

# House Bill 2699

Sponsored by Representatives NOSSE, MCKEOWN, Senators BENTZ, FREDERICK; Representatives POWER, SMITH DB, Senator THOMSEN (Pre-session 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 **as introduced**.

Provides that brownfield granted property tax incentive benefit under chapter 96, Oregon Laws 2016, is eligible for special assessment, exemption or partial exemption granted under other law for which such property is eligible. Provides that total amount of all property tax benefits granted to brownfield under any law may not reduce property tax liability below zero for any property tax year. Provides that eligible costs of brownfield for purposes of determining property tax incentive benefit under chapter 96, Oregon Laws 2016, shall be reduced by any special assessment, exemption or partial exemption granted to brownfield under any law other than chapter 96, Oregon Laws 2016. Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to property tax incentive benefits for brownfields; creating new provisions; amending  
3 sections 1 and 3, chapter 96, Oregon Laws 2016; and prescribing an effective date.

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

5 **SECTION 1.** Section 1, chapter 96, Oregon Laws 2016, is amended to read:

6 **Sec. 1.** (1) The governing body of a city or county, or of a port organized under ORS chapter  
7 777 or 778, may adopt an ordinance or resolution providing for programs that offer either or both  
8 of the following ad valorem property tax incentive benefits:

9 (a) Special assessment of any land that constitutes a brownfield, as defined in ORS 285A.185,  
10 located within the respective jurisdiction of the city, county or port.

11 (b) Exemption or partial exemption of improvements and personal property on land described in  
12 paragraph (a) of this subsection.

13 (2)(a) An ordinance or resolution adopted under this section shall specify the eligibility re-  
14 quirements for the programs, including, but not limited to, a showing by the owner of a brownfield  
15 in an application filed under section 2, *[of this 2016 Act]* **chapter 96, Oregon Laws 2016:**

16 (A) That the owner or authorized representative of the owner has obtained, as applicable, a site  
17 evaluation, preliminary assessment, confirmation of release or remedial investigation of the  
18 brownfield prepared by a geologist registered under ORS 672.505 to 672.705 or a professional engi-  
19 neer as defined in ORS 672.002.

20 (B) If the site evaluation, preliminary assessment, confirmation of release or remedial investi-  
21 gation required under subparagraph (A) of this paragraph concludes that a remedial action, as de-  
22 fined in ORS 465.200, is required in response to the release of a hazardous substance at the  
23 brownfield, that the remedial action shall be conducted pursuant to an agreement with, an order of  
24 or a program or process authorized by the Department of Environmental Quality under ORS 465.200  
25 to 465.455 and 465.900.

26 (C) That the owner is in compliance with any agreement, order, program or process governing  
27 the conduct of the remedial action under subparagraph (B) of this paragraph.

**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 (D) That the report of the site evaluation, preliminary assessment, confirmation of release or  
 2 remedial investigation required under subparagraph (A) of this paragraph, and a report prepared by  
 3 a geologist or professional engineer showing that any remedial action has complied with any appli-  
 4 cable agreement, order, program or process authorized by the department and with any other ap-  
 5 plicable state law administered by the department, have been submitted to the department.

6 (b) Notwithstanding paragraph (a) of this subsection, property is not eligible for tax incentive  
 7 programs adopted pursuant to this section if, at the time an application for the property is filed  
 8 under section 2, *[of this 2016 Act]* **chapter 96, Oregon Laws 2016**, the property is:

9 (A) Subject to assessment under ORS 308.505 to 308.681;

10 (B) State-appraised industrial property as defined in ORS 306.126; or

11 (C) A federal Superfund site.

12 (c) For any property tax year[,]:

13 (A) Property **that is granted one or more tax incentive program benefits under this section**  
 14 **may be granted** any *[other]* special assessment, exemption or partial exemption **for which the**  
 15 **property is eligible under any other law** *[may not be granted benefits under a tax incentive program*  
 16 *adopted pursuant to this section].*

17 (B) **The total amount of all special assessments, exemptions and partial exemptions**  
 18 **granted to property may not reduce the property tax liability of the property below zero.**

19 (3)(a)(A) An ordinance or resolution adopted under this section shall specify the period, not to  
 20 exceed 10 years, for which the property tax incentive program benefits may be granted.

21 (B) The ordinance or resolution may allow for an additional period, not to exceed five years,  
 22 based on criteria set forth in the ordinance or resolution.

23 (b) Property may be granted a tax incentive program benefit under this section until the earlier  
 24 of:

25 (A) The expiration of the period for which the property is eligible for the benefit under para-  
 26 graph (a) of this subsection; or

27 (B) The date on which the dollar amount of the benefit equals the eligible costs for the property  
 28 as determined under section 3, *[of this 2016 Act]* **chapter 96, Oregon Laws 2016**.

29 (c) If a city, county or port adopts both a special assessment and an exemption or partial ex-  
 30 emption program, the two program benefits must be granted concurrently for any property.

31 (d) The city, county or port may adopt any other provisions relating to the property tax incen-  
 32 tive programs that do not conflict with the requirements of sections 1 to 7, *[of this 2016 Act]*  
 33 **chapter 96, Oregon Laws 2016**.

34 (4)(a) The city, county or port may amend or repeal an ordinance or resolution adopted under  
 35 this section at any time.

36 (b) Notwithstanding paragraph (a) of this subsection, property that is receiving a tax incentive  
 37 program benefit under this section when the ordinance or resolution is amended or repealed shall  
 38 continue to receive the benefit pursuant to the provisions of the ordinance or resolution in effect  
 39 when the property was initially granted the benefit.

40 (5)(a) An ordinance or resolution adopted under this section does not become effective unless  
 41 the rates of taxation of the taxing districts located within territory of the city, county or port whose  
 42 governing boards agree to the property tax incentive programs, when combined with the rate of  
 43 taxation of the city, county or port that adopted the ordinance or resolution, equal 75 percent or  
 44 more of the total combined rate of taxation within the territory of the city, county or port.

45 (b) If an ordinance or resolution becomes effective pursuant to paragraph (a) of this subsection,

1 the property tax incentive programs shall be effective for the tax levies of all taxing districts in  
 2 which a brownfield that is granted a property tax incentive program benefit is located.

3 **SECTION 2.** Section 3, chapter 96, Oregon Laws 2016, is amended to read:

4 **Sec. 3.** (1) For purposes of sections 1 to 7, [of this 2016 Act] **chapter 96, Oregon Laws 2016,**  
 5 eligible costs equal the discounted present value of estimated after-tax costs directly related to the  
 6 remaining work necessary to remove, contain or treat the contamination of a brownfield.

7 (2) Eligible costs may include:

8 (a) Remedial action costs as defined in ORS 465.200, including costs for a site evaluation, pre-  
 9 liminary assessment, confirmation of release or remedial investigation performed by a geologist or  
 10 professional engineer without the oversight or approval of the Department of Environmental Qual-  
 11 ity.

12 (b) The costs of demolishing existing improvements on the brownfield as necessary for removal  
 13 or remedial action, as those terms are defined in ORS 465.200.

14 (c) The costs of abating the release of hazardous substances within existing improvements on  
 15 the brownfield.

16 (d) The costs of new improvements constructed on the brownfield for the purpose of containing  
 17 hazardous substances or limiting exposure to the release of hazardous substances.

18 (e) The costs of managing, handling, removing, treating and disposing of solid waste, environ-  
 19 mental media and building materials containing hazardous substances in the course of redeveloping  
 20 the brownfield.

21 (f) The costs of environmental audits, surety bonds, insurance, engineering and legal fees and  
 22 monitoring other than water monitoring.

23 (3) For purposes of section 2 (2)(e), [of this 2016 Act] **chapter 96, Oregon Laws 2016,** doc-  
 24 umentation of eligible costs may include, but is not limited to, bids, cost estimates, remediation  
 25 plans, copies of contracts, notes and minutes of contract negotiations, and accounts, invoices, sales  
 26 receipts and other payment records of purchases, sales, leases and other transactions relating to the  
 27 eligible costs.

28 (4) Eligible costs shall be reduced by the amount of:

29 (a) Any state, federal or other grant moneys, tax credits, insurance proceeds or legal settle-  
 30 ments received by the owner of the brownfield to offset eligible costs for the brownfield; **and**

31 (b) **Any special assessment, exemption or partial exemption granted to the property,**  
 32 **other than those granted under sections 1 to 7, chapter 96, Oregon Laws 2016.**

33 **SECTION 3.** The amendments to sections 1 and 3, chapter 96, Oregon Laws 2016, by  
 34 sections 1 and 2 of this 2019 Act apply to property tax years beginning on or after July 1,  
 35 2020.

36 **SECTION 4.** This 2019 Act takes effect on the 91st day after the date on which the 2019  
 37 regular session of the Eightieth Legislative Assembly adjourns sine die.