

A-Engrossed
Senate Bill 1516

Ordered by the Senate February 8
Including Senate Amendments dated February 8

Sponsored by Senators BURDICK, BEYER; Senators COURTNEY, DEMBROW, FREDERICK, GELSER, HASS, JOHNSON, MANNING JR, MONNES ANDERSON, MONROE, PROZANSKI, RILEY, ROBLAN, STEINER HAYWARD, TAYLOR, THOMSEN (at the request of Oregon Business Development Department) (Presession filed.)

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.

Establishes Small Business Expansion Loan Fund to be administered by Oregon Business Development Department for purpose of making loans of early stage growth capital to individuals and business entities with 50 or fewer employees that may not be able to obtain adequate traditional commercial or private financing to meet operational and growth needs.

Authorizes Oregon Business Development Commission to transfer moneys in Oregon Business Development Fund to Small Business Expansion Loan Fund when reasonable and financially appropriate for purpose of making loans under Act.

A BILL FOR AN ACT

1
2 Relating to a small business expansion loan fund; creating new provisions; and amending ORS
3 285B.092.

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

5 **SECTION 1. (1) Any individual or business entity with 50 or fewer employees may submit**
6 **to the Oregon Business Development Department an application to borrow moneys from the**
7 **Small Business Expansion Loan Fund established under section 3 of this 2018 Act for the**
8 **purpose of obtaining early stage growth capital when adequate traditional commercial or**
9 **private financing is not readily available to the applicant. The application must be submitted**
10 **in the manner, and contain or be accompanied by the information, prescribed by the de-**
11 **partment by rule.**

12 **(2) The department may charge fees in connection with an application submitted under**
13 **this section and, if the application is approved, with processing and monitoring a loan**
14 **agreement entered into pursuant to section 2 of this 2018 Act. Fees collected must be de-**
15 **posited in the Small Business Expansion Loan Fund and may be used to pay the adminis-**
16 **trative costs and expenses of the department in administering the fund and implementing the**
17 **provisions of sections 1 to 3 of this 2018 Act.**

18 **SECTION 2. (1) Upon receipt of an application submitted under section 1 of this 2018 Act,**
19 **the Oregon Business Development Department shall determine whether the applicant is eli-**
20 **gible to receive a loan from the Small Business Expansion Loan Fund established under**
21 **section 3 of this 2018 Act. The department may approve an application if, after investigation,**
22 **the department finds that:**

23 **(a) The applicant operates a business with 50 or fewer employees that is in the traded**

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 sector, as defined in ORS 285A.010, or that primarily supports traded sector industries;

2 (b) The loan has a reasonable prospect of repayment;

3 (c) The applicant demonstrates a reasonable potential for high growth that may support
4 economic diversification of the state or the region in which the business is conducted, or
5 increase employment opportunities or retain existing jobs in the state or region;

6 (d) The applicant demonstrates readiness for market; and

7 (e) There is or will be a sufficient amount of moneys in the Small Business Expansion
8 Loan Fund to make a loan to the applicant.

9 (2) If the department approves an application under this section, the department and the
10 applicant shall enter into a loan agreement that provides, at a minimum, the following:

11 (a) That loan proceeds may be used only to support acquisition of business assets or to
12 pay for business operating expenses. Loan proceeds may not be used to refinance personal
13 debt or debt not used for business purposes.

14 (b) A plan for repayment of moneys borrowed from the Small Business Expansion Loan
15 Fund. The department may specify the terms of repayment, singly or in any combination,
16 by royalties, on the basis of a percentage of business revenues, by installment payments of
17 principal, installment payments of interest or installment payments of both principal and
18 interest, or otherwise. The plan must set forth a schedule of payments, the term of the loan
19 and the manner of determining when loan payments are delinquent. The department, in its
20 sole discretion, shall establish the terms of repayment, which must be structured so that the
21 repayment plan and pricing:

22 (A) Based on the total repayment costs, do not directly compete with traditional com-
23 mercial lending services;

24 (B) Are commensurate with the risk taken by the department when making a loan to the
25 applicant; and

26 (C) To the greatest extent possible, are anticipated to cover operational expenses and
27 losses that the department may incur in the administration of the loan program.

28 (c) That the loan must be secured by sufficient collateral and security. The department
29 may specify by rule the types of collateral and security that are acceptable to secure repay-
30 ment of the loan, including but not limited to personal guarantees, business or corporate
31 guarantees and pledges of business and personal assets.

32 (d) That the liability of the state under the agreement may not exceed the availability
33 of moneys in the Small Business Expansion Loan Fund.

34 (3)(a) The Director of the Oregon Business Development Department, or the director's
35 designee, may approve loans of up to \$250,000 each. Loans greater than \$250,000 may be ap-
36 proved by the Oregon Business Development Commission, or the commission's designee.

37 (b) Immediately upon receiving loan proceeds, a successful applicant shall pay to the de-
38 partment an amount equal to one and one-half percent of the principal amount of the loan,
39 for deposit in the Small Business Expansion Loan Fund.

40 (4) Up to 20 percent of all moneys available for lending in the Small Business Expansion
41 Loan Fund on July 1 of each fiscal year may be reserved for loans to applicants who are in-
42 dividuals considered to have low to moderate household income and low to moderate personal
43 net worth, as defined by the department by rule, and who operate businesses:

44 (a) Controlled and with at least 51 percent ownership interest in the business by minori-
45 ties, women or honorably discharged veterans; or

1 (b) That are located outside of the Portland, Oregon, Metropolitan Statistical Area.

2 (5) The department may adopt rules that establish preferences in making loans under
3 this section to individuals or businesses owned by individuals in underserved communities
4 and in rural communities that may have insufficient access to diverse types of capital and
5 traditional commercial or private financing.

6 (6)(a) The department shall adopt rules to implement the provisions of this section.

7 (b) Before adopting rules under this subsection, the department shall consult with a
8 representative from an association representing banks in this state.

9 **SECTION 3.** (1) The Small Business Expansion Loan Fund is established in the State
10 Treasury, separate and distinct from the General Fund. Interest earned by the Small Busi-
11 ness Expansion Loan Fund shall be credited to the fund. All moneys in the fund are contin-
12 uously appropriated to the Oregon Business Development Department for the following
13 purposes:

14 (a) Payment of loans to applicants approved under section 2 of this 2018 Act.

15 (b) Payments to local development groups for the purposes of this section. A payment
16 under this paragraph may not exceed one percent of the principal loan amount from which
17 payment is required under section 2 (3)(b) of this 2018 Act.

18 (c) Administrative costs of the department incurred in marketing the loan program,
19 processing loan applications, investigating eligibility of applicants and servicing outstanding
20 loans.

21 (2) The Small Business Expansion Loan Fund consists of:

22 (a) Fees collected by the department under section 1 of this 2018 Act;

23 (b) Payments required under section 2 (3)(b) of this 2018 Act;

24 (c) Moneys repaid by recipients of loans from the fund, including interest on those mon-
25 eys and other receipts;

26 (d) Moneys appropriated to the fund by the Legislative Assembly;

27 (e) Moneys transferred to the fund by the Oregon Business Development Commission
28 from the Oregon Business Development Fund pursuant to section 4 of this 2018 Act;

29 (f) Income earned on moneys in the Small Business Expansion Loan Fund;

30 (g) Moneys transferred to the fund from the federal government, other state agencies
31 or local governments; and

32 (h) Any gifts or donations made to the State of Oregon for deposit in the fund.

33 (3) Notwithstanding any other provision of law, if at any time there are insufficient funds
34 in established business finance programs, the department may direct the transfer of unobli-
35 gated funds from the Small Business Expansion Loan Fund.

36 **SECTION 4.** The Oregon Business Development Commission may transfer moneys cred-
37 ited to the Oregon Business Development Fund created under ORS 285B.092 to the Small
38 Business Expansion Loan Fund established under section 3 of this 2018 Act when the com-
39 mission determines that the transfer is reasonable and financially appropriate and would not
40 impair the making of loans under ORS 285B.050 to 285B.098. Moneys transferred under this
41 section shall be used by the Oregon Business Development Department for the purpose of
42 making loans under section 2 of this 2018 Act.

43 **SECTION 5.** ORS 285B.092 is amended to read:

44 285B.092. (1) There is created within the State Treasury a revolving fund known as the Oregon
45 Business Development Fund, separate and distinct from the General Fund. Interest earned by the

1 **Oregon Business Development** Fund shall be credited to the fund. Moneys in *[this]* **the** fund are
2 continuously appropriated to the Oregon Business Development Commission for the following pur-
3 poses:

4 (a) Administrative expenses of the commission in marketing public business finance, processing
5 applications, investigating proposed business development projects and servicing outstanding loans.
6 In any one year, administrative expenses charged under this paragraph may not be greater than the
7 total revenues received in that year from fees provided for in subsection (2)(a) of this section, plus
8 four percent of the total asset value of the fund.

9 (b) Payment of loans to applicants under ORS 285B.050 to 285B.098.

10 (c) **Transfer of moneys to the Small Business Expansion Loan Fund established under**
11 **section 3 of this 2018 Act in accordance with section 4 of this 2018 Act.**

12 *[(c)]* (d) Actions the commission deems necessary to obtain repayment of outstanding loans.

13 *[(d)]* (e) Purchase or buyout of superior or prior liens or mortgages on or a security interest in
14 any business development project financed in part by a loan from the **Oregon Business Develop-**
15 **ment** Fund, when the commission determines:

16 (A) A loan from the fund is in default and is in liquidation or at risk of being forced into liqui-
17 dation by another creditor to the project; and

18 (B) The action is necessary to maintain or enhance the value of the commission's collateral in
19 the project.

20 (2) The fund created by subsection (1) of this section shall consist of:

21 (a) Fees as determined by the commission.

22 (b) Repayment of moneys loaned to counties, municipalities or persons from the fund, including
23 interest on those moneys or including other receipts.

24 (c) Payment of such moneys as may be appropriated to the fund by the Legislative Assembly.

25 (d) Moneys obtained from any interest accrued from funds.

26 (e) Moneys from any grant made to the fund by any federal agency.

27 (3) All repayments, interest and other receipts from outstanding indebtedness or any other
28 source shall be retained and accumulated in the fund and shall be used for the purposes of the fund.

29 (4) Notwithstanding any other **provision of** law, if at any time there are insufficient funds in
30 established business finance programs, the commission may direct the transfer of unobligated funds
31 from the **Oregon Business Development** Fund.

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