

## Details of technical changes to employee compensation criteria for business incentives in legislation

### GENERAL – Oregon Business Development Department (Business Oregon) and economic development

| A-ENGROSSED HOUSE<br>BILL 2053 (2019)               | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING  |
|---|---|
| Page 1, lines 15-18,<br>24-26 & line 1 on<br>page 2 | <p>Institute common definitions across the department’s three ORS chapters (in line 8):</p> <p style="padding-left: 40px;">(1) Average wage, against which a business firm’s employee compensation is compared, would be the most recent but final annual figure for the county or the state, whichever is less.* [Amendments clarified that Business Oregon not Employment Department is responsible for finality of figure used]</p> <p style="padding-left: 40px;">(2) Employee compensation would be only the taxable income paid to them – wages, salary, etc. – not including employer-paid benefits; currently benefits are included in certain tax incentive requirements based on statutory construction of the Attorney General’s office from 1994.</p> <hr style="border-top: 1px dotted black;"/> <p style="text-align: center;">(Also see miscellaneous below at the end of this document)</p> |

### PROGRAM – Business Retention and Expansion Program (BEP)

| A-ENGROSSED HOUSE<br>BILL 2053 (2019) | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING  |
|---------------------------------------|---|
| Page 5, lines 15-16                   | Confirms applicability of agency-wide definitions (see General above). [Added by amendments]  |
| Page 5, line 18                       | Eliminates reference unique to this program in defining compensation, which has same effect as proposed by bill. This program already uses state wage if lower than the county.   |
| Page 5, lines 19-23                   | Specifies (again, as this program currently operates) that the annual county wage for private-sector rather than all employers may be used by rule. Removal of government jobs lowers the average wage only by 1.2% statewide, but the effect tends to be especially pronounced in most rural counties.         |
| Page 5, lines 24-26                   | Clarifies consistent with practice that required hiring is based on full-time equivalent (FTE) employees in relation only to the business’s traded-sector operations.   |
| Page 5, lines 29-31 &<br>36-38        | Stipulates consistent with current interpretation of law that based on the department’s review of a business’s application, its minimum existing workforce can be anywhere in the world, and it needs to have traded-sector operations in Oregon, besides not otherwise being a retailer, now or in the future. |
| Page 5, lines 32-35                   | <b>SUBSTANTIVE CHANGE:</b> Cut in half for rural counties the in-state hiring objective by allowing new FTEs in any of the 23 counties currently outside a federally designated metropolitan statistical area (MSA) to count twice towards the goal of 50 or more new hires anywhere in Oregon.                 |

\* Only three counties, Clackamas (by 1%), Multnomah (by 12%) and Washington (by 33%), have wages higher than the state’s average wage in 2017.

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| <b>PROGRAM – Business Retention and Expansion Program (BEP)</b>   |  |
|---|--|
| A-ENGROSSED HOUSE<br>BILL 2053 (2019)   | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
| Page 5, line 45 & lines 1-8 on page 6   | Conveys more cleanly the effect of current law—compensation must average 150% or more of the county or state wage for hires in the 13 MSA counties, and 130%, in rural counties, in determining eligible employees and BEP awards including amounts recouped if actual payrolls fall short. It is further clarified that compensation is measured based on the <i>average</i> for/among the employees.   |
| Page 19, lines 38-39  | Sets statutory revisions as operative for BEP applications approved as of new law's effective date.  |
| Page 23, lines 1-2  | Officially incorporates BEP statutory series into ORS chapter 285B, as codified, ensuring applicability of agency-wide definitions (see General above). [Section added by amendments]  |
| <b>PROGRAM – Extension of standard exemption on qualified enterprise zone property from three to five years</b> |  |
| A-ENGROSSED HOUSE<br>BILL 2053 (2019)   | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
| Page 6, lines 10-11   | Confirms applicability of agency-wide definitions (see General above).   |
| Page 6, line 20   | Refers to common definition (see General above) for average wage to which employee compensation is compared. Existing law would be changed in common with BEP & RSIS, such that the annual average state wage is used if less than the county wage. Nevertheless, of 13 enterprise zones in counties with a higher wage, 10 are Portland-area urban zones subject to special conditions (see below).   |
| Page 6, lines 21-25   | Current law relies on the county location of the enterprise zone and uses the higher or highest county wage in a multi-county zone (of which six zones span two counties at present). Though not a substantive problem to date, this normally forgotten detail is becoming pointlessly disruptive. The change here would rely simply on the county where exempt property is located, as is often assumed and is consistent with the long-term rural zone program (below).  |
| Page 6, line 41   | Incidentally updates the definition of a federal enterprise zone (which may be designated as a state enterprise zone)—citing the newly created federal opportunity zones as an example and removing the long-defunct enterprise communities (one of which was once used in this way in Oregon).  |
| Page 7, lines 21-26   | Removes definition for qualified rural county (QRC). A QRC currently allows a business firm's new employees in the enterprise zone to have average wage + benefits that are as little as 130% rather than 150% of the county annual wage (applicable, however, to only 21 zones at the moment). Tracking QRCs has meant reaching out to several counties with differing systems to obtain timely assessment figures. In one case, it was later discovered in 2018 with release of statewide statistics that a county's general property tax rate had jumped unexpectedly, so that it met the 1.3% criterion. |

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| PROGRAM – Extension of standard exemption on qualified enterprise zone property from three to five years |   |
|--|---|
| A-ENGROSSED HOUSE<br>BILL 2053 (2019)  | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING  |
| Page 7, lines 21-26<br>(continued)   | Only 7 of 23 non-MSA counties are presently not QRCs. These seven counties tend to have serious economic disadvantages, and their generally lower tax rates may not be an offsetting attraction for business investment, in that site-specific tax rates can vary significantly.  |
| Page 8, line 2   | Makes grammatical change by Legislative Counsel explicating that the U.S. Census does not directly determine or designate federal metropolitan statistical areas (MSAs).  |
| Page 8, lines 9-11 & 15  | Moves text that allows for extended abatements only if the business firm–zone sponsor agreement is done before local approval of authorization application, to improve flow of subsequent text.   |
| Page 8, lines 15-20 & 33-45  | <p>Replaces criteria to receive extra two years of tax abatement (aside from local, additional requirements in the agreement), condensing requirement for all enterprise zones to 110% of current county/state wage over all five years. <b>Right now</b> in smaller-metro urban zones and in all rural zones, which number 62 out of 73, an authorized business firm must pay its new, full-time employees in the zone, on average:</p> <ol style="list-style-type: none"> <li>a) Wages at least equal to the current county wage in 4<sup>th</sup> and 5<sup>th</sup> year (since 2017), and</li> <li>b) Wage + benefits in all five years that are at least 150% – or 130% if any part of the enterprise zone is inside a QRC – of the county wage as set at the time of authorization.</li> </ol> <p>Average compensation at 110% approximates the current 130% criterion with benefits, assuming that full-time workers averaging at least \$20–30/hour would typically receive benefits. It would, however, generally become more stringent in later years, given annual growth in county/state average wages.</p> <p>Besides a single, uniform criterion in all cases, these changes also simplify matters by using:</p> <ol style="list-style-type: none"> <li>1) The most recent, final annual wage as available online from Employment Department rather than tracking wages from several years in the past, and</li> <li>2) Only taxable business payroll, which is easier to communicate and calculate without benefits (a difficulty since 1993); government-required payroll costs are presently excluded by rule.</li> </ol> |
| Page 8, lines 21-32,<br>page 9, lines 1-3  | <p>Drops current exclusion of 11 urban enterprise zones in Portland and Salem MSAs from these criteria. So, such a business firm would need to satisfy the 110% requirement above, unless locally established conditions are met, which any of the 17 urban zone sponsors may adopt by policy for all standard exemptions of any length under existing law. Like some existing policies, the bill proposes that local conditions need to be as stringent as requiring at least 85% of new employees to be paid at least 135% of the minimum wage, but local policies could be more stringent or designed in different/unique ways.</p> <p>This change would do four things: (1) ensure all larger-metro urban zones have a requirement; (2) apply the same exception to all urban zones; (3) set a bar for local flexibility in efforts to create lower-skill job opportunities in the traded-sector, and (4) clarify use of minimum wage relative to the schedule in state law, which has been a point of confusion with local policies that predate current wage tiers.</p>   |

## Details of technical changes to employee compensation criteria for business incentives in legislation

### PROGRAM – Extension of standard exemption on qualified enterprise zone property from three to five years

| A-ENGROSSED HOUSE<br>BILL 2053 (2019) | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
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| Page 9, lines 4-8, 17-19 & 35-39      | Deletes complex contingencies for updating the county wage from the date of authorization in cases of a significant delay in a proposed investment that eventually proceeds.   |
| Page 19, lines 40-44                  | Sets statutory revisions as operative not only for local extended abatement agreements executed as of the new law's effective date, but also those amended on or after that effective date that were previously executed under 2017 Laws (specifically chapter 610, House Bill 2066) which added some of the above complications of an additional wage-to-wage criterion and QRC distinctions. |

### PROGRAM – Long-term (7- to 15-year) exemption of rural enterprise zone facilities in an eligible county

| A-ENGROSSED HOUSE<br>BILL 2053 (2019)   | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING  |
|---|---|
| Page 9, lines 43-44   | Confirms applicability of agency-wide definitions (see General above).  |
| Page 10, line 20  | Incidentally, provides for commonality between standard exemption (above) and this program for when property is in service and the tax abatement can commence, such that it ultimately depends on the facility's being commercially operational as intended, rather than overreliance on occupancy permits.   |
| Page 10, line 22  | Makes grammatical change by Legislative Counsel explicating that the U.S. Census does not directly determine or designate federal metropolitan statistical areas (MSAs).  |
| Page 10, lines 40-41,<br>page 11, lines 17-29,<br>and page 12, lines 1-11,<br>23-24 & 32-33   | Restates more plainly and concisely the criteria for new full-time employees at the facility as in current law, clarifying that they are permanent/year-round jobs, but that they do not need to be hired directly by the business firm. The differing minimums relative to county population – 50, 35 & 10 new hires by no later than the third year after facility operations begin – would be listed together for regular cases at least 10 miles from Interstate Freeway 5 (I-5). Within 10 miles of I-5, a facility is required to hire 75 or more by the fifth such year. |
| Page 10, lines 43-45,<br>and lines 1-16 & 40-41<br>on page 11, and page 12,<br>lines 20-21 & 35-36  | Changes law, so that within this I-5 corridor all facility employees (including existing ones) would need to receive average compensation that is at least 115% of the most recent county/state annual wage no later than the fifth full year of operations. Currently: (1) average facility wage + benefits must be 150% of county wage as set when this requirement is first met, and (2) once it is first met, facility's average wage must also be at least 100% of the county wage, which updates annually.  |
| Please note:  |   |
| <ul style="list-style-type: none"> <li>• The 115% criterion would also carry over to two existing special cases (two or more concurrent facilities by the same firm, and 10-job minimum with \$200-million investment beyond I-5).</li> </ul> |   |

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### PROGRAM – Long-term (7- to 15-year) exemption of rural enterprise zone facilities in an eligible county

| A-ENGROSSED HOUSE<br>BILL 2053 (2019)   | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
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| Page 10, lines 43-45, and lines 1-16 & 40-41 on page 11, and page 12, lines 20-21 & 35-36 (continued) | <ul style="list-style-type: none"> <li>• A 110% average compensation requirement is proposed consistent with lower program criteria for regular cases beyond the I-5 corridor, as discussed below.</li> <li>• The law would be clarified to say that FTE employees are used for these computations.</li> <li>• QRC definition is retained for this program as one way to determine eligible counties; difficulty of tracking QRCs is manageable enough for this purpose—see above for page 7, lines 21-26.</li> </ul>  |
| Page 11, line 39  | Specifies that straight-line distance from I-5 is measured from the highway’s median.  |
| Page 11, lines 42-45  | <p>Provides for lower average compensation requirement beyond the I-5 corridor as noted above – 110% of county average each year rather than 115% by the fifth full year of facility operations. Existing program minimums for such facilities include hiring and investment costs that are generally half as high as in the I-5 corridor. This is also on par with modifications to the standard exemption’s extended abatement program—see above for Page 8, lines 15-20 &amp; 33-45—in that 110% without benefits approximates the 130% wage + benefits requirement.</p> <p>Of 26 eligible counties, 16 are qualified rural counties (QRCs), in which the 130% requirement rather than 150% currently applies to 21 of the 39 rural enterprise zones where this program is allowed in 2019. Of the remaining 18 zones, 9 would be subject to the proposed 115% requirement along I-5, leaving only 9 in rather economically lagging regions that should experience something of a decrease in stringency under. In addition with this program, the county/state wage that is the basis of comparison would continue to climb in the future for as much as 14 years.</p> |
| Page 12, lines 38-41  | Bolsters obligations of business firm to notify county assessor when the facility has satisfied respective requirements, including if any has not been met by the time it is too late. (This program is fairly light on statutory specification with respect to compliance and verification procedures)  |
| Page 13, lines 3-7  | Sums up more efficiently and completely how hiring and compensation criteria must be maintained for the remainder of the exemption period, in the context of enforcement and claw-back provisions.   |
| Page 19, lines 17, 18, 20 & 22  | Conforming revisions to the program’s now-expired corporate tax credits based on facility payroll.   |
| Page 19, line 45 & lines 1-4 on page 20   | Sets statutory revisions as operative not only for local agreements executed as of the new law’s effective date, but also those amended on or after that effective date for exemptions that began in 2018 under 2017 Laws (specifically chapter 610, HB 2066) which added some of the above complications of an additional wage-to-wage criterion and QRC distinctions.  |

## Details of technical changes to employee compensation criteria for business incentives in legislation

| PROGRAM – Oregon Investment Advantage (taxable income subtraction for facilities in certain counties) |  |
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| A-ENGROSSED HOUSE<br>BILL 2053 (2019)   | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
| Page 13, lines 43-45, and page 14, lines 10, 40-42 & 44   | Housekeeping and clarification with respect to business applications to the department for preliminary certification, including local objection process and new operations at an acquired, existing facility.  |
| Page 14, lines 21-38  | <p>Substitutes an array of criteria for a single, basic requirement: Compensation for each of a business firm’s new employees is at least 110% of the current county/state average wage. Also clarified is that all of this pertains only to five new full-time hires at the facility, consistent with current law.</p> <p>The array in current law requires that the new employees’ minimum wage + benefits are 150% or more of the county <i>per capita</i> income as set at the time preliminary certification, or ... 130% in a non-MSA county (like 13 of program’s current 15 counties), or ... as little as 100% if employees receive health insurance equivalent to local municipal employees’ (which has proven tough to even use). In addition, new employees must receive an average wage at least equal to the current, updated county <i>average wage</i>.</p> <p>Besides one criterion, these changes simplify and align better with other programs, namely, by eliminating inclusion of benefits and other complexities, and by basing the requirement on the latest county annual wage rather than an historic per capita income figure.</p> <p>If anything, this might make matters more stringent, albeit with respect to only five employees, in that relative to the prior discussion with enterprise zones—see above for Page 8, lines 15-20 &amp; 33-45:</p> <ul style="list-style-type: none"> <li>• Only two of program’s current 15 counties are in an MSA and subject to the 150% criterion;</li> <li>• Requiring minimum compensation of 110% or more is a higher standard than average wages at 100% or the 100% option with benefits that include health insurance;</li> <li>• Although it varies, the weighted mean of the 15 counties’ average wage exceeds that of their per capita incomes by \$144, and</li> <li>• County wage will rise over at least 12 years compared to locking in base with initial application.</li> </ul> |
| Page 15, lines 11-14, 26 & 28-31  | <p>Moves references for defined terms consistent with current Legislative Counsel practice.</p> <p>[Amendments removed substantive change that would have capped at \$10 million annually the amount of taxable corporate income subject to subtraction by taxpayer, which was outside the bill’s main subject matter of employee compensation. The program may, however, have very large taxpayers whose revenue impacts greatly exceed what was once envisioned.]</p>  |
| Page 17, lines 32-33, 35, 43, 44, and page 19, lines 1-3  | Confirms applicability of agency-wide definitions (see General above), for which Legislative Counsel added ORS 285C.500 to the bill. Language regarding how eligible counties are determined is also cleaned up, clarifying that statistics from three most recent years available are used.   |
| Page 20, lines 5-8  | Sets statutory revisions as operative for businesses with preliminary certification applications that are made since July 1, 2017, to sidestep complications under 2017 Laws (specifically chapter 610, HB 2066).  |

## Details of technical changes to employee compensation criteria for business incentives in legislation

| PROGRAM – Regionally Significant Industrial Site (RSIS) <sup>†</sup> |  |
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| A-ENGROSSED HOUSE<br>BILL 2053 (2019)                                | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
| Page 15, lines 33-34   | Confirms applicability of agency-wide definitions (see General above). [Added by amendments]   |
| Page 15, lines 35-39   | <p>Establishes that Business Oregon may by rule use the county average wage for the private sector rather than for all employers. Again, removal of government jobs lowers the average wage only by 1.2% statewide, but the effect tends to be especially pronounced in rural counties. This would further align the RSIS program more closely with BEP (see above).</p> <p>This program also already uses the annual state wage if lower than that of the county, as is currently relevant only in the three METRO counties. In addition, it is noted that the county wage (see General above) is based on location of the site.</p>  |
| Page 15, lines 40-45 & lines 1-7 on page 16                          | <p>Changes definition of ‘eligible employer’ with respect to traded-sector operations to specify:</p> <ul style="list-style-type: none"> <li>• Effect of current law more cleanly, in that there must be at least 25 new employees in a rural area, or otherwise 50 with compensation averaging 150% or more of the county/state wage.</li> <li>• That required hiring is based on full time equivalent (FTE) employees, consistent with practice.</li> <li>• Hiring needs to occur after the site’s designation as regionally significant.</li> <li>• Rural area is defined like agency funding programs—<i>i.e.</i>, outside urban growth boundary (UGB) of a city with 30,000 or more in population; current RSIS definitions (which seem partly derived from enterprise zones) do not account for some areas inside an urban (MSA) counties.</li> <li>• <b>SUBSTANTIVE CHANGES</b> in law that would— <ul style="list-style-type: none"> <li>–allow site-wide satisfaction of hiring threshold in aggregate among multiple employers, and</li> <li>–reduce for rural areas the average compensation criterion to 130% for rural areas, like with BEP.</li> </ul> </li> </ul> |
| Page 16, lines 9-10  | [Amendments restored text between inserted commas to ensure that off-site employees are not included; commas clarify that jobs created before first tax year are not excluded]   |
| Page 16, lines 34-41   | Removes definitions rendered obsolete by changes through use of agency-wide terms [including reference to traded-sector term in ORS 285A.010 by amendments].   |

<sup>†</sup> These changes to RSIS are statutorily out of order in the bill and would normally come after BEP and before enterprise zones. Originally, to avoid potential conflict and confusion with another bill, RSIS was left out. Legislative Counsel inserted ORS 285B.626 to make the grammatical change, explicating that the U.S. Census does not directly determine or designate MSAs, in text now to be deleted on page 16, lines 35 & 38. At that point, it was decided to propose further revisions to the section consistent with treatment of required employee compensation in the bill for business incentive programs (of which RSIS is not such a program).

## Details of technical changes to employee compensation criteria for business incentives in legislation

| PROGRAM – Regionally Significant Industrial Site (RSIS) <sup>†</sup>                            |  |
|---|--|
| A-ENGROSSED HOUSE<br>BILL 2053 (2019)   | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
| Page 20, lines 9–11   | Sets statutory revisions as operative for estimates of incremental personal income tax revenues with the new law's effective date.   |
| Page 23, lines 3–4  | Officially incorporates RSIS statutory series into ORS chapter 285B, as codified, ensuring applicability of agency-wide definitions (see General above). [Section added by amendments]   |
| MISCELLANEOUS –   |  |
| A-ENGROSSED HOUSE<br>BILL 2053 (2019)   | EXPLANATION, COMMENTS REGARDING ISSUES WITH SIMPLIFICATION, CLARIFICATIONS, HOUSEKEEPING   |
| Page 1, line 8; page 2, lines 24–33; page 3, lines 19 & 42; page 4, line 44, and page 5, line 5 | Legislative Counsel added these revisions to update the statutes for the prior separation of the Oregon Tourism Commission (Travel Oregon) from Business Oregon, defining terms independently for Travel Oregon, as well as cessation of Oregon Benchmarks program some years ago. |
| Page 16, line 45  | Makes grammatical change by Legislative Counsel explicating that the U.S. Census does not directly determine or designate federal metropolitan statistical areas (MSAs) for enterprise zone designation.   |
| Page 21, lines 13–14, and page 22, line 38  | Removes references to definitions in sections that are already part of ORS chapter 285B and are thus already covered by ORS 285A.010. [Added with amendments by Legislative Counsel]   |
| Page 23, lines 5–6  | Sets effective date of legislation 90 days <i>post sine die</i> .  |