

# House Bill 2324

Sponsored by Representative FAHEY (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**.

Expands definition of "funds of a public agency" to include dollar amount of tax credits or tax abatements for purposes of public contracting law.

Directs Oregon Business Development Department to adopt rules under which enterprise zone sponsor may promote manufacturing related to renewable and clean energy technology in zone.

Requires business firms to show compliance with respect to certain conditions related to labor and employment for eligibility for certain enterprise zone property tax exemption programs. Requires such business firms receiving property tax benefits with value above threshold and certain subcontractors to abide by additional conditions related to hiring and employment.

Requires person paying fee in lieu of property taxes on solar project property to agree that businesses performing work on solar project shall comply with certain conditions related to labor and employment.

Directs Oregon Business Development Department to create clean energy manufacturing initiative to promote clean energy manufacturing. Authorizes department to make loans to eligible business firms for such purpose. Establishes Oregon Clean Energy Manufacturing Initiative Fund to fund loans. Allocates moneys for deposit into fund.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax benefits; creating new provisions; amending ORS 279C.810, 285C.066, 285C.140,  
3 285C.240, 285C.403 and 285C.420 and section 1, chapter 571, Oregon Laws 2015; and prescribing  
4 an effective date.

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

6 **SECTION 1.** ORS 279C.810 is amended to read:

7 279C.810. (1) As used in this section:

8 (a) "Funds of a public agency" does not include:

9 (A) Funds provided in the form of a government grant to a nonprofit organization, unless the  
10 government grant is issued for the purpose of construction, reconstruction, major renovation or  
11 painting;

12 (B) Building and development permit fees paid or waived by the public agency;

13 *[(C) Tax credits or tax abatements;]*

14 *[(D)]* (C) Land that a public agency sells to a private entity at fair market value;

15 *[(E)]* (D) The difference between:

16 (i) The value of land that a public agency sells to a private entity as determined at the time of  
17 the sale after taking into account any plan, requirement, covenant, condition, restriction or other  
18 limitation, exclusive of zoning or land use regulations, that the public agency imposes on the de-  
19 velopment or use of the land; and

20 (ii) The fair market value of the land if the land is not subject to the limitations described in  
21 sub-subparagraph (i) of this subparagraph;

22 *[(F)]* (E) Staff resources of the public agency used to manage a project or to provide a principal  
23 source of supervision, coordination or oversight of a project;

**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 [(G)] (F) Staff resources of the public agency used to design or inspect one or more components  
 2 of a project;

3 [(H)] (G) Moneys derived from the sale of bonds that are loaned by a state agency to a private  
 4 entity, unless the moneys will be used for a public improvement;

5 [(I)] (H) Value added to land as a consequence of a public agency's site preparation, demolition  
 6 of real property or remediation or removal of environmental contamination, except for value added  
 7 in excess of the expenses the public agency incurred in the site preparation, demolition or remedi-  
 8 ation or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to  
 9 279C.870; or

10 [(J)] (I) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289  
 11 or ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

12 (b) "Nonprofit organization" means an organization or group of organizations described in sec-  
 13 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of  
 14 the Internal Revenue Code.

15 (2) ORS 279C.800 to 279C.870 do not apply to:

16 (a) Projects for which the contract price does not exceed \$50,000. In determining the price of a  
 17 project, a public agency:

18 (A) May not include the value of donated materials or work performed on the project by indi-  
 19 viduals volunteering to the public agency without pay; and

20 (B) Shall include the value of work performed by every person paid by a contractor or subcon-  
 21 tractor in any manner for the person's work on the project.

22 (b) Projects for which no funds of a public agency are directly or indirectly used. In accordance  
 23 with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries shall adopt rules to  
 24 carry out the provisions of this paragraph.

25 (c) Projects:

26 (A) That are privately owned;

27 (B) That use funds of a private entity;

28 (C) In which less than 25 percent of the square footage of a completed project will be occupied  
 29 or used by a public agency; and

30 (D) For which less than \$750,000 of funds of a public agency are used.

31 (d) Projects for residential construction that are privately owned and that predominantly provide  
 32 affordable housing. As used in this paragraph:

33 (A) "Affordable housing" means housing that serves occupants whose incomes are no greater  
 34 than 60 percent of the area median income or, if the occupants are owners, whose incomes are no  
 35 greater than 80 percent of the area median income.

36 (B) "Predominantly" means 60 percent or more.

37 (C) "Privately owned" includes:

38 (i) Affordable housing provided on real property owned by a public agency if the real property  
 39 and related structures are leased to a private entity for 50 or more years; and

40 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-  
 41 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or  
 42 managing member and the housing authority is not a majority owner in the partnership, nonprofit  
 43 corporation or limited liability company.

44 (D) "Residential construction" includes the construction, reconstruction, major renovation or  
 45 painting of single-family houses or apartment buildings not more than four stories in height and all

1 incidental items, such as site work, parking areas, utilities, streets and sidewalks, pursuant to the  
 2 United States Department of Labor’s “All Agency Memorandum No. 130: Application of the Standard  
 3 of Comparison “Projects of a Character Similar” Under Davis-Bacon and Related Acts,” dated  
 4 March 17, 1978. However, the commissioner may consider different definitions of residential con-  
 5 struction in determining whether a project is a residential construction project for purposes of this  
 6 paragraph, including definitions that:

7 (i) Exist in local ordinances or codes; or

8 (ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States  
 9 Department of Labor’s description of residential construction.

10 **SECTION 2.** ORS 285C.066 is amended to read:

11 285C.066. The Oregon Business Development Department:

12 (1) May adopt rules related to:

13 [(1)] (a) The consent required by resolution of the governing body of a city, county or port under  
 14 ORS 285C.065 (1) in order for a city, county or port to designate an enterprise zone.

15 [(2)] (b) The number of enterprise zones that may be designated within a city or other jurisdic-  
 16 tion.

17 (2) **Shall adopt rules under which the sponsor of an enterprise zone designated under ORS**  
 18 **285C.065 or 285C.250 may promote manufacturing related to renewable and clean energy**  
 19 **technology by business firms in the enterprise zone.**

20 **SECTION 3.** Section 4 of this 2021 Act is added to and made a part of ORS 285C.050 to  
 21 **285C.250.**

22 **SECTION 4.** (1) A responsible business firm is a business firm that:

23 (a) **Demonstrates a history of compliance with state and federal laws relating to labor**  
 24 **or employment; and**

25 (b) **Makes a commitment with respect to the business firm’s current and proposed busi-**  
 26 **ness operations within the boundary of an enterprise zone that the business firm:**

27 (A) **Will not require employees employed by, or other workers who contract with, the**  
 28 **business firm to enter into an agreement that includes a mandatory arbitration clause or**  
 29 **any other provision that requires the employees or workers to submit to arbitration all or**  
 30 **certain disputes that may arise between the business firm and employees or workers of the**  
 31 **business firm;**

32 (B) **Will determine whether the business firm’s workers have been correctly classified**  
 33 **under the criteria set forth in ORS 670.600;**

34 (C) **Will not use an employment agency, as defined in ORS 658.005, or any other agency**  
 35 **to procure temporary workers except as necessary to respond to a short-term labor short-**  
 36 **age;**

37 (D) **Will not prevent, disrupt or otherwise interfere with the employees’ right to organize**  
 38 **for the purposes of collective bargaining; and**

39 (E) **Will adopt a hiring policy that is made in accordance with the provisions of ORS**  
 40 **659A.360.**

41 (2) **The Oregon Business Development Department may require an eligible business firm**  
 42 **to provide any documentation or other information the department considers necessary for**  
 43 **determining whether the eligible business firm is a responsible business firm.**

44 **SECTION 5.** ORS 285C.140 is amended to read:

45 285C.140. (1)(a) Any eligible business firm seeking to have property exempt from property taxa-

1 tion under ORS 285C.175 shall, before the commencement of direct site preparation activities or the  
2 construction, addition, modification or installation of qualified property in an enterprise zone, and  
3 before the hiring of eligible employees, apply for authorization under this section.

4 (b) The application shall be made on a form prescribed by the Department of Revenue and the  
5 Oregon Business Development Department.

6 (c) The application shall be filed with the sponsor of the zone. A sponsor may require that the  
7 application filed with the sponsor be accompanied by a filing fee. If required, the filing fee may not  
8 exceed the greater of \$200 or one-tenth of one percent of the value of the investment in qualified  
9 property that is proposed in the application for authorization. The filing fee may be required for the  
10 filing of applications only after the sponsor adopts a policy, consistent with Oregon Business De-  
11 velopment Department rules, authorizing the imposition of the filing fee.

12 (2) The application shall contain the following information:

13 (a) A description of the nature of the firm's current and proposed business operations inside the  
14 boundary of the enterprise zone;

15 (b) A description and estimated value of the qualified property to be constructed, added, modi-  
16 fied or installed inside the boundary of the enterprise zone;

17 (c) The number of employees of the firm that the firm employs within the enterprise zone, av-  
18 eraged over the previous 12 months, and an estimate of the number of employees that the firm will  
19 hire;

20 **(d) A showing that the eligible business firm is a responsible business firm under section**  
21 **4 of this 2021 Act;**

22 [(d)] (e) A commitment to meet all requirements of ORS 285C.200 and 285C.215, and to verify  
23 compliance with these requirements;

24 [(e)] (f) A commitment to satisfy all additional conditions for authorization that are imposed by  
25 the enterprise zone sponsor under ORS 285C.150, 285C.155 or 285C.205 or pursuant to an agreement  
26 entered into under ORS 285C.160, and to verify compliance with these additional conditions;

27 [(f)] (g) A commitment to renew the application, consistent with ORS 285C.165, every two years  
28 while the zone exists if the firm has not filed a claim under ORS 285C.220 that is based on the ap-  
29 plication; and

30 [(g)] (h) Any other information considered necessary by the Department of Revenue and the  
31 Oregon Business Development Department.

32 (3) After an application is submitted to a sponsor, the business firm may revise or amend the  
33 application. An amendment or revision may not be made on or after January 1 of the first assess-  
34 ment year for which the qualified property associated with the application is exempt under ORS  
35 285C.175.

36 (4) If an application for authorization appears to be complete and the proposed investment ap-  
37 pears to be eligible for authorization, the sponsor and the business firm shall conduct a preauthori-  
38 zation conference. The assessor of the county in which the property will be located shall be timely  
39 notified and have the option to participate in the conference. The conference shall:

40 (a) Identify issues with the potential to affect compliance with relevant exemption requirements,  
41 including but not limited to enterprise zone boundary amendments;

42 (b) Arrange for methods and procedures to establish and verify compliance with applicable re-  
43 quirements; and

44 (c) Identify the person who is obligated to notify the county assessor if requirements are not  
45 satisfied.

1 (5) Upon completion of the preauthorization conference required under subsection (4) of this  
 2 section, the sponsor shall prepare a written summary of the conference, attach the summary to the  
 3 application and forward the application to the county assessor for review.

4 (6) Following the preauthorization conference under subsection (4) of this section, the sponsor  
 5 and the county assessor shall authorize the business firm by approving the application, if the spon-  
 6 sor and county assessor determine that:

7 (a) The current or proposed operations of the business firm in the enterprise zone result in the  
 8 firm being eligible under ORS 285C.135; and

9 (b) The firm has made the commitments and provided the other information required under  
 10 subsection (2) of this section.

11 (7) If the business firm seeking authorization is an eligible business firm described in ORS  
 12 285C.135 (5)(b), the sponsor must, as a condition of approving the application, make a formal finding  
 13 that the business firm is an eligible business firm under ORS 285C.135 and that the size of the pro-  
 14 posed investment, the employment at the facility of the firm or the nature of the activities to be  
 15 undertaken by the firm within the enterprise zone will significantly enhance the local economy,  
 16 promote the purposes for which the zone was created and increase employment within the zone.

17 (8) The approval of both the sponsor and the county assessor under this section shall be prima  
 18 facie evidence that the qualified property of the business firm will receive the property tax ex-  
 19 emption under ORS 285C.175. In approving the application, the sponsor and county assessor shall  
 20 provide proof of approval as directed by the Oregon Business Development Department.

21 (9) If the sponsor or county assessor fails or refuses to authorize the business firm, the business  
 22 firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall  
 23 provide copies of the firm's appeal to the sponsor, county assessor, the Department of Revenue and  
 24 the Oregon Business Development Department.

25 (10) Authorization under this section does not ensure that property constructed, added, modified  
 26 or installed by the authorized business firm will receive property tax exemption under ORS 285C.175.  
 27 The sponsor and the county assessor are not liable in any way if the Department of Revenue or the  
 28 county assessor later determines that an authorized business firm does not satisfy the requirements  
 29 for an exemption on qualified property.

30 (11) Notwithstanding subsection (1) of this section, if an eligible business firm has begun or  
 31 completed the construction, addition, modification or installation of property that meets the quali-  
 32 fications of ORS 285C.180, and the property has not yet been subject to property tax after having  
 33 been placed in service, then, for purposes of ORS 285C.050 to 285C.250, the firm shall be authorized  
 34 under this section if the firm files an application that is allowed under subsection (12) of this section  
 35 and is otherwise authorized under this section.

36 (12) Late submission of an application under this section is allowed if:

37 (a) A rule permits late submissions of applications under this section; or

38 (b) The Department of Revenue waives filing deadline requirements under this section. The de-  
 39 partment shall issue a letter to the eligible business firm and zone sponsor setting forth the waiver  
 40 under this paragraph.

41 **SECTION 6.** ORS 285C.403 is amended to read:

42 285C.403. (1) Any business firm proposing to apply for the tax exemption provided under ORS  
 43 285C.409 shall, before the commencement of construction or installation of property or improvements  
 44 at a location in a rural enterprise zone and before the hiring of employees, apply for certification  
 45 with the sponsor of the zone and with the county assessor of the county or counties in which the

1 zone is located. The application shall be made on a form prescribed by the Department of Revenue.

2 (2) The application shall contain the following information:

3 (a) A description of the firm's proposed business operations and facility in the rural enterprise  
4 zone;

5 (b) A description and estimated cost or value of the property or improvements to be constructed  
6 or installed at the facility;

7 (c) An estimate of the number of employees at the facility that will be hired by the firm;

8 **(d) A showing that the business firm is a responsible business firm under section 4 of this**  
9 **2021 Act;**

10 [(d)] (e) A commitment to meet the applicable requirements of ORS 285C.412;

11 [(e)] (f) A commitment to satisfy all additional conditions agreed to pursuant to the written  
12 agreement between the rural enterprise zone sponsor and the business firm under subsection (3)(c)  
13 of this section; and

14 [(f)] (g) Any other information considered necessary by the Department of Revenue.

15 (3) The sponsor and the county assessor shall certify the business firm by approving the appli-  
16 cation if the sponsor and the county assessor determine that all of the following requirements have  
17 been met:

18 (a) The governing body of the county and city in which the facility is located has adopted a  
19 resolution approving the property tax exemption for the facility.

20 (b) The business firm has committed to meet the applicable requirements of ORS 285C.412.

21 (c) The business firm has entered into a written agreement with the sponsor of the rural enter-  
22 prise zone that may include any additional requirements that the sponsor may reasonably request,  
23 including but not limited to contributions for local services or infrastructure benefiting the facility.  
24 The written agreement shall state the number of consecutive tax years for which the facility, fol-  
25 lowing commencement of operations, is to be exempt from property tax under ORS 285C.409. The  
26 agreement may not provide for a period of exemption that is less than seven consecutive tax years  
27 or more than 15 consecutive tax years. If the agreement is silent on the number of tax years for  
28 which the facility is to be exempt following placement in service, the exemption shall be for seven  
29 consecutive tax years.

30 (d) When the written agreement required under paragraph (c) of this subsection is executed, the  
31 facility is located in:

32 (A) A qualified rural county; or

33 (B) A county with chronically low income or chronic unemployment, based on the most recently  
34 revised annual data available.

35 (4) The approval of an application by both the sponsor and the county assessor under subsection  
36 (3) of this section shall be prima facie evidence that the business firm will qualify for the property  
37 tax exemption under ORS 285C.409.

38 (5) The sponsor and the county assessor shall provide copies of an approved application to the  
39 applicant, the Department of Revenue and the Oregon Business Development Department.

40 (6) If the sponsor or the county assessor fails or refuses to certify the business firm, the business  
41 firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall  
42 provide copies of the firm's appeal to the sponsor, the county assessor, the Oregon Business Devel-  
43 opment Department and the Department of Revenue.

44 **SECTION 7. The amendments to ORS 285C.140 and 285C.403 by sections 5 and 6 of this**  
45 **2021 Act apply to applications filed on or after the effective date of this 2021 Act.**

**SECTION 8.** ORS 285C.240 is amended to read:

285C.240. (1) *[The county assessor of the county in which a qualified business firm is situated and the sponsor shall be notified in writing by the]* **A** qualified business firm or *[by]* the owner of *[the]* qualified property leased by *[the]* **a** qualified business firm **shall notify the assessor of the county in which the qualified business firm is located and the sponsor in writing of any of the following events**, not later than July 1 following the assessment year for which the exemption is claimed and in which *[one of the following events]* **the event** occurs:

(a) Property granted exemption from taxation under ORS 285C.175 is sold, exchanged, transported or otherwise disposed of for use outside the enterprise zone or for use by an ineligible business firm;

(b) The qualified business firm closes or so reduces eligible operations that the reduction constitutes a substantial curtailment of operations under ORS 285C.210, unless a substantial curtailment of operations is permitted under ORS 285C.203;

(c) The qualified business firm fails to meet any of the qualifications required under ORS 285C.200;

(d) The qualified business firm fails to meet any condition that the firm is required to satisfy under ORS 285C.150, 285C.155, 285C.203 or 285C.205 or any term of an agreement entered into with the sponsor under ORS 285C.160 with which the firm had agreed to comply;

**(e) The qualified business firm is no longer a responsible business firm under section 4 of this 2021 Act;**

*[(e)]* **(f)** The qualified business firm uses the property to conduct activities in the enterprise zone that are not eligible activities; or

*[(f)]* **(g)** Property of the qualified business firm for which exemption under ORS 285C.175 is claimed ceases to be qualified property under ORS 285C.180.

(2) If the sponsor receives written notice under subsection (1) of this section, the sponsor shall immediately send a copy of the notice to the county assessor of the county in which the enterprise zone is situated.

(3)(a) When an assessor receives written notice under subsection (1) or (2) of this section, the assessor shall:

(A) Disqualify the property for the assessment years, if any, for which exemption under ORS 285C.175 is otherwise allowable following the disqualifying event; and

(B) Impose 100 percent of the additional taxes calculated under ORS 285C.175 against the property for each year for which the property had been granted exemption under ORS 285C.175.

(b) Notwithstanding paragraph (a) of this subsection, if a qualified business firm fails to meet any of the requirements of an agreement entered into by the firm under ORS 285C.160 during the exemption, but meets all other applicable requirements under ORS 285C.050 to 285C.250 during the first three years of the exemption, the qualified property of the firm may not be disqualified during the first three years of exemption for failure to comply with the requirements of the agreement entered into under ORS 285C.160.

(c) The additional taxes assessed under this subsection shall be reduced by the amount, if any, paid by the qualified business firm to the sponsor under subsection (6) of this section for the same property.

(4) If the qualified business firm or owner fails to give the notice on time or at all as required by subsection (1) of this section, upon discovering the property no longer qualifies for the exemption due to a circumstance described in subsection (1) of this section, the assessor shall:

- 1 (a) Disqualify the property from exemption;
- 2 (b) Compute the amount of additional taxes described in subsection (3) of this section as though  
 3 notice had been given, and add to that amount a penalty equal to 20 percent of the total amount  
 4 so computed; and
- 5 (c) Add the property to the assessment and tax roll without the exemption as if the notice had  
 6 been given.
- 7 (5) The amount determined to be due under subsections (3) and (4) of this section:
- 8 (a) May be paid to the tax collector before completion of the next general property tax roll  
 9 pursuant to ORS 311.370; and
- 10 (b) Shall be added to the tax extended against the property on the next general property tax roll  
 11 to be collected and distributed in the same manner as the remainder of the property taxes.
- 12 (6)(a) Notwithstanding subsections (3) and (5) of this section, if an assessor or sponsor receives  
 13 notice from a business firm under subsection (1)(b), (c) or (d) of this section and the qualified busi-  
 14 ness firm has not closed its operations, the sponsor may collect from the qualified business firm an  
 15 amount equal to the property taxes for the qualified property in the assessment year for which the  
 16 exemption is claimed in lieu of the amounts otherwise due under subsection (3) of this section.
- 17 (b) Moneys collected under paragraph (a) of this subsection shall be used by the sponsor to  
 18 benefit the residents of the enterprise zone and for the development of jobs, skills and training for  
 19 residents of the enterprise zone and the zone's immediate vicinity.
- 20 (c) This subsection applies only to the first notice given by the business firm under subsection  
 21 (1)(b), (c) or (d) of this section.
- 22 (d) If the sponsor does not receive the full amount to be paid by the qualified business firm un-  
 23 der paragraph (a) of this subsection, the assessor shall disqualify the property and impose the entire  
 24 amount of additional taxes as prescribed under subsection (3) of this section.
- 25 (7) An assessor may not disqualify property under this section for failure by a qualified business  
 26 firm or an owner of qualified property leased by the qualified business firm to notify the assessor  
 27 or the enterprise zone sponsor that the qualified business firm does not meet requirements under  
 28 ORS 285C.150, 285C.155, 285C.160 or 285C.205, without having received written communication from  
 29 the sponsor that demonstrates that the qualified business firm does not meet the requirements.
- 30 (8) Additional taxes collected under this section shall be deemed to have been imposed in the  
 31 year to which the additional taxes relate.
- 32 (9) If property is disqualified from exemption under this section, the assessor shall notify the  
 33 qualified business firm, and the owner of any qualified property that is leased by the firm, of the  
 34 disqualification. The notification shall be made in writing. The assessor shall provide copies of the  
 35 disqualification to the sponsor, the Department of Revenue and the Oregon Business Development  
 36 Department. The decision of the assessor to disqualify property under this section may be appealed  
 37 to the Oregon Tax Court under ORS 305.404 to 305.560.
- 38 **SECTION 9.** ORS 285C.420 is amended to read:
- 39 285C.420. (1) If a certified business firm does not begin operations or is not reasonably expected  
 40 to begin operations, as determined by the county assessor consistent with criteria established by  
 41 rule of the Department of Revenue, **or is no longer a responsible business firm under section 4**  
 42 **of this 2021 Act** or fails to meet the minimum requirements set forth in ORS 285C.412, while re-  
 43 ceiving an exemption under ORS 285C.409, the assessor shall, as of the next tax year, disqualify the  
 44 property from the exemption.
- 45 (2)(a) If a certified business firm that has achieved the minimum applicable full-time hiring re-



1 quirements and annual average wage requirements at a facility under ORS 285C.412 subsequently  
 2 fails to maintain the applicable minimum number of full-time employees or the minimum annual av-  
 3 erage compensation level at the facility, **or is no longer a responsible business firm under sec-**  
 4 **tion 4 of this 2021 Act**, the assessor shall disqualify the facility from exemption under ORS  
 5 285C.409.

6 (b) This subsection does not apply if the decrease in hiring or in annual average compensation  
 7 is caused by circumstances beyond the control of the business firm, including force majeure.

8 (3) Upon disqualification, there shall be added to the tax extended against the property on the  
 9 next general property tax roll, to be collected and distributed in the same manner as the remainder  
 10 of ad valorem property taxes, an amount equal to the taxes that would otherwise have been assessed  
 11 against the property and improvements for each of the tax years for which the property was exempt  
 12 under ORS 285C.409.

13 (4) The additional taxes described in this section shall be deemed assessed and imposed in the  
 14 year to which the additional taxes relate.

15 **SECTION 10.** (1) **The amendments to ORS 285C.240 by section 8 of this 2021 Act apply to**  
 16 **eligible business firms qualified under ORS 285C.200 on or after the effective date of this 2021**  
 17 **Act.**

18 (2) **The amendments to ORS 285C.420 by section 9 of this 2021 Act apply to business firms**  
 19 **certified under ORS 285C.403 on or after the effective date of this 2021 Act.**

20 **SECTION 11.** Section 12 of this 2021 Act is added to and made a part of ORS chapter 285C.

21 **SECTION 12.** (1) **A responsible business firm whose property receives property tax bene-**  
 22 **fits under ORS 285C.050 to 285C.250, 285C.350 to 285C.370 or 285C.400 to 285C.420 with an es-**  
 23 **timated value of \$50,000 or more for a property tax year with respect to a capital**  
 24 **improvement project shall:**

25 (a) **Employ apprentices, in a manner consistent with the apprentices' respective appren-**  
 26 **ticeship training programs, to perform at least 15 percent of the work hours that workers**  
 27 **in apprenticeable occupations performed on the project;**

28 (b) **Establish and execute a plan for outreach, recruitment and retention of women, mi-**  
 29 **nority individuals and veterans to perform work on the project, with an aspirational goal of**  
 30 **having at least 15 percent of total work hours performed by such individuals;**

31 (c) **Provide health insurance and retirement benefits to all workers on the project; and**

32 (d) **Require any subcontractor engaged to work on the project under a contract with an**  
 33 **estimated cost of \$200,000 or more to abide by the requirements of paragraphs (a) to (c) of**  
 34 **this subsection.**

35 (2) **On or before June 30 of each property tax year for which the property of a responsible**  
 36 **business firm described in subsection (1) of this section receives an exemption, the respon-**  
 37 **sible business firm shall submit a report to the Oregon Business Development Department**  
 38 **setting forth:**

39 (a) **The amount of work performed by apprentices on the project;**

40 (b) **The amount of work performed by women, minority individuals and veterans on the**  
 41 **project; and**

42 (c) **The types and costs of health insurance and retirement benefits provided by con-**  
 43 **tractors and subcontractors to workers on the project.**

44 (3) **The requirements of this section are in addition to, and not in lieu of, the require-**  
 45 **ments imposed under ORS 350.379.**

1 (4) **As used in this section:**

2 (a) **“Apprentice” has the meaning given that term in ORS 660.010.**

3 (b) **“Apprenticeable occupation” has the meaning given that term in ORS 660.010.**

4 (c) **“Apprenticeship training program” means the total system of apprenticeship that a**  
 5 **local joint committee, as defined in ORS 660.010, operates, including the local joint**  
 6 **committee’s registered standards and all other terms and conditions for qualifying, recruit-**  
 7 **ing, selecting, employing and training apprentices in an apprenticeable occupation.**

8 (d) **“Minority individual” has the meaning given that term in ORS 200.005.**

9 **SECTION 13.** Section 1, chapter 571, Oregon Laws 2015, as amended by section 1, chapter 628,  
 10 Oregon Laws 2019, is amended to read:

11 **Sec. 1.** (1)(a) The governing body of a county and the owner or person in possession or control  
 12 of a solar project located within the county and outside the boundaries of any incorporated city may  
 13 enter into an agreement that exempts from property taxes the property constituting the solar project  
 14 and allows the payment of a fee in lieu of property taxes imposed on the property. An agreement  
 15 may not be entered into for a term longer than 20 consecutive years.

16 (b) If any portion of a solar project is located within the boundaries of an incorporated city, the  
 17 governing body of the county shall consult with the governing body of the city before entering into  
 18 an agreement under paragraph (a) of this subsection. An agreement entered into under paragraph  
 19 (a) of this subsection with respect to a solar project located within the boundaries of the incorpo-  
 20 rated city is not effective unless the governing body of the city is a party to the agreement.

21 (c) **An agreement entered into under this section must require that any work performed**  
 22 **on the solar project be performed by a business that:**

23 (A) **Demonstrates a history of compliance with state and federal laws relating to labor**  
 24 **or employment; and**

25 (B) **Makes a commitment with respect to the work to be performed by the business on**  
 26 **the solar project that the business:**

27 (i) **Will not require employees employed by, or other workers who contract with, the**  
 28 **business to enter into an agreement that includes a mandatory arbitration clause or any**  
 29 **other provision that requires the employees or workers to submit to arbitration all or cer-**  
 30 **tain disputes that may arise between the business and employees or workers of the business;**

31 (ii) **Will determine whether the business’ workers have been correctly classified under**  
 32 **the criteria set forth in ORS 670.600;**

33 (iii) **Will not use an employment agency, as defined in ORS 658.005, or any other agency**  
 34 **to procure temporary workers except as necessary to respond to a short-term labor short-**  
 35 **age;**

36 (iv) **Will not prevent, disrupt or otherwise interfere with the employees’ right to organize**  
 37 **for the purposes of collective bargaining; and**

38 (v) **Will adopt a hiring policy that is made in accordance with the provisions of ORS**  
 39 **659A.360.**

40 (2) The fee in lieu of property taxes shall be computed at the rate of \$7,000 per megawatt of  
 41 nameplate capacity of the solar project for each property tax year. Megawatt of nameplate capacity  
 42 shall be carried to the third decimal place.

43 (3)(a) On or before December 31 preceding the first property tax year to which an agreement  
 44 entered into under this section relates, the owner or person in possession or control of the solar  
 45 project shall file with the assessor of the county in which the solar project is located and the De-

1 partment of Revenue a copy of the agreement and the nameplate capacity of the solar project.

2 (b) For each subsequent property tax year to which the agreement relates, the owner or person  
3 in possession or control of the solar project shall include with the statement required under ORS  
4 [308.520] **308.524** the nameplate capacity of the solar project.

5 (c) A filing made under paragraph (a) of this subsection after December 31 must be accompanied  
6 by a late fee of \$200. A filing may not be made after March 1 preceding the property tax year to  
7 which the filing relates.

8 (4)(a) For each property tax year to which an agreement relates, the department, when certify-  
9 ing and transmitting the assessment roll to the county assessors under ORS 308.505 to [308.681]  
10 **308.674**, shall provide the nameplate capacity of each solar project paying the fee in lieu of property  
11 taxes to each assessor of a county in which a solar project is located.

12 (b) As required under ORS 311.255, the county assessors shall extend upon the tax roll against  
13 all property constituting a solar project located in the respective counties all fees in lieu of property  
14 taxes for the property tax year. The fees shall be distributed pursuant to the percentage schedules  
15 prepared under ORS 311.390.

16 (5)(a) If the owner or person in possession or control of a solar project that has entered into  
17 an agreement under this section fails to pay the fee as required under this section, the property  
18 constituting the solar project is not exempt for the following property tax year and shall be assessed  
19 and taxed as other similar property is assessed and taxed.

20 (b) Notwithstanding paragraph (a) of this subsection, the property shall be exempt for the fol-  
21 lowing property tax year upon payment, within one year after the date of delinquency, of the de-  
22 linquent fee plus interest at the rate prescribed in ORS 311.505 (2). Delinquent fees and interest  
23 shall be collected in the manner provided for collection of delinquent property taxes on personal  
24 property.

25 (6)(a) If the owner or person in possession or control of the solar project fails to pay the fee in  
26 lieu of property taxes for more than one year during the term of an agreement entered into under  
27 this section, **or work is performed on the solar project by a business that does not meet the**  
28 **requirements of subsection (1)(c) of this section**, notwithstanding the agreement, the property  
29 constituting the solar project shall be disqualified for the exemption and payment of the fee in lieu  
30 of property taxes.

31 (b) Property that is disqualified under this subsection shall:

32 (A) Be assessed and taxed as other similar property is assessed and taxed.

33 (B) In addition, be assessed a penalty in an amount equal to one year of the fee in lieu of  
34 property taxes for the property. The penalty assessed under this subparagraph shall be distributed  
35 in the manner described in subsection (4)(b) of this section.

36 (7)(a) Property constituting a solar project that has received an exemption under ORS 285C.350  
37 to 285C.370 or 307.123 for any property tax year is not eligible to pay a fee in lieu of property taxes  
38 under this section.

39 (b) Paragraph (a) of this subsection does not apply to property constituting a solar project that  
40 was the subject of an application filed pursuant to ORS 285C.350 to 285C.370 if the property did not  
41 receive the exemption for any property tax year. The election to pay the fee in lieu of property  
42 taxes for property described in this paragraph is not a disqualifying event.

43 **SECTION 14. The amendments to section 1, chapter 571, Oregon Laws 2015, by section**  
44 **13 of this 2021 Act apply to agreements entered into under section 1, chapter 571, Oregon**  
45 **Laws 2015, on or after the effective date of this 2021 Act.**

1       **SECTION 15.** (1) The Oregon Business Development Department, in consultation with the  
 2 State Department of Energy, shall create a clean energy manufacturing initiative for the  
 3 purpose of promoting:

4       (a) Oregon clean energy manufacturing of products and equipment used in solar, wind,  
 5 geothermal and energy storage technology;

6       (b) Clean energy manufacturing supply chain opportunities in Oregon; and

7       (c) The repurposing and revitalization of closed or dormant facilities for clean energy  
 8 manufacturing and clean energy manufacturing supply chain.

9       (2)(a) The Oregon Business Development Department shall create a clean jobs workforce  
 10 hub within the clean energy manufacturing initiative to ensure adequate training and  
 11 workforce development programs to meet the needs of the clean energy future.

12       (b) The hub shall include representatives of:

13       (A) Labor and unions;

14       (B) Business;

15       (C) Regional and state workforce investment boards;

16       (D) The State Department of Energy; and

17       (E) Counties, cities and ports.

18       (3)(a) The Oregon Business Development Department may make loans from the Oregon  
 19 Clean Energy Manufacturing Initiative Fund established under section 16 of this 2021 Act to  
 20 eligible responsible business firms for the purposes set forth in subsection (1) of this section.

21       (b) The department shall adopt rules that establish an application process for loans made  
 22 under this subsection.

23       (c) Applicants for loans must be responsible business firms under section 4 of this 2021  
 24 Act.

25       (d) Loans shall be repayable over a term of \_\_\_\_\_ years with interest at the rate of  
 26 \_\_\_\_\_ percent.

27       (4) A recipient of a loan that is no longer a responsible business firm shall be charged a  
 28 penalty in an amount equal to \_\_\_\_\_ percent of the face value of the loan in addition to  
 29 the obligation to repay the loan with interest.

30       (5) The Oregon Business Development Department may seek appropriate legal remedies  
 31 to secure any repayment due the Oregon Clean Energy Manufacturing Initiative Fund.

32       **SECTION 16.** (1) There is established in the State Treasury, separate and distinct from  
 33 the General Fund, the Oregon Clean Energy Manufacturing Initiative Fund. Interest earned  
 34 by the Oregon Clean Energy Manufacturing Initiative Fund shall be credited to the fund.  
 35 Moneys in the fund are continuously appropriated to the Oregon Business Development De-  
 36 partment for the purpose of making loans pursuant to section 15 of this 2021 Act.

37       (2) The Oregon Clean Energy Manufacturing Initiative Fund shall consist of:

38       (a) Moneys allocated to the fund under section 17 of this 2021 Act;

39       (b) Payments of principal and interest on loans made under section 15 of this 2021 Act;

40       (c) Moneys paid as penalties under section 15 of this 2021 Act;

41       (d) Moneys appropriated or otherwise deposited into the fund by the Legislative Assem-  
 42 bly; and

43       (e) Other moneys from any source received for deposit in the fund.

44       **SECTION 17.** There is allocated for the biennium beginning July 1, 2021, from the Ad-  
 45 ministrative Services Economic Development Fund, to the Oregon Business Development

1 Department, the amount of \$10,000,000 for the purpose of making loans pursuant to section  
2 15 of this 2021 Act.

3 **SECTION 18.** (1) Sections 15 and 16 of this 2021 Act are repealed on January 2, 2024.

4 (2) The repeal under this section of sections 15 and 16 of this 2021 Act does not affect the  
5 obligation of any recipient of a loan under section 15 of this 2021 Act to repay the loan under  
6 the terms of the loan agreement or to pay penalties that may be imposed.

7 (3) Any moneys in the Oregon Clean Energy Manufacturing Initiative Fund that are un-  
8 spent and unobligated as of the date specified in subsection (1) of this section shall be  
9 transferred to the General Fund and may be used for any purpose for which moneys in the  
10 General Fund may be used.

11 **SECTION 19.** This 2021 Act takes effect on the 91st day after the date on which the 2021  
12 regular session of the Eighty-first Legislative Assembly adjourns sine die.

13