

House Bill 3146

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 **as introduced**.

Specifies that wage requirements for certain economic development programs must be determined with respect to permanent positions.

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, 285B.626, 285C.160, 285C.412 and 285C.503; and prescribing an effective
4 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) Annually compensate all new employees hired by the firm at an average rate of not less than
19 150 percent of the county average annual wage for each assessment year during the tax exemption
20 period, as determined at the time of authorization **with respect to permanent positions located**
21 **within the county**.

22 (B) Any additional requirement that the sponsor may reasonably request.

23 (b) If the enterprise zone is an urban enterprise zone located inside a metropolitan statistical
24 area of 400,000 residents or more, the agreement must require that the firm meet any additional
25 requirement the sponsor may reasonably require.

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

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 **SECTION 2. The amendments to ORS 285C.160 by section 1 of this 2017 Act apply to**
 2 **agreements executed on or after the effective date of this 2017 Act.**

3 **SECTION 3.** ORS 285C.412 is amended to read:

4 285C.412. In order for a facility of a business firm to continue to be exempt from ad valorem
 5 property taxation under ORS 285C.409 for a tax year following the first assessment date on which
 6 the facility is in service, all of the conditions of any one of the alternative subsections in this sec-
 7 tion must be met:

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

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

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

17 (c) The annual average compensation for employees, based on payroll, at the business firm's fa-
 18 cility is at least 150 percent of the average wage in the county in which the facility is located, **as**
 19 **determined with respect to permanent positions located within the county.** This requirement
 20 may be initially met in any year during the first five years after the year in which operation of the
 21 facility begins, and thereafter is met if the annual average compensation at the facility for the year
 22 exceeds the average wage in the county for the year in which the requirement is initially met.

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

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

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

28 (c)(A) The business firm hires or will hire at least 10 full-time employees at the facility by the
 29 end of the third calendar year following the year in which the facility is placed in service, and at
 30 the time that the business firm is certified, the location of the facility is in a county with a popu-
 31 lation of 10,000 or fewer; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **SECTION 4. The amendments to ORS 285C.412 by section 3 of this 2017 Act apply to ex-**
 30 **emptions allowed under ORS 285C.409 (1)(c) on or after the effective date of this 2017 Act.**

31 **SECTION 5.** 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) The newly hired employees described in paragraph (c) of this subsection are to receive a
 35 minimum annual compensation of:

36 (A) 150 percent of the county per capita personal income of the county in which the facility is
 37 to be located **determined** as of the date of the application for preliminary certification **with respect**
 38 **to permanent positions located within the county**; or

39 (B) 100 percent of the county per capita personal income of the county in which the facility is
 40 to be located **determined** as of the date of the application for preliminary certification **with respect**
 41 **to permanent positions located within the county** and the business firm will provide health in-
 42 surance coverage to the employees at the facility who are described in paragraph (c) of this sub-
 43 section that equals or exceeds the health insurance benefits provided to employees of the city, port
 44 or county in which the facility is to be located.

45 (e) The business operations of the business firm that are to be conducted at the facility consti-

1 tute a new business that the firm does not operate at another location in this state.

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

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

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

14 **SECTION 6. The amendments to ORS 285C.503 by section 5 of this 2017 Act apply to ap-
15 plications filed under ORS 285C.503 on or after the effective date of this 2017 Act.**

16 **SECTION 7.** ORS 285B.600 is amended to read:

17 285B.600. As used in ORS 285B.600 to 285B.620:

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

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

20 (3) "Eligible employee" means a new full-time employee whose compensation averages at least
21 150 percent of the county or state average in annual per **permanent** employee compensation,
22 whichever is less, who is hired by a certified employer after the employer is certified under ORS
23 285B.605.

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

26 (a) Has at least 150 employees;

27 (b) Plans to hire at least 50 new full-time employees in this state whose compensation will av-
28 erage at least 150 percent of the county or state average in annual per **permanent** employee com-
29 pensation, whichever is less;

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

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

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

38 **SECTION 8. The amendments to ORS 285B.600 by section 7 of this 2017 Act apply to ap-
39 plications for certification submitted under ORS 285B.608 on or after the effective date of
40 this 2017 Act.**

41 **SECTION 9.** ORS 285B.626 is amended to read:

42 285B.626. As used in ORS 285B.625 to 285B.632:

43 (1) "Compensation" has the meaning given that term pursuant to rules adopted by the Oregon
44 Business Development Department.

45 (2) "Eligible employer" means an employer that:

1 (a) Has entered into a contract with a project sponsor to conduct a business in the traded sector
2 industry on a regionally significant industrial site; and

3 (b) Has hired full-time employees who are residents of this state and whose compensation aver-
4 ages at least 150 percent of the county or state average wage **determined with respect to per-**
5 **manent positions**, whichever is less.

6 (3) “Estimated incremental income tax revenues” means the Oregon personal income tax reven-
7 ues that are estimated pursuant to ORS 285B.630 to be substantially equivalent to the amount of tax
8 that employees of an eligible employer who are hired after the eligible employer enters into a con-
9 tract with a qualified project sponsor to conduct a traded sector business on a certified regionally
10 significant industrial site will be required to pay under ORS chapter 316 as a result of compensation
11 paid to the employees by the eligible employer in the tax years beginning with the tax year follow-
12 ing the fifth tax year in which a project sponsor was qualified under ORS 285B.627.

13 (4) “Industrial use” means employment activities, including but not limited to manufacturing,
14 assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution, trans-
15 shipment and research and development, that generate income from the production, handling or
16 distribution of goods or services, including goods or services in the traded sector.

17 (5) “Project sponsor” means:

18 (a) A public owner of a regionally significant industrial site that is investing in preparation of
19 the site for industrial use by a third party; or

20 (b) A public entity that has entered into a development or other agreement with the private
21 owner of a regionally significant industrial site to prepare the site for industrial use.

22 (6) “Regionally significant industrial site” means an area planned and zoned for industrial use
23 that:

24 (a)(A) Contains a site or sites, including brownfields, that are suitable for the location of new
25 industrial uses or the expansion of existing industrial uses and that can provide significant addi-
26 tional employment in the region;

27 (B) Has site characteristics that give the area significant competitive advantages that are diffi-
28 cult or impossible to replicate in the region; and

29 (C) Has superior access to transportation and freight infrastructure, including but not limited
30 to rail, port, airport, multimodal freight or transshipment facilities and other major transportation
31 facilities or routes; or

32 (b) Is land designated by Metro, as defined in ORS 197.015, as a regionally significant industrial
33 area.

34 (7) “Traded sector” has the meaning given that term in ORS 285A.010.

35 (8) “Wage” has the meaning given that term pursuant to rules adopted by the Oregon Business
36 Development Department.

37 **SECTION 10. The amendments to ORS 285B.626 by section 9 of this 2017 Act apply to tax**
38 **reimbursement arrangements and loan agreements entered into under ORS 285B.627 on or**
39 **after the effective date of this 2017 Act.**

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

42