

HOUSE AMENDMENTS TO HOUSE BILL 2258

By COMMITTEE ON ECONOMIC DEVELOPMENT AND SMALL BUSINESS

April 12

1 On page 1 of the printed bill, after line 4, insert:

2 **“SECTION 1. Sections 2 to 12 of this 2023 Act are added to and made a part of ORS**
3 **chapter 285B.**

4 **“SECTION 2. Findings. (1) Traded sector industries are the foundation of state and re-**
5 **gional economic development strategies for long-term job creation and prosperity. Because**
6 **traded sector jobs typically pay higher than average wages and generate higher than average**
7 **income tax revenues, such jobs play an important role in supporting critical state services.**

8 **“(2) Industrial development that provides new traded sector jobs reinforces the econo-**
9 **mies of local and regional communities and contributes to the economic recovery of the**
10 **State of Oregon.**

11 **“(3) There is a shortage of market-ready industrial land in this state. Public and private**
12 **project sponsors have limited financial tools to facilitate development of significant and**
13 **complex industrial land that is appropriate for traded sector industrial use.**

14 **“(4) Public assistance is necessary to overcome development-related constraints and to**
15 **incentivize industrial land development in this state.**

16 **“(5) The purpose of sections 2 to 12 of this 2023 Act is to provide financial assistance to**
17 **project sponsors for development and planning projects related to industrial land develop-**
18 **ment, in an amount determined on a case-by-case basis by the Oregon Business Development**
19 **Department.**

20 **“SECTION 3. Definitions. As used in sections 2 to 12 of this 2023 Act:**

21 **“(1) ‘Administrative costs’ includes, but is not limited to, the direct and indirect costs**
22 **incurred by the Oregon Business Development Department for:**

23 **“(a) Investigating and processing applications submitted under section 8 of this 2023 Act;**

24 **“(b) Negotiating agreements for the purposes of sections 2 to 12 of this 2023 Act;**

25 **“(c) Monitoring the use of moneys provided to project sponsors under sections 2 to 12**
26 **of this 2023 Act;**

27 **“(d) Closing a project; and**

28 **“(e) Providing financial assistance to a project sponsor.**

29 **“(2) ‘Brownfield’ has the meaning given that term in ORS 285A.185.**

30 **“(3)(a) ‘Development project’ means a project for the acquisition, improvement, con-**
31 **struction, demolition or redevelopment of publicly or privately owned utilities, buildings,**
32 **land, transportation facilities or other facilities that assist the economic and community**
33 **development of a municipality.**

34 **“(b) ‘Development project’ includes planning project activities that are necessary or**
35 **useful to a development project as determined by the department.**

1 “(4) ‘Eligible project’ means a development project or a planning project.
2 “(5) ‘Environmental action’ has the meaning given that term in ORS 285A.188.
3 “(6) ‘Industrial land’ means land planned and zoned for industrial use that:
4 “(a) Is suitable for new industrial uses, or the expansion of existing industrial uses, that
5 can provide significant additional employment in Oregon;
6 “(b) Has land characteristics that provide significant competitive advantages that are
7 difficult or impossible to replicate; and
8 “(c) Has access to transportation and freight infrastructure, including, but not limited
9 to, rail, port, airport, multimodal freight or transshipment facilities and other major trans-
10 portation facilities or routes.
11 “(7)(a) ‘Industrial use’ means a use that generates income from the production, handling
12 or distribution of goods or services, including goods or services in the traded sector.
13 “(b) ‘Industrial use’ includes, but is not limited to, manufacturing, assembly, fabrication,
14 processing, storage, logistics, warehousing, importation, distribution, transshipment and re-
15 search and development.
16 “(8) ‘Planning project’ means:
17 “(a) A project related to a potential development project for preliminary and final land
18 use planning and engineering;
19 “(b) A survey, land investigation or environmental action;
20 “(c) A financial, technical or other feasibility report, study or plan; or
21 “(d) Any activity that the department determines to be necessary or useful in planning
22 for a potential development project.
23 “(9) ‘Private owner’ means a private business entity or property owner that has entered
24 into an agreement with a local jurisdiction for the development of public infrastructure to
25 serve a private site.
26 “(10) ‘Project sponsor’ means:
27 “(a) A public entity or private owner of industrial land that is investing in the prepara-
28 tion of the land for industrial use by a third party; or
29 “(b) A public entity that has entered into a development or other agreement with the
30 private owner of industrial land to prepare the land for industrial use.
31 “(11) ‘Public entity’ means:
32 “(a) A city or county in Oregon;
33 “(b) A port formed under ORS 777.005 to 777.725;
34 “(c) The Port of Portland created by ORS 778.010;
35 “(d) The tribal council of a federally recognized Indian tribe in this state; or
36 “(e) An airport district established under ORS chapter 838.
37 “SECTION 4. Financial assistance for development projects. (1)(a) The Oregon Business
38 Development Department may provide financial assistance to a project sponsor, for allowable
39 costs expended for an industrial land development project, from moneys in the Industrial Site
40 Loan Fund established under section 12 of this 2023 Act, in accordance with this section.
41 “(b) The financial assistance may be in the form of a loan to the project sponsor or the
42 purchase of bonds issued by the project sponsor.
43 “(c) The department shall determine the amount of the financial assistance on a case-
44 by-case basis.
45 “(2) Financial assistance may be provided only with respect to a development project that

1 is:

2 “(a) Directly owned and operated by the project sponsor; or

3 “(b) The subject of a management contract or an operating agreement to which the
4 project sponsor is a party.

5 “(3)(a) If a development project consists solely of the purchase or acquisition of land, fi-
6 nancial assistance may be provided only if the land is:

7 “(A) Identified in the applicable land use or capital plan as necessary for a potential in-
8 dustrial land development project; or

9 “(B) Zoned solely for industrial use.

10 “(b) Notwithstanding paragraph (a) of this subsection, financial assistance may not be
11 denied under this subsection solely because the costs of the development project include the
12 costs of acquiring off-site property for purposes that are directly related to the development
13 project, including, but not limited to, wetland mitigation.

14 “(4) Financial assistance provided to a project sponsor under this section may not be used
15 for:

16 “(a) The payment of:

17 “(A) A penalty or fine; or

18 “(B) Environmental remediation activities conducted at an industrial land site that is
19 listed or proposed to be listed as a national priority pursuant to the Comprehensive Envi-
20 ronmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), for which the
21 project sponsor, or any party to the loan agreement entered into pursuant to section 9 of
22 this 2023 Act to which the project sponsor is a party, is liable under 42 U.S.C. 9607;

23 “(b) Retirement of debt;

24 “(c) Projects that primarily focus on relocating business or economic activity from one
25 part of the state to another, except in cases where the business or economic activity would
26 otherwise be located outside Oregon; or

27 “(d) Ongoing operations or maintenance expenses of any person.

28 “(5) The department shall adopt rules to administer and implement the provisions of this
29 section.

30 **SECTION 5. Forgivable loans for planning projects.** (1)(a) The Oregon Business Devel-
31 opment Department may make a forgivable loan to a project sponsor, for allowable costs
32 related to a planning project, from moneys in the Industrial Site Loan Fund established un-
33 der section 12 of this 2023 Act, in accordance with this section.

34 “(b) The department shall determine the amount of a forgivable loan on a case-by-case
35 basis.

36 “(2) The department may not expend in any biennium more than one percent of the value
37 of the Industrial Site Loan Fund for planning projects.

38 “(3) A planning project eligible for a forgivable loan under this section may:

39 “(a) Be a stand-alone project that is not intended to lead to a development project.

40 “(b) Be a project that is intended to lead to a development project.

41 “(c) Include planning or investigation for an environmental action on a brownfield.

42 **SECTION 6. Other forms of financial assistance.** The Oregon Business Development
43 Department may directly or indirectly expend or loan moneys in the Industrial Site Loan
44 Fund established under section 12 of this 2023 Act or extend credit to:

45 “(1) Provide to project sponsors of an industrial land eligible project any form of financial

1 assistance that the department considers appropriate, including the refinancing of temporary
2 project financing.

3 “(2) Purchase goods or services related to an eligible project on behalf of the project
4 sponsor.

5 “(3)(a) Finance guaranty agreements that are issued to guarantee any portion of the ob-
6 ligation of a project sponsor to finance an industrial land development project and that are
7 not sold to the State of Oregon.

8 “(b) Guaranty agreements under this subsection shall be payable solely from moneys in
9 the fund and shall not constitute a debt or obligation of the State of Oregon.

10 “(c) The department may, on behalf of the state, establish a special account in the fund
11 and commit to deposit into the special account specified portions of current and future
12 moneys credited to the fund.

13 “(d) The commitments shall be made by rule of the department and shall constitute
14 covenants of the state for the benefit of the owners of obligations guaranteed by the state
15 pursuant to this section.

16 “SECTION 7. Allowable costs. For purposes of sections 2 to 12 of this 2023 Act:

17 “(1) The allowable costs of a development project include:

18 “(a) Property acquisition and assembly costs associated with creating large development
19 parcels, including any easement or right of way directly related to and necessary for a de-
20 velopment project.

21 “(b) Transportation improvements such as access roads, rail spurs and sidings, marine
22 facility access, airport facilities necessary to provide industrial land access, intersections,
23 turning lanes, signals, sidewalks, curbs, transit stops and storm drains.

24 “(c) Infrastructure for providing broadband, electric power, natural gas, water and sewer
25 service.

26 “(d) Natural resource mitigation.

27 “(e) Land grading activities.

28 “(f) Environmental remediation and mitigation activities to address brownfield issues, in
29 accordance with state and federally approved remediation plans.

30 “(g) Interest-carrying costs incurred by a project sponsor for amounts borrowed to de-
31 velop industrial land and financing costs, including capitalized interest.

32 “(h) Direct project management costs.

33 “(i) Costs of consultant services and expenses.

34 “(j) Construction costs and expenses.

35 “(k) Costs of acquiring off-site property for purposes directly related to a development
36 project, including, but not limited to, wetland mitigation.

37 “(L) Other costs that the Oregon Business Development Department determines to be
38 necessary or useful for the project.

39 “(2) The allowable costs of a planning project include:

40 “(a) Necessary planning, engineering, legal and other professional services associated
41 with:

42 “(A) The preparation of applications for local, state and federal permits and related ad-
43 ministrative costs.

44 “(B) Carrying out the project and related administrative costs.

45 “(b) Other costs that the department determines to be necessary or useful for the

1 project.

2 **“SECTION 8. Application process for financial assistance. (1)(a) A project sponsor seek-**
3 **ing financial assistance from the Industrial Site Loan Fund must submit an application in**
4 **the manner and form required by the Oregon Business Development Department.**

5 **“(b) At a minimum, each application must include:**

6 **“(A) The name and nature of the project sponsor;**

7 **“(B) A description of the nature of the project;**

8 **“(C) The provisions of sections 2 to 12 of this 2023 Act under which the project is eligible**
9 **for financial assistance;**

10 **“(D) The proposed activities to be funded;**

11 **“(E) A description and estimate of the allowable costs to be incurred for the project; and**

12 **“(F) All other information and documentation that the department requires.**

13 **“(2)(a) The department shall review all timely and complete applications and approve or**
14 **reject each application in accordance with rules adopted by the department.**

15 **“(b) The department shall notify each applicant of its decision. The rejection of an ap-**
16 **plication may not be appealed.**

17 **“SECTION 9. Agreement for financial assistance. (1) Upon approval of an application**
18 **submitted under section 8 of this 2023 Act, the Oregon Business Development Department,**
19 **notwithstanding any other provision of law or any restriction on indebtedness contained in**
20 **a charter, and the project sponsor of the eligible project to which the application relates may**
21 **enter into an agreement for financial assistance based on the application. The department**
22 **shall determine the maximum amount of financial assistance based on a reasonable and**
23 **prudent expectation of the ability of the project sponsor to repay the financial assistance.**

24 **“(2) An agreement entered into pursuant to this section must include:**

25 **“(a) A provision that the obligation of the state under the agreement is contingent on**
26 **the availability of moneys in the Industrial Site Loan Fund for the financial assistance agreed**
27 **upon.**

28 **“(b) A provision that grants the department a lien on, or a security interest in, collateral**
29 **to secure repayment of a loan made to, or bonds issued by, the project sponsor, in a form**
30 **and amount determined by the department and specified in the agreement.**

31 **“(c) Provisions that the department considers necessary to ensure expenditure of the**
32 **funds for the purposes set forth in the approved application.**

33 **“(d) Any other provision the department considers necessary or appropriate.**

34 **“(3) For an eligible project owned by a public entity, a loan agreement entered into pur-**
35 **suant to this section must be authorized by an ordinance, resolution or order adopted by the**
36 **governing body of the project sponsor.**

37 **“(4) In making a determination to enter into a loan agreement with the project sponsor**
38 **for an industrial land development project, the department shall consider the reasonableness**
39 **of the project sponsor’s estimated costs to prepare the land for industrial use, including, but**
40 **not limited to, allowable costs for land preparation.**

41 **“(5) Financial assistance approved by the department for an eligible project shall be paid,**
42 **in accordance with the terms of the agreement entered into pursuant to this section, from**
43 **the Industrial Site Loan Fund established under section 12 of this 2023 Act.**

44 **“(6) In assisting project sponsors with eligible projects, and to meet the goals of sections**
45 **2 to 12 of this 2023 Act, the department and other state agencies shall cooperate to the**

1 maximum extent possible with each other and federal agencies.

2 **“SECTION 10. Repayment.** (1) A project sponsor may repay financial assistance provided
3 for an eligible project under sections 2 to 12 of this 2023 Act from any source, including, but
4 not limited to:

5 “(a) Revenues generated by the eligible project, including special assessment revenues.

6 “(b) Amounts withheld under section 11 of this 2023 Act.

7 “(c) The general fund of the project sponsor.

8 “(2) A plan for repayment to the Industrial Site Loan Fund of financial assistance pro-
9 vided for an industrial land development project:

10 “(a) Shall provide for repayment by the project sponsor of the financial assistance with
11 interest to begin no later than seven years after the date of project completion or at such
12 other time as the Oregon Business Development Department may provide.

13 “(b) Shall provide for such evidence of debt assurance of, and security for, repayment by
14 the project sponsor as is considered necessary by the department.

15 “(c) Shall set forth a schedule of payments and the period of the loan, not to exceed the
16 useful life of the contracted project or 30 years from the date of the project completion,
17 whichever is less, and the manner of determining when loan payments are delinquent.

18 “(d) May provide for a reasonable extension of the time for making any repayment as set
19 forth under paragraph (c) of this subsection in emergency or hardship circumstances, if ap-
20 proved by the department.

21 “(e) Shall include repayment of interest that accrues during any period of delay in re-
22 payment authorized under paragraph (a) of this subsection. The repayment of accrued in-
23 terest may be in varying amounts.

24 “(f) Shall allow for other forms of payment than principal and interest payments on
25 loans, in accordance with rules adopted by the department.

26 **“SECTION 11. Breach; default.** (1) If a project sponsor fails to comply with an agreement
27 entered into under section 9 of this 2023 Act, the Oregon Business Development Department
28 may seek appropriate legal remedies to secure any repayment of obligations due from the
29 project sponsor to the Industrial Site Loan Fund.

30 “(2)(a) If a project sponsor defaults on payments of obligations to the fund under sections
31 2 to 12 of this 2023 Act, the State of Oregon may withhold any amounts otherwise due to the
32 project sponsor to offset against the obligations. The department may waive this right to
33 withhold.

34 “(b) Moneys withheld under paragraph (a) of this subsection shall be deposited in the
35 fund and shall be used to repay any account in the fund from which moneys were expended
36 to pay obligations upon which the project sponsor defaulted.

37 **“SECTION 12. Industrial Site Loan Fund.** (1)(a) The Industrial Site Loan Fund is estab-
38 lished in the State Treasury, separate and distinct from the General Fund. Interest earned
39 by the Industrial Site Loan Fund shall be credited to the fund.

40 “(b) Moneys in the fund are continuously appropriated to the Oregon Business Develop-
41 ment Department for the purposes set forth in sections 2 to 12 of this 2023 Act. In addition,
42 the department may finance administrative costs incurred by the department under sections
43 2 to 12 of this 2023 Act.

44 “(c) The department may establish other accounts within the fund for the payment of
45 project costs, reserves, debt service payments, credit enhancement, administrative costs and

1 operation expenses or any other purpose necessary to carry out sections 2 to 12 of this 2023
2 Act.

3 “(2) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857, and the
4 earnings from the investments shall be credited to the account in the fund designated by the
5 department.

6 “(3) The fund shall consist of moneys credited to the fund, including:

7 “(a) Moneys appropriated to the fund by the Legislative Assembly;

8 “(b) Moneys transferred to the fund by the department;

9 “(c) Earnings on moneys in the fund;

10 “(d) Repayment of financial assistance, including interest, under sections 10 and 11 of
11 this 2023 Act;

12 “(e) Moneys received from the federal, state or local governments; and

13 “(f) Moneys from any other source, including, but not limited to, grants and gifts.

14 “(4)(a) The department may commit moneys in the fund, or reserve future income of the
15 fund, for expenditure in future years in accordance with this section.

16 “(b) The department may commit moneys or reserve future income under this subsection
17 only after:

18 “(A) Allowing for contingencies; and

19 “(B) Determining that there will be sufficient unobligated net moneys in the fund to
20 make the future payments, consistent with the requirements of this section.”.

21 In line 5, delete “1” and insert “13”.

22 On page 2, line 31, delete “and loan amounts”.

23 Delete lines 42 through 45.

24 On page 3, delete lines 1 through 4 and insert:

25 “**SECTION 14.** There is appropriated to the Oregon Business Development Department,
26 for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$40,000,000
27 for deposit in the Industrial Site Loan Fund established under section 12 of this 2023 Act.
28 The moneys may be used for any purpose for which moneys in the fund may be used.

29 “**SECTION 15.** The section captions used in this 2023 Act are provided only for the con-
30 venience of the reader and do not become part of the statutory law of this state or express
31 any legislative intent in the enactment of this 2023 Act.

32 “**SECTION 16.** This 2023 Act being necessary for the immediate preservation of the public
33 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
34 on its passage.”.