 area designated under ORS 285C.085, an area designated under ORS 285C.250 or a reservation en-
41 terprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306.

42 (9) "Federal enterprise zone" means any discrete area wholly or partially within this state that
43 is designated as an empowerment zone, an enterprise community, a renewal community or some
44 similar designation for purposes of improving the economic and community development of the area.

45 (10) "First-source hiring agreement" means an agreement between an authorized business firm

1 and a publicly funded job training provider whereby the provider refers qualified candidates to the
2 firm for new jobs and job openings in the firm.

3 (11) "In service" means being used or occupied or fully ready for use or occupancy for com-
4 mercial purposes consistent with the intended operations of the business firm as described in the
5 application for authorization.

6 (12) "Modification" means modernization, renovation or remodeling of an existing building,
7 structure or real property machinery or equipment.

8 (13) "New employees hired by the firm":

9 (a) Includes only those employees of an authorized business firm engaged for a majority of their
10 time in eligible operations.

11 (b) Does not include individuals employed in a job or position that:

12 (A) Is created and first filled after December 31 of the first tax year in which qualified property
13 of the firm is exempt under ORS 285C.175;

14 (B) Existed prior to the submission of the relevant application for authorization; or

15 (C) Is performed primarily at a location outside of the enterprise zone.

16 (14) "Publicly funded job training provider" includes but is not limited to a community college,
17 a service provider under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), or
18 a similar program.

19 (15) "Qualified business firm" means a business firm described in ORS 285C.200, the qualified
20 property of which is exempt from property tax under ORS 285C.175.

21 (16) "Qualified property" means property described under ORS 285C.180.

22 (17) "Qualified rural county" means a county:

23 (a) **That is outside all metropolitan statistical areas, as defined by the most recent fed-
24 eral decennial census; and**

25 (b) **In which, on the most recently certified property tax assessment roll, the total
26 property taxes imposed by all taxing districts within the county are equal to or greater than
27 1.3 percent of the total assessed value of all taxable property located in the county.**

28 [(17)] (18) "Rural enterprise zone" means:

29 (a) An enterprise zone located in an area of this state in which an urban enterprise zone could
30 not be located; or

31 (b) A reservation enterprise zone designated, or a reservation partnership zone cosponsored,
32 under ORS 285C.306.

33 [(18)] (19) "Sparsely populated county" means a county with a density of 100 or fewer persons
34 per square mile, based on the most recently available population figure for the county from the
35 Portland State University Population Research Center.

36 [(19)] (20) "Sponsor" means:

37 (a) The city, county or port, or any combination of cities, counties or ports, that received ap-
38 proval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS
39 285C.080 before October 5, 2015, or under ORS 285C.085 or 285C.250 or that designated an enterprise
40 zone under ORS 285C.065 or 285C.250;

41 (b) The tribal government, in the case of a reservation enterprise zone;

42 (c) The tribal government and the cosponsoring city, county or port, in the case of a reservation
43 partnership zone; or

44 (d) A city, county or port that joined the enterprise zone through a boundary change under ORS
45 285C.115 (6) or a port that joined the enterprise zone under ORS 285C.068.

1 [(20)] (21) "Tax year" has the meaning given that term in ORS 308.007.

2 [(21)] (22) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area,
3 as defined by the most recent federal decennial census, that is located inside a regional or metro-
4 politan urban growth boundary.

5 [(22)] (23) "Year" has the meaning given that term in ORS 308.007.

6 **SECTION 3. The amendments to ORS 285C.050 and 285C.160 by sections 1 and 2 of this**
7 **2017 Act apply to agreements executed on or after the effective date of this 2017 Act.**

8 **SECTION 4.** ORS 285C.412 is amended to read:

9 285C.412. In order for a facility of a business firm to continue to be exempt from ad valorem
10 property taxation under ORS 285C.409 for a tax year following the first assessment date on which
11 the facility is in service, all of the conditions of any one of the alternative subsections in this sec-
12 tion must be met:

13 (1) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this sub-
14 section:

15 (a) By the end of the calendar year in which the facility is placed in service, the total cost of
16 the facility exceeds the lesser of \$25 million or one percent of the real market value of all nonex-
17 empt taxable property in the county in which the facility is located, as determined for the assess-
18 ment year in which the business firm is certified (and rounded to the nearest \$10 million of such
19 value);

20 (b) The business firm hires or will hire at least 75 full-time employees at the facility by the end
21 of the fifth calendar year following the year in which the facility is placed in service; and

22 (c) The annual average compensation for employees, based on payroll, at the business firm's fa-
23 cility [*is*] **must be** at least 150 percent of the average wage in the county in which the facility is
24 located, **or, if the facility is located in a qualified rural county, determined as of the date on**
25 **which the written agreement between the zone sponsor and the business firm was executed,**
26 **the annual average compensation must be at least 130 percent of the average wage in the**
27 **county in which the facility is located.** This requirement may be initially met in any year during
28 the first five years after the year in which [*operation of the facility begins*] **the facility is placed in**
29 **service,** and thereafter is met if:

30 (A) The annual average compensation at the facility for the year **equals or exceeds 150 percent**
31 **of** the average wage in the county for the year in which the requirement is initially met[.] **or, for**
32 **a facility located in a qualified rural county, determined as of the date on which the written**
33 **agreement between the zone sponsor and the business firm was executed, the annual average**
34 **compensation at the facility for the year equals or exceeds 130 percent of the average wage**
35 **in the county for the year in which the requirement is initially met; and**

36 (B) **The average wage at the facility equals or exceeds 100 percent of the average wage**
37 **in the county.**

38 (2) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this sub-
39 section:

40 (a) The facility meets the total cost requirements set forth in subsection (1)(a) of this section;

41 (b) The business firm meets the annual average compensation requirements set forth in sub-
42 section (1)(c) of this section; and

43 (c)(A) The business firm hires or will hire at least 10 full-time employees at the facility by the
44 end of the third calendar year following the year in which the facility is placed in service, and at
45 the time that the business firm is certified, the location of the facility is in a county with a popu-

1 lation of 10,000 or fewer; or

2 (B) The business firm hires or will hire at least 35 full-time employees at the facility by the end
3 of the third calendar year following the year in which the facility is placed in service, and at the
4 time that the business firm is certified, the location of the facility is in a county with a population
5 of 40,000 or fewer.

6 (3) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this sub-
7 section:

8 (a) By the end of the calendar year in which the facility is placed in service, the total cost of
9 the facility exceeds the lesser of \$12.5 million or one-half of one percent of the real market value
10 of all nonexempt taxable property in the county in which the facility is located, as determined for
11 the assessment year in which the business firm is certified (and rounded to the nearest \$10 million
12 of such value);

13 (b) At the time that the business firm is certified, the location of the facility is 10 or more miles
14 from Interstate Highway 5, as measured between the two closest points between the facility site and
15 anywhere along that interstate highway;

16 (c) The business firm meets the annual average compensation requirements set forth in sub-
17 section (1)(c) of this section; and

18 (d)(A) The business firm hires or will hire at least 50 full-time employees at the facility by the
19 end of the third calendar year following the year in which the facility is placed in service; or

20 (B) The business firm satisfies the requirements of subsection (2)(c)(A) or (B) of this section.

21 (4) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this sub-
22 section:

23 (a) Within three years either before or after the property tax year in which the facility is placed
24 in service, the business firm places one or more other facilities in the same or another enterprise
25 zone for which the business firm is certified and otherwise meets the requirements of ORS 285C.400
26 to 285C.420;

27 (b) The total cost of all facilities of the business firm exceeds \$25 million by the end of the
28 calendar year in which the last such facility is placed in service;

29 (c) The business firm meets the annual average compensation requirements set forth in sub-
30 section (1)(c) of this section independently for each facility of the firm; and

31 (d) The business firm hires or will hire a total of at least 100 full-time employees at all of the
32 firm's facilities by the end of the fifth calendar year following the year in which the first such fa-
33 cility is placed in service.

34 (5) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this sub-
35 section:

36 (a) By the end of the calendar year in which the facility is placed in service, the total cost of
37 the facility exceeds \$200 million;

38 (b) At the time that the business firm is certified, the location of the facility meets the siting
39 requirements of subsection (3)(b) of this section;

40 (c) The business firm hires or will hire at least 10 full-time employees at the facility by the end
41 of the third calendar year following the year in which the facility is placed in service; and

42 (d) The business firm meets the annual average compensation requirements set forth in sub-
43 section (1)(c) of this section.

44 **SECTION 5.** ORS 285C.400 is amended to read:

45 285C.400. As used in ORS 285C.400 to 285C.420:

1 (1) "Business firm" has the meaning given that term in ORS 285C.050.

2 (2) "Certified business firm" means a business firm that has been certified under ORS 285C.403.

3 (3) "County with chronically low income or chronic unemployment" means, based on the most
4 recently revised annual average unemployment rate or annual per capita income levels available, a
5 county in which:

6 (a) The median ratio of the per capita personal income of the county to the equivalent annual
7 personal income figure of the entire United States for each year, as reported by the Bureau of
8 Economic Analysis of the United States Department of Commerce, is equal to or less than 0.75 over
9 the last 10 years;

10 (b) The median ratio of the unemployment rate of the county to the equivalent rate of the entire
11 United States for each year is at least 1.3 over the last 20 years or over the last 10 years; or

12 (c) The population of the county has experienced a negative net migration, irrespective of na-
13 tural population change, since the most recent federal decennial census occurring three or more
14 years prior to the current estimated population figure for the county, based on available population
15 statistics.

16 (4) "Facility" means the land, real property improvements and personal property that are used:

17 (a) At a location in a rural enterprise zone that is identified in the application for certification
18 under ORS 285C.403; and

19 (b) In those business operations of the business firm that are the subject of the application for
20 certification under ORS 285C.403.

21 **(5) "Qualified rural county" means a county:**

22 **(a) That is outside all metropolitan statistical areas, as defined by the most recent fed-**
23 **eral decennial census; and**

24 **(b) In which, on the most recently certified property tax assessment roll, the total**
25 **property taxes imposed by all taxing districts within the county are equal to or greater than**
26 **1.3 percent of the total assessed value of all taxable property located in the county.**

27 [(5)] (6) "Rural enterprise zone" has the meaning given that term in ORS 285C.050.

28 **SECTION 6. The amendments to ORS 285C.400 and 285C.412 by sections 4 and 5 of this**
29 **2017 Act apply to exemptions initially allowed under ORS 285C.409 (1)(c) on or after the ef-**
30 **fective date of this 2017 Act.**

31 **SECTION 7.** ORS 285C.503 is amended to read:

32 285C.503. (1) A business firm seeking the income and corporate excise tax exemption allowed
33 under ORS 316.778 or 317.391 shall, before the commencement of construction, reconstruction, mod-
34 ification or installation of property or improvements at the location for which the exemption is
35 sought and before the hiring of any employees at that location, apply to the Oregon Business De-
36 velopment Department for preliminary certification under this section.

37 (2) The application shall be on a form prescribed by the department and shall contain the fol-
38 lowing information:

39 (a) The proposed location of the facility;

40 (b) A description of the property to be constructed, reconstructed, modified, acquired, installed
41 or leased and that is to comprise the facility when the business firm commences business operations
42 at the facility;

43 (c) If any property described in paragraph (b) of this subsection is to be leased, the term of the
44 lease;

45 (d) The number of full-time, year-round employees the business firm intends to hire;

1 (e) The minimum annual average compensation intended to be given to the employees described
2 in paragraph (d) of this subsection;

3 (f) A description of any other business activities of the firm in this state at the time of appli-
4 cation, sufficient for the department to be able to determine if the proposed facility will constitute
5 a new business in this state; and

6 (g) Any other information that the department requires.

7 (3) An application filed under this section must be accompanied by a fee in an amount prescribed
8 by the Oregon Business Development Department by rule. The fee required by the department may
9 not exceed \$500.

10 (4)(a) When an application is filed under this section, the department shall send copies of the
11 application to the governing bodies of the city and county in which the facility is proposed to be
12 located. If the facility is to be located within a port, the department shall also send a copy of the
13 application to the governing body of the port.

14 (b) The governing body of a city, port or county described in paragraph (a) of this subsection
15 may object to the preliminary certification of a business firm if the firm would be:

16 (A) In competition with an existing business employing individuals within the city, port or
17 county; or

18 (B) Incompatible with economic growth or development standards that the city, port or county
19 had adopted prior to the date of application for preliminary certification.

20 (c) If the governing body of the city, port or county decides to object to preliminary certification
21 of the firm, the governing body shall adopt a resolution stating its objection and the reason for its
22 objection.

23 (d) The governing body of a city, port or county has 60 days from the date the application is sent
24 to the city, port or county to object to preliminary certification. If the objection is not made within
25 the 60-day period, the city, port or county shall be deemed to have agreed to preliminary certifica-
26 tion.

27 (5) When an application is filed under this section, the department shall review the application
28 and determine whether all of the following requirements are met:

29 (a) The proposed facility is to be located at a qualified location.

30 (b) The proposed facility is intended to operate as a facility for at least 10 years following the
31 date the facility becomes operational.

32 (c) The business firm intends to hire at least five employees for full-time, year-round employ-
33 ment.

34 (d)(A) The newly hired employees described in paragraph (c) of this subsection are to receive
35 a minimum annual compensation of:

36 [(A)] (i) 150 percent of the county per capita personal income of the county in which the facility
37 is to be located **determined** as of the date of the application for preliminary certification; [or]

38 [(B)] (ii) 100 percent of the county per capita personal income of the county in which the facility
39 is to be located **determined** as of the date of the application for preliminary certification and the
40 business firm will provide health insurance coverage to the employees at the facility who are de-
41 scribed in paragraph (c) of this subsection that equals or exceeds the health insurance benefits
42 provided to employees of the city, port or county in which the facility is to be located[.]; **or**

43 **(iii) If the facility is to be located in a county that is outside all metropolitan statistical**
44 **areas, as defined by the most recent federal decennial census, 130 percent of the county per**
45 **capita personal income of the county in which the facility is to be located determined as of**

1 **the date of the application for preliminary certification.**

2 **(B) Notwithstanding subparagraph (A) of this paragraph, the average wage received by**
3 **the newly hired employees must equal or exceed 100 percent of the average wage in the**
4 **county.**

5 (e) The business operations of the business firm that are to be conducted at the facility consti-
6 tute a new business that the firm does not operate at another location in this state.

7 (f) The business operations of the business firm will not compete with existing businesses in the
8 city or county in which the facility is to be located.

9 (6) If the department determines that the proposed facility, if completed as described in the ap-
10 plication, meets the criteria set forth in subsection (5) of this section and the governing body of the
11 city, port or county does not object under subsection (4) of this section to preliminary certification
12 of the firm, the department shall issue a preliminary certification to the firm.

13 (7) If the department determines that the proposed facility, as set forth in the application, does
14 not meet the requirements for preliminary certification under this section, the department may not
15 issue a preliminary certification. The applicant may appeal the decision to not issue a preliminary
16 certification in the manner of a contested case under ORS chapter 183. No appeal may be made if
17 the reason for not issuing a preliminary certification is the objection of the governing body of the
18 city, port or county under subsection (4) of this section.

19 **SECTION 8. The amendments to ORS 285C.503 by section 7 of this 2017 Act apply to ap-**
20 **lications filed under ORS 285C.503 on or after the effective date of this 2017 Act.**

21 **SECTION 9.** ORS 285B.600 is amended to read:

22 285B.600. As used in ORS 285B.600 to 285B.620:

23 (1) "Certified employer" means an eligible employer certified under ORS 285B.605.

24 (2) "Compensation" has the meaning given that term in ORS 314.610.

25 (3) "Eligible employee" means a new full-time employee [*whose compensation averages at least*
26 *150 percent of the county or state average in annual per employee compensation, whichever is less,*]
27 who is **paid qualifying compensation and is** hired by a certified employer after the employer is
28 certified under ORS 285B.605.

29 (4) "Eligible employer" means an employer that, in the month in which the employer submits
30 an application under ORS 285B.608:

31 (a) Has at least 150 employees;

32 (b) Plans to hire at least 50 [*new full-time*] **eligible** employees in this state [*whose compensation*
33 *will average at least 150 percent of the county or state average in annual per employee compensation,*
34 *whichever is less*];

35 (c) Operates in an industry in the traded sector, as that term is defined in ORS 285A.010; and

36 (d) Is not a retailer, as that term is defined in ORS 72.8010.

37 (5) "Estimated incremental Oregon Business Retention and Expansion Program tax revenues"
38 means the Oregon personal income tax revenues that are estimated pursuant to ORS 285B.618 to
39 be substantially equivalent to the amount of tax that eligible employees of an eligible employer will
40 be required to pay under ORS chapter 316 as a result of **qualifying** compensation paid to the eligible
41 employees by the eligible employer in the two consecutive tax years beginning with the tax year
42 following the tax year in which the employer receives certification under ORS 285B.605.

43 **(6) "Qualifying compensation" means:**

44 **(a) Compensation that averages at least 150 percent of the lesser of the county or state**
45 **average annual per employee compensation; or**

1 **(b) If the employees are to be hired in a county that is outside all metropolitan statistical**
2 **areas, as defined by the most recent federal decennial census, compensation that averages**
3 **at least 130 percent of the lesser of the county or state average annual per employee com-**
4 **penensation.**

5 **SECTION 10.** **The amendments to ORS 285B.600 by section 9 of this 2017 Act apply to**
6 **applications for certification submitted under ORS 285B.608 on or after the effective date of**
7 **this 2017 Act.**

8 **SECTION 11.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**
9 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

10