

Requested by Representative SMITH G

**PROPOSED AMENDMENTS TO
HOUSE BILL 3146**

1 On page 1 of the printed bill, delete lines 6 through 31 and delete pages
2 2 through 6 and insert:

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

4 “285C.160. (1) An eligible business firm seeking authorization under ORS
5 285C.140 and the sponsor of the enterprise zone in which the firm intends to
6 invest may enter into a written agreement to extend the period during which
7 the qualified property is exempt from taxation under ORS 285C.175 if the
8 firm complies with the terms of the agreement.

9 “(2) The period for which the qualified property is to continue to be ex-
10 empt must be set forth in the agreement and may not exceed two additional
11 tax years.

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

15 “(a) If the enterprise zone is a rural enterprise zone or an urban enter-
16 prise zone located inside a metropolitan statistical area of fewer than 400,000
17 residents, the agreement must require that the firm meet both of the fol-
18 lowing:

19 “(A) Annually compensate all new employees hired by the firm at an av-
20 erage rate of not less than 150 percent of the county average annual wage
21 for each assessment year during the tax exemption period, as determined at

1 the time of authorization. **If the enterprise zone is located in a county**
2 **that is outside all metropolitan statistical areas, as defined by the**
3 **most recent federal decennial census, the county average annual wage**
4 **shall be determined only with respect to permanent positions located**
5 **within the county.**

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

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

11 “(4) If a firm enters into an agreement under this section that includes
12 a compensation requirement under subsection (3)(a)(A) of this section and
13 the firm subsequently submits one or more statements of continued intent
14 under ORS 285C.165, notwithstanding the terms of the agreement made under
15 this section, for each statement of continued intent submitted, the county
16 average annual wage under subsection (3)(a)(A) of this section shall be ad-
17 justed to a level that is current with the statement.

18 **“SECTION 2. The amendments to ORS 285C.160 by section 1 of this**
19 **2017 Act apply to agreements executed on or after the effective date**
20 **of this 2017 Act.**

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

22 “285C.412. In order for a facility of a business firm to continue to be ex-
23 empt from ad valorem property taxation under ORS 285C.409 for a tax year
24 following the first assessment date on which the facility is in service, all of
25 the conditions of any one of the alternative subsections in this section must
26 be met:

27 “(1) In order for the exemption under ORS 285C.409 (1)(c) to be allowable
28 pursuant to this subsection:

29 “(a) By the end of the calendar year in which the facility is placed in
30 service, the total cost of the facility exceeds the lesser of \$25 million or one

1 percent of the real market value of all nonexempt taxable property in the
2 county in which the facility is located, as determined for the assessment year
3 in which the business firm is certified (and rounded to the nearest \$10
4 million of such value);

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

8 “(c) The annual average compensation for employees, based on payroll,
9 at the business firm’s facility is at least 150 percent of the average wage in
10 the county in which the facility is located. **If the facility is located in a
11 county that is outside all metropolitan statistical areas, as defined by
12 the most recent federal decennial census, the average wage in the
13 county shall be determined only with respect to permanent positions
14 located within the county.** This requirement may be initially met in any
15 year during the first five years after the year in which operation of the fa-
16 cility begins, and thereafter is met if the annual average compensation at the
17 facility for the year exceeds the average wage in the county for the year in
18 which the requirement is initially met.

19 “(2) In order for the exemption under ORS 285C.409 (1)(c) to be allowable
20 pursuant to this subsection:

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

23 “(b) The business firm meets the annual average compensation require-
24 ments set forth in subsection (1)(c) of this section; and

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

30 “(B) The business firm hires or will hire at least 35 full-time employees

1 at the facility by the end of the third calendar year following the year in
2 which the facility is placed in service, and at the time that the business firm
3 is certified, the location of the facility is in a county with a population of
4 40,000 or fewer.

5 “(3) In order for the exemption under ORS 285C.409 (1)(c) to be allowable
6 pursuant to this subsection:

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

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

17 “(c) The business firm meets the annual average compensation require-
18 ments set forth in subsection (1)(c) of this section; and

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

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

24 “(4) In order for the exemption under ORS 285C.409 (1)(c) to be allowable
25 pursuant to this subsection:

26 “(a) Within three years either before or after the property tax year in
27 which the facility is placed in service, the business firm places one or more
28 other facilities in the same or another enterprise zone for which the business
29 firm is certified and otherwise meets the requirements of ORS 285C.400 to
30 285C.420;

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

4 “(c) The business firm meets the annual average compensation require-
5 ments set forth in subsection (1)(c) of this section independently for each
6 facility of the firm; and

7 “(d) The business firm hires or will hire a total of at least 100 full-time
8 employees at all of the firm’s facilities by the end of the fifth calendar year
9 following the year in which the first such facility is placed in service.

10 “(5) In order for the exemption under ORS 285C.409 (1)(c) to be allowable
11 pursuant to this subsection:

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

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

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

19 “(d) The business firm meets the annual average compensation require-
20 ments set forth in subsection (1)(c) of this section.

21 **“SECTION 4. The amendments to ORS 285C.412 by section 3 of this**
22 **2017 Act apply to exemptions allowed under ORS 285C.409 (1)(c) on or**
23 **after the effective date of this 2017 Act.**

24 **“SECTION 5.** ORS 285C.503 is amended to read:

25 “285C.503. (1) A business firm seeking the income and corporate excise tax
26 exemption allowed under ORS 316.778 or 317.391 shall, before the com-
27 mencement of construction, reconstruction, modification or installation of
28 property or improvements at the location for which the exemption is sought
29 and before the hiring of any employees at that location, apply to the Oregon
30 Business Development Department for preliminary certification under this

1 section.

2 “(2) The application shall be on a form prescribed by the department and
3 shall contain the following information:

4 “(a) The proposed location of the facility;

5 “(b) A description of the property to be constructed, reconstructed, modi-
6 fied, acquired, installed or leased and that is to comprise the facility when
7 the business firm commences business operations at the facility;

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

10 “(d) The number of full-time, year-round employees the business firm in-
11 tends to hire;

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

14 “(f) A description of any other business activities of the firm in this state
15 at the time of application, sufficient for the department to be able to deter-
16 mine if the proposed facility will constitute a new business in this state; and

17 “(g) Any other information that the department requires.

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

21 “(4)(a) When an application is filed under this section, the department
22 shall send copies of the application to the governing bodies of the city and
23 county in which the facility is proposed to be located. If the facility is to
24 be located within a port, the department shall also send a copy of the ap-
25 plication to the governing body of the port.

26 “(b) The governing body of a city, port or county described in paragraph
27 (a) of this subsection may object to the preliminary certification of a busi-
28 ness firm if the firm would be:

29 “(A) In competition with an existing business employing individuals
30 within the city, port or county; or

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

4 “(c) If the governing body of the city, port or county decides to object to
5 preliminary certification of the firm, the governing body shall adopt a re-
6 solution stating its objection and the reason for its objection.

7 “(d) The governing body of a city, port or county has 60 days from the
8 date the application is sent to the city, port or county to object to prelimi-
9 nary certification. If the objection is not made within the 60-day period, the
10 city, port or county shall be deemed to have agreed to preliminary certi-
11 fication.

12 “(5) When an application is filed under this section, the department shall
13 review the application and determine whether all of the following require-
14 ments are met:

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

16 “(b) The proposed facility is intended to operate as a facility for at least
17 10 years following the date the facility becomes operational.

18 “(c) The business firm intends to hire at least five employees for full-time,
19 year-round employment.

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

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

25 “[B] (ii) 100 percent of the county per capita personal income of the
26 county in which the facility is to be located **determined** as of the date of
27 the application for preliminary certification and the business firm will pro-
28 vide health insurance coverage to the employees at the facility who are de-
29 scribed in paragraph (c) of this subsection that equals or exceeds the health
30 insurance benefits provided to employees of the city, port or county in which

1 the facility is to be located.

2 **“(B) Notwithstanding ORS 285C.500, if the facility is to be located**
3 **in a county that is outside all metropolitan statistical areas, as defined**
4 **by the most recent federal decennial census, the county per capita**
5 **personal income shall be determined only with respect to permanent**
6 **positions located within the county.**

7 “(e) The business operations of the business firm that are to be conducted
8 at the facility constitute a new business that the firm does not operate at
9 another location in this state.

10 “(f) The business operations of the business firm will not compete with
11 existing businesses in the city or county in which the facility is to be lo-
12 cated.

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

18 “(7) If the department determines that the proposed facility, as set forth
19 in the application, does not meet the requirements for preliminary certifica-
20 tion under this section, the department may not issue a preliminary certi-
21 fication. The applicant may appeal the decision to not issue a preliminary
22 certification in the manner of a contested case under ORS chapter 183. No
23 appeal may be made if the reason for not issuing a preliminary certification
24 is the objection of the governing body of the city, port or county under
25 subsection (4) of this section.

26 **“SECTION 6. The amendments to ORS 285C.503 by section 5 of this**
27 **2017 Act apply to applications filed under ORS 285C.503 on or after the**
28 **effective date of this 2017 Act.**

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

30 **“285B.600. As used in ORS 285B.600 to 285B.620:**

1 “(1) ‘Certified employer’ means an eligible employer certified under ORS
2 285B.605.

3 “(2) ‘Compensation’ has the meaning given that term in ORS 314.610.

4 “(3) ‘Eligible employee’ means a new full-time employee [*whose compen-*
5 *sation averages at least 150 percent of the county or state average in annual*
6 *per employee compensation, whichever is less,*] who is **paid qualifying com-**
7 **pensation and is** hired by a certified employer after the employer is certi-
8 fied under ORS 285B.605.

9 “(4) ‘Eligible employer’ means an employer that, in the month in which
10 the employer submits an application under ORS 285B.608:

11 “(a) Has at least 150 employees;

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

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

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

18 “(5) ‘Estimated incremental Oregon Business Retention and Expansion
19 Program tax revenues’ means the Oregon personal income tax revenues that
20 are estimated pursuant to ORS 285B.618 to be substantially equivalent to the
21 amount of tax that eligible employees of an eligible employer will be required
22 to pay under ORS chapter 316 as a result of **qualifying** compensation paid
23 to the eligible employees by the eligible employer in the two consecutive tax
24 years beginning with the tax year following the tax year in which the em-
25 ployer receives certification under ORS 285B.605.

26 “(6) ‘**Qualifying compensation**’ means:

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

29 “(b) **If the employees are to be hired in a county that is outside all**
30 **metropolitan statistical areas, as defined by the most recent federal**

1 **decennial census, compensation that averages at least 150 percent of**
2 **the lesser of county or state average annual per employee compen-**
3 **sation, determined only with respect to permanent employees.**

4 **“SECTION 8. The amendments to ORS 285B.600 by section 7 of this**
5 **2017 Act apply to applications for certification submitted under ORS**
6 **285B.608 on or after the effective date of this 2017 Act.**

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

8 “285B.626. As used in ORS 285B.625 to 285B.632:

9 “(1) ‘Compensation’ has the meaning given that term pursuant to rules
10 adopted by the Oregon Business Development Department.

11 “(2) ‘Eligible employer’ means an employer that:

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

15 “(b) Has hired full-time employees who are residents of this state and
16 whose compensation:

17 “(A) Averages at least 150 percent of the county or state average wage,
18 whichever is less[.]; or

19 **“(B) If the full-time employees have been hired in a county that is**
20 **outside all metropolitan statistical areas, as defined by the most re-**
21 **cent federal decennial census, averages at least 150 percent of the**
22 **lesser of county or state average wage, determined only with respect**
23 **to permanent positions.**

24 “(3) ‘Estimated incremental income tax revenues’ means the Oregon per-
25 sonal income tax revenues that are estimated pursuant to ORS 285B.630 to
26 be substantially equivalent to the amount of tax that employees of an eligible
27 employer who are hired after the eligible employer enters into a contract
28 with a qualified project sponsor to conduct a traded sector business on a
29 certified regionally significant industrial site will be required to pay under
30 ORS chapter 316 as a result of compensation paid to the employees by the

1 eligible employer in the tax years beginning with the tax year following the
2 fifth tax year in which a project sponsor was qualified under ORS 285B.627.

3 “(4) ‘Industrial use’ means employment activities, including but not lim-
4 ited to manufacturing, assembly, fabrication, processing, storage, logistics,
5 warehousing, importation, distribution, transshipment and research and de-
6 velopment, that generate income from the production, handling or distrib-
7 ution of goods or services, including goods or services in the traded sector.

8 “(5) ‘Project sponsor’ means:

9 “(a) A public owner of a regionally significant industrial site that is in-
10 vesting in preparation of the site for industrial use by a third party; or

11 “(b) A public entity that has entered into a development or other agree-
12 ment with the private owner of a regionally significant industrial site to
13 prepare the site for industrial use.

14 “(6) ‘Regionally significant industrial site’ means an area planned and
15 zoned for industrial use that:

16 “(a)(A) Contains a site or sites, including brownfields, that are suitable
17 for the location of new industrial uses or the expansion of existing industrial
18 uses and that can provide significant additional employment in the region;

19 “(B) Has site characteristics that give the area significant competitive
20 advantages that are difficult or impossible to replicate in the region; and

21 “(C) Has superior access to transportation and freight infrastructure, in-
22 cluding but not limited to rail, port, airport, multimodal freight or trans-
23 shipment facilities and other major transportation facilities or routes; or

24 “(b) Is land designated by Metro, as defined in ORS 197.015, as a re-
25 gionally significant industrial area.

26 “(7) ‘Traded sector’ has the meaning given that term in ORS 285A.010.

27 “(8) ‘Wage’ has the meaning given that term pursuant to rules adopted
28 by the Oregon Business Development Department.

29 **“SECTION 10. The amendments to ORS 285B.626 by section 9 of this**
30 **2017 Act apply to tax reimbursement arrangements and loan agree-**

1 **ments entered into under ORS 285B.627 on or after the effective date**
2 **of this 2017 Act.**

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

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