

Requested by HOUSE COMMITTEE ON REVENUE

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3146**

1 On page 1 of the printed A-engrossed bill, line 3, delete “285B.626,
2 285C.160” and insert “285C.050, 285C.160, 285C.400”.

3 Delete lines 6 through 26 and delete pages 2 through 7 and insert:

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

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

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

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

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

20 “(A)(i) Annually compensate all new employees hired by the firm at an
21 average rate of [*not less than*] **at least** 150 percent of the county average

1 annual wage for each assessment year during the tax exemption period, as
2 determined at the time of authorization[.]; or

3 **“(ii) If the enterprise zone is located in a qualified rural county,**
4 **annually compensate all new employees hired by the firm at an aver-**
5 **age rate of at least 130 percent of the county average annual wage for**
6 **each assessment year during the tax exemption period, as determined**
7 **at the time of authorization; and**

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

10 **“(b) Notwithstanding paragraph (a)(A) of this subsection, the aver-**
11 **age wage received by the newly hired employees must equal or exceed**
12 **100 percent of the average wage in the county.**

13 **“[(b)] (c)** If the enterprise zone is an urban enterprise zone located inside
14 a metropolitan statistical area of 400,000 residents or more, the agreement
15 must require that the firm meet any additional requirement the sponsor may
16 reasonably require.

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

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

25 **“285C.050.** As used in ORS 285C.050 to 285C.250, unless the context re-
26 quires otherwise:

27 **“(1)** ‘Assessment date’ and ‘assessment year’ have the meanings given
28 those terms in ORS 308.007.

29 **“(2)** ‘Authorized business firm’ means an eligible business firm that has
30 been authorized under ORS 285C.140.

1 “(3) ‘Business firm’ means a person operating or conducting one or more
2 trades or businesses, a people’s utility district organized under ORS chapter
3 261 or a joint operating agency formed under ORS chapter 262, but does not
4 include any other governmental agency, municipal corporation or nonprofit
5 corporation.

6 “(4) ‘County average annual wage’ means:

7 “(a) The most recently available average annual covered payroll for the
8 county in which the enterprise zone is located, as determined by the Em-
9 ployment Department; or

10 “(b) If the enterprise zone is located in more than one county, the highest
11 county average annual wage as determined under paragraph (a) of this sub-
12 section.

13 “(5) ‘Electronic commerce’ means engaging in commercial or retail trans-
14 actions predominantly over the Internet or a computer network, utilizing the
15 Internet as a platform for transacting business, or facilitating the use of the
16 Internet by other persons for business transactions, and may be further de-
17 fined by the Oregon Business Development Department by rule.

18 “(6) ‘Eligible business firm’ means a firm engaged in an activity described
19 under ORS 285C.135 that may file an application for authorization under
20 ORS 285C.140.

21 “(7) ‘Employee’ means a person who works more than 32 hours per week,
22 but does not include a person with a temporary or seasonal job or a person
23 hired solely to construct qualified property.

24 “(8) ‘Enterprise zone’ means one of the 30 areas designated or terminated
25 and redesignated by order of the Governor under ORS 284.160 (1987 Re-
26 placement Part) before October 3, 1989, one of the areas designated by the
27 Director of the Oregon Business Development Department under ORS
28 285C.080 before October 5, 2015, an area designated under ORS 285C.065, a
29 federal enterprise zone area designated under ORS 285C.085, an area desig-
30 nated under ORS 285C.250 or a reservation enterprise zone designated, or a

1 reservation partnership zone cosponsored, under ORS 285C.306.

2 “(9) ‘Federal enterprise zone’ means any discrete area wholly or partially
3 within this state that is designated as an empowerment zone, an enterprise
4 community, a renewal community or some similar designation for purposes
5 of improving the economic and community development of the area.

6 “(10) ‘First-source hiring agreement’ means an agreement between an au-
7 thorized business firm and a publicly funded job training provider whereby
8 the provider refers qualified candidates to the firm for new jobs and job
9 openings in the firm.

10 “(11) ‘In service’ means being used or occupied or fully ready for use or
11 occupancy for commercial purposes consistent with the intended operations
12 of the business firm as described in the application for authorization.

13 “(12) ‘Modification’ means modernization, renovation or remodeling of an
14 existing building, structure or real property machinery or equipment.

15 “(13) ‘New employees hired by the firm’:

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

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

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

21 “(B) Existed prior to the submission of the relevant application for au-
22 thorization; or

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

24 “(14) ‘Publicly funded job training provider’ includes but is not limited
25 to a community college, a service provider under the federal Workforce In-
26 vestment Act Title I-B (29 U.S.C. 2801 et seq.), or a similar program.

27 “(15) ‘Qualified business firm’ means a business firm described in ORS
28 285C.200, the qualified property of which is exempt from property tax under
29 ORS 285C.175.

30 “(16) ‘Qualified property’ means property described under ORS 285C.180.

1 “(17) ‘Qualified rural county’ means a county:

2 “(a) That is outside all metropolitan statistical areas, as defined by
3 the most recent federal decennial census; and

4 “(b) In which, on the most recently certified property tax assess-
5 ment roll, the total property taxes imposed by all taxing districts
6 within the county are equal to or greater than 1.3 percent of the total
7 assessed value of all taxable property located in the county.

8 “[(17)] (18) ‘Rural enterprise zone’ means:

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

11 “(b) A reservation enterprise zone designated, or a reservation partnership
12 zone cosponsored, under ORS 285C.306.

13 “[(18)] (19) ‘Sparsely populated county’ means a county with a density of
14 100 or fewer persons per square mile, based on the most recently available
15 population figure for the county from the Portland State University Popu-
16 lation Research Center.

17 “[(19)] (20) ‘Sponsor’ means:

18 “(a) The city, county or port, or any combination of cities, counties or
19 ports, that received approval of an enterprise zone under ORS 284.150 and
20 284.160 (1987 Replacement Part), under ORS 285C.080 before October 5, 2015,
21 or under ORS 285C.085 or 285C.250 or that designated an enterprise zone
22 under ORS 285C.065 or 285C.250;

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

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

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

29 “[(20)] (21) ‘Tax year’ has the meaning given that term in ORS 308.007.

30 “[(21)] (22) ‘Urban enterprise zone’ means an enterprise zone in a metro-

1 politan statistical area, as defined by the most recent federal decennial cen-
2 sus, that is located inside a regional or metropolitan urban growth boundary.

3 “[22] (23) ‘Year’ has the meaning given that term in ORS 308.007.

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

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

8 “285C.412. In order for a facility of a business firm to continue to be ex-
9 empt from ad valorem property taxation under ORS 285C.409 for a tax year
10 following the first assessment date on which the facility is in service, all of
11 the conditions of any one of the alternative subsections in this section must
12 be met:

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

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

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

24 “(c) The annual average compensation for employees, based on payroll,
25 at the business firm’s facility [*is*] **must be** at least 150 percent of the average
26 wage in the county in which the facility is located, **or, if the facility is**
27 **located in a qualified rural county, determined as of the date on which**
28 **the written agreement between the zone sponsor and the business firm**
29 **was executed, the annual average compensation must be at least 130**
30 **percent of the average wage in the county in which the facility is lo-**

1 **cated.** This requirement may be initially met in any year during the first five
2 years after the year in which [*operation of the facility begins*] **the facility**
3 **is placed in service**, and thereafter is met if:

4 “(A) The annual average compensation at the facility for the year **equals**
5 **or exceeds 150 percent of** the average wage in the county for the year in
6 which the requirement is initially met[.] **or, for a facility located in a**
7 **qualified rural county, determined as of the date on which the written**
8 **agreement between the zone sponsor and the business firm was exe-**
9 **cuted, the annual average compensation at the facility for the year**
10 **equals or exceeds 130 percent of the average wage in the county for**
11 **the year in which the requirement is initially met; and**

12 “(B) **The average wage at the facility equals or exceeds 100 percent**
13 **of the average wage in the county.**

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

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

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

20 “(c)(A) The business firm hires or will hire at least 10 full-time employees
21 at the facility by the end of the third calendar year following the year in
22 which the facility is placed in service, and at the time that the business firm
23 is certified, the location of the facility is in a county with a population of
24 10,000 or fewer; or

25 “(B) The business firm hires or will hire at least 35 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 40,000 or fewer.

30 “(3) In order for the exemption under ORS 285C.409 (1)(c) to be allowable

1 pursuant to this subsection:

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

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

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

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

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

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

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

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

29 “(c) The business firm meets the annual average compensation require-
30 ments set forth in subsection (1)(c) of this section independently for each

1 facility of the firm; and

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

5 “(5) 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 \$200 million;

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

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

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

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

17 “285C.400. As used in ORS 285C.400 to 285C.420:

18 “(1) ‘Business firm’ has the meaning given that term in ORS 285C.050.

19 “(2) ‘Certified business firm’ means a business firm that has been certified
20 under ORS 285C.403.

21 “(3) ‘County with chronically low income or chronic unemployment’
22 means, based on the most recently revised annual average unemployment
23 rate or annual per capita income levels available, a county in which:

24 “(a) The median ratio of the per capita personal income of the county to
25 the equivalent annual personal income figure of the entire United States for
26 each year, as reported by the Bureau of Economic Analysis of the United
27 States Department of Commerce, is equal to or less than 0.75 over the last
28 10 years;

29 “(b) The median ratio of the unemployment rate of the county to the
30 equivalent rate of the entire United States for each year is at least 1.3 over

1 the last 20 years or over the last 10 years; or

2 “(c) The population of the county has experienced a negative net mi-
3 gration, irrespective of natural population change, since the most recent
4 federal decennial census occurring three or more years prior to the current
5 estimated population figure for the county, based on available population
6 statistics.

7 “(4) ‘Facility’ means the land, real property improvements and personal
8 property that are used:

9 “(a) At a location in a rural enterprise zone that is identified in the ap-
10 plication for certification under ORS 285C.403; and

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

13 “(5) ‘Qualified rural county’ means a county:

14 “(a) That is outside all metropolitan statistical areas, as defined by
15 the most recent federal decennial census; and

16 “(b) In which, on the most recently certified property tax assess-
17 ment roll, the total property taxes imposed by all taxing districts
18 within the county are equal to or greater than 1.3 percent of the total
19 assessed value of all taxable property located in the county.

20 “[5] (6) ‘Rural enterprise zone’ has the meaning given that term in ORS
21 285C.050.

22 “**SECTION 6. The amendments to ORS 285C.400 and 285C.412 by**
23 **sections 4 and 5 of this 2017 Act apply to exemptions initially allowed**
24 **under ORS 285C.409 (1)(c) on or after the effective date of this 2017 Act.**

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

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

1 Business Development Department for preliminary certification under this
2 section.

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

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

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

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

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

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

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

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

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

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

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

30 “(A) In competition with an existing business employing individuals

1 within the city, port or county; or

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

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

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

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

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

17 “(b) The proposed facility is intended to operate as a facility for at least
18 10 years following the date the facility becomes operational.

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

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

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

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

1 insurance benefits provided to employees of the city, port or county in which
2 the facility is to be located[.]; or

3 **“(iii) If the facility is to be located in a county that is outside all**
4 **metropolitan statistical areas, as defined by the most recent federal**
5 **decennial census, 130 percent of the county per capita personal income**
6 **of the county in which the facility is to be located determined as of**
7 **the date of the application for preliminary certification.**

8 **“(B) Notwithstanding subparagraph (A) of this paragraph, the av-**
9 **erage wage received by the newly hired employees must equal or ex-**
10 **ceed 100 percent of the average wage in the county.**

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

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

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

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

30 **“SECTION 8. The amendments to ORS 285C.503 by section 7 of this**

1 **2017 Act apply to applications filed under ORS 285C.503 on or after the**
2 **effective date of this 2017 Act.**

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

4 “285B.600. As used in ORS 285B.600 to 285B.620:

5 “(1) ‘Certified employer’ means an eligible employer certified under ORS
6 285B.605.

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

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

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

15 “(a) Has at least 150 employees;

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

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

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

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

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

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

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

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

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

14
