A-Engrossed
House Bill 3457

Ordered by the House May 16
Including House Amendments dated May 16

Sponsored by Representatives NATHANSON, SMITH G

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.

Increases minimum total cost of eligible project under strategic investment program and indexes cost to increase, if any, in consumer price index.

Requires business firm that will be benefited by eligible project in strategic investment program to hold job fair.

Sunsets county's authority to designate strategic investment zone.

Requires at least one individual negotiating strategic investment program agreement on behalf of county or city to have completed negotiation technique training program.

Increases maximum dollar amount of community services fee payable by business firm in strategic investment program. Requires distribution agreement for fee to be approved by all affected special districts that provide services related to emergency prevention and response.

Decreases maximum amount of personal income tax revenue that may be distributed per year to any county under strategic investment program.

Increases taxable portion of real market value of eligible project located in rural area under strategic investment program.

Creates sunset date for strategic investment program.

Applies to [*assessment*] **property tax** years beginning on or after July 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to strategic investments; creating new provisions; amending ORS 285C.606, 285C.609, 285C.623, 285C.635 and 307.123; and prescribing an effective date.

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

SECTION 1. ORS 285C.606 is amended to read:

285C.606. (1) The State of Oregon, acting through the Oregon Business Development Commission, may determine that real and personal property constituting a project shall receive the tax exemption provided in ORS 307.123 if:

(a) The project is an eligible project;

(b) The project directly benefits a traded sector industry, as defined in ORS 285B.280; and

(c) The total cost of the project equals or exceeds:

(A) [*$100*] **$150** million; or

(B) [*$25*] **$40** million, if the project is located in a rural area.

(2)(a) The minimum total costs required under subsection (1)(c) of this section shall be adjusted each year for the property tax year beginning on July 1 by multiplying $150 million and $40 million, respectively, by the ratio of the increase, if any, in the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending December 31 of the prior calendar year over the monthly averaged index for the 12 consecutive months ending December 31, 2023.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

[*(2)*] **(3)** In addition to and not in lieu of the determination described in subsection (1) of this section, the State of Oregon, acting through the Oregon Business Development Commission, shall determine that real and personal property constituting a project shall receive the tax exemption provided in ORS 307.123 if:

(a) The requirements of subsection (1) of this section are met; and

(b) The project is to be constructed or installed in a strategic investment zone established under ORS 285C.623.

[*(3)*] **(4)** Notwithstanding subsection (1) or [*(2)*] **(3)** of this section, property may not qualify for the tax exemption under ORS 307.123 if the property:

(a) Was previously owned or leased by the business firm benefiting from the tax exemption;

(b) Was previously exempt under ORS 307.123 for any period of time; or

(c) If located in a strategic investment zone, is not newly constructed or newly installed property.

[*(4)*] **(5)** The State of Oregon, acting through the State Treasurer, may authorize and issue revenue bonds for an eligible project that qualifies for exemption under ORS 307.123 if the project also is eligible for funding through the issuance of revenue bonds under ORS 285B.320 to 285B.371.

[*(5) A business firm that will be benefited by an eligible project shall enter into a first-source hiring agreement with a publicly funded job training provider that will remain in effect until the end of the tax exemption period.*]

(6) A business firm that will be benefited by an eligible project shall:

(a) Enter into a first-source hiring agreement with a publicly funded job training provider that will remain in effect until the end of the tax exemption period; and

(b) Hold a job fair after placing a timely announcement of the job fair through WorkSource Oregon.

[*(6)*] **(7)** If an eligible project is leased or subleased to any person, the lessee shall be required to pay property taxes levied upon or with respect to the leased premises only in accordance with ORS 307.123.

[*(7)*] **(8)** For purposes of determining the assessment and taxation of the eligible project in ORS 307.123 and the calculation of the community services fee in ORS 285C.609 (4)(b), the Oregon Business Development Commission, when it determines that the project is an eligible project, shall:

(a) Describe the real and personal property to be included in the eligible project;

(b) Establish the maximum value of the property subject to exemption; or

(c) Employ a comparable method to define the eligible project.

[*(8)*] **(9)** Property of an eligible project that is currently exempt under ORS 307.123 may remain exempt for any remaining period of exemption allowed under ORS 307.123 upon the property being acquired by a business firm that is different from the business firm that initially benefited from the exemption, if the acquiring firm satisfies all applicable requirements under ORS 285C.600 to 285C.635 and assumes the obligations, conditions, requirements and other terms of the agreement described in ORS 285C.609 (4).

SECTION 2. ORS 285C.623 is amended to read:

285C.623. (1) A county seeking to ensure that all eligible projects constructed or installed within a particular geographic area within the county receive the tax exemption under ORS 307.123 may request designation of the geographic area as a strategic investment zone. The request must be made by official action of the governing body of the county taken at a regular or duly called special meeting of the governing body by the affirmative vote of a majority of members of the governing body. The request must set forth the proposed boundaries of the zone.

(2) The governing body of the county shall forward appropriate actions requesting zone establishment to the Oregon Business Development Department for consideration by the Oregon Business Development Commission. If the commission determines that the proposed zone is likely to achieve the purpose set forth in ORS 285C.603 and other objectives established for the zone by the requesting county, the department or the commission, the commission shall designate the geographic area a strategic investment zone.

(3) Any eligible project described in ORS 285C.606 [*(2)*] **(3)** and newly constructed or installed after the date of zone designation under this section shall qualify for exemption under ORS 307.123 if the business firm benefited by the eligible project complies with the fee agreement described in subsection (4) of this section.

(4) The county may not make the request under subsection (1) of this section unless, after a public hearing:

(a) The county and, if the proposed zone will be located within a city, the city have entered into an agreement described in this subsection.

(b) The agreement provides for the payment of a fee by each business firm that is to own or operate an eligible project within the proposed zone, as a condition for the exemption under ORS 307.123. The agreement shall provide for the payment of the fee, as follows:

(A) The fee shall be for community services support that relates to the direct impact of the eligible project on public services.

(B) The fee shall be in an amount equal to 25 percent of the property taxes that would, but for the exemption, be due on the exempt property in each assessment year, but not exceeding $2 million per eligible project in any year or, if the eligible project is located in a rural area, $500,000 per eligible project in any year.

(C) The fee shall be paid annually during the tax exemption period by each business firm having an eligible project within the zone, as of a date set forth in the agreement.

(c) The agreement provides for the refunding or crediting of overpayments, for interest on late payments or underpayments and for the manner in which the appeal of the assessed value of the property included in the project will affect the fee.

(5) The agreement described in subsection (4) of this section may provide for any other requirements that each business firm must comply with in order for the eligible project of the firm to qualify for exemption under ORS 307.123.

(6)(a) The fee collected under subsection (4)(b) of this section shall be distributed by the county based on an additional agreement described in this subsection. An agreement described in this subsection is effective only if:

(A) The county and the city, if any, in which the eligible project is located have entered into the agreement; and

(B) Local taxing districts listed in ORS 198.010 or 198.180 that constitute at least 75 percent of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180 that are in the code area in which the eligible project is located have entered into the agreement.

(b) If an additional agreement is not entered into under paragraph (a) of this subsection within three months after the date of the determination by the commission under ORS 285C.606 (1), the commission shall, by official action, establish a formula for distributing the fee collected under subsection (4)(b) of this section.

(7)(a) A county may not enter into an agreement under subsection (4) of this section for designation of a strategic investment zone on or after the effective date of this 2023 Act.

(b) A strategic investment zone designated on the basis of an agreement entered into under subsection (4) of this section before the effective date of this 2023 Act may continue to operate in accordance with the terms of this section in effect on the date on which the agreement was entered into.

SECTION 3. ORS 285C.609 is amended to read:

285C.609. (1) A determination under ORS 285C.606 (1) by the Oregon Business Development Commission that a project shall be exempt from property taxation under ORS 307.123 must be requested by official action of the governing body of the county taken at a regular or duly called special meeting thereof by the affirmative vote of a majority of its members.

(2) The governing body of any Oregon county shall forward appropriate prospective eligible projects to the Oregon Business Development Department for processing.

(3) For purposes of this section, for projects located on a federally recognized Oregon Indian reservation, the governing body of a county shall be considered to be the governing body of the federally recognized Oregon Indian tribe.

(4) The county may not make the request under subsection (1) of this section unless, after a public hearing:

(a)**(A)** The county and, if the proposed eligible project will be located within a city, the city have entered into an agreement with the business firm, as described in this subsection.

(B) At least one individual negotiating the agreement on behalf of the county or city must have completed a training program prescribed by the Oregon Business Development Department that includes, but is not limited to, applicable negotiation techniques.

(b) The agreement provides for the payment of a fee by the business firm, as follows:

(A) The fee shall be for community services support that relates to the direct impact of the eligible project on public services.

(B) The fee shall be in an amount equal to 25 percent of the property taxes that would, but for the exemption, be due on the exempt property in each assessment year, but not exceeding [*$2.5*] **$5** million in any year.

(C) The fee shall be paid annually during the tax exemption period, as of a date set forth in the agreement.

(c) The agreement provides for the refunding or crediting of overpayments, for interest on late payments or underpayments and for the manner in which the appeal of the assessed value of the property included in the project will affect the fee.

(5) The agreement described in subsection (4) of this section may provide for any other requirements related to the project.

(6)(a) The fee collected under subsection (4)(b) of this section shall be distributed by the county based on an agreement. The agreement is effective only if **the following public bodies have entered into the agreement**:

(A) The county and the city, if any, in which the eligible project is located [*have entered into the agreement*]; [*and*]

(B) All special districts in the code area in which the eligible project is located that provide services related to public safety, fire prevention and response, ambulance or other

emergency medical response or emergency communications; and

[*(B)*] **(C)** Local taxing districts listed in ORS 198.010 or 198.180 that constitute at least 75 percent of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180 in the code area in which the eligible project is located [*have entered into the agreement*].

(b) If an effective agreement is not entered into under paragraph (a) of this subsection within three months after the date of the determination by the commission under ORS 285C.606 (1), the commission shall, by official action, establish a formula for distributing the fee collected under subsection (4)(b) of this section.

SECTION 4. ORS 285C.635 is amended to read:

285C.635. (1)(a) Upon receipt of information compiled under ORS 285C.615, the Oregon Department of Administrative Services shall determine the annual amount of personal income tax revenue attributable to retained jobs and newly created jobs for each eligible project for which an eligible business firm received a property tax exemption under ORS 307.123.

(b) The amount of personal income tax revenue attributable to each eligible project under this subsection may not include personal income tax revenue attributable to the estimated incremental income tax revenues generated by an eligible employer in connection with a tax reimbursement arrangement or loan agreement that has been entered into under the Oregon Industrial Site Readiness Program established by ORS 285B.627.

(c) In determining the amount of personal income tax revenue attributable to each eligible project, the Oregon Department of Administrative Services may rely on reasonable techniques of estimation, if appropriate.

(2) Not later than May 15 of each fiscal year, the Oregon Department of Administrative Services shall certify to the Department of Revenue, the Legislative Revenue Officer and the Legislative Fiscal Officer the amounts determined under subsection (1) of this section and the amounts described in subsection (3) of this section to be distributed by the Department of Revenue.

(3)(a) Not sooner than July 10 and not later than July 15 of the fiscal year immediately following the fiscal year in which the certification under subsection (2) of this section is made, the Department of Revenue shall distribute to each county in which an eligible project is located an amount equal to the total of:

(A) Twenty percent of the total annual amount of personal income tax revenue attributable to retained jobs for all eligible projects in the county as determined under subsection (1) of this section; and

(B) Fifty percent of the total annual amount of personal income tax revenue attributable to newly created jobs for all eligible projects in the county as determined under subsection (1) of this section.

(b) Notwithstanding paragraph (a) of this subsection, a county may not receive a distribution under this section in an amount greater than [*$16*] **$5** million for any year.

(c) The county shall distribute the amounts received under paragraphs (a) and (b) of this subsection to the taxing districts in the county in which an eligible project is located in a manner consistent with the distribution of the community services fee under ORS 285C.609 for the project.

(4) The Department of Revenue shall retain unreceipted revenue from the tax imposed under ORS chapter 316 in an amount necessary to make the distributions required under subsection (3) of this section. The department shall make the distributions out of the unreceipted revenue in lieu of paying the revenue over to the State Treasurer for deposit in the General Fund.

(5) The Oregon Department of Administrative Services shall adopt rules necessary to administer

this section.

SECTION 5. ORS 307.123 is amended to read:

307.123. (1) Except as provided in subsection (4) of this section, real or personal property that the Oregon Business Development Commission, acting pursuant to ORS 285C.606, has determined is an eligible project under ORS 285C.600 to 285C.635 shall be subject to assessment and taxation as provided in this section.

(2)(a) The following portions of the real market value of the eligible project, increased annually for growth at the rate of three percent, shall be taxable at the taxable portion's assessed value under ORS 308.146:

(A) The minimum cost of the project under ORS 285C.606 (1)(c)(A); or

(B) If the project is located in a rural area as defined in ORS 285C.600:

(i) [*$25*] **$40** million for a project with a total cost of not more than $500 million.

(ii) [*$50*] **$60** million for a project with a total cost of more than $500 million and not more than $1 billion.

(iii) [*$100*] **$150** million for a project with a total cost of more than $1 billion.

(b) The taxable portion of real market value, as adjusted, shall be allocated as follows until the entire amount is assigned: first to land, second to buildings, third to real property machinery and equipment and last to personal property.

(c) The remainder of the real market value shall be exempt from taxation for a period of 15 years from the beginning of the tax year after the earliest of the following dates:

(A) The date the property is certified for occupancy or, if no certificate of occupancy is issued, the date the property is used to produce a product for sale; or

(B) The expiration of the exemption for commercial facilities under construction under ORS 307.330.

(3) If the real market value of the property falls below the value determined under subsection (2)(a) of this section, the owner or lessee shall pay taxes only on the assessed value of the property.

(4) Notwithstanding subsection (1) of this section, real or personal property that has received an exemption under ORS 285C.175 may not be assessed under this section.

(5) The Department of Revenue may adopt rules and prescribe forms that the department determines are necessary for administration of this section.

(6) The determination by the Oregon Business Development Commission that a project is an eligible project that may receive a tax exemption under this section shall be conclusive, so long as the property included in the eligible project is constructed and installed in accordance with the application approved by the commission.

(7) Notwithstanding subsection (1) of this section, if the owner or lessee of property exempt under this section fails to pay the fee required under ORS 285C.609 (4)(b) by the end of the tax year in which it is due, the exemption shall be revoked and the property shall be fully taxable for the following tax year and for each subsequent tax year for which the fee remains unpaid. If an unpaid fee is paid after the exemption is revoked, the property shall again be eligible for the exemption provided under this section, beginning with the tax year after the payment is made. Reinstatement of the exemption under this subsection shall not extend the 15-year exemption period provided for in subsection (2)(c) of this section.

SECTION 6. (1) The amendments to ORS 285C.606 by section 1 of this 2023 Act apply to business firms claiming exemption for eligible property under ORS 307.123 on or after the effective date of this 2023 Act.

(2) The amendments to ORS 285C.609 by section 3 of this 2023 Act apply to agreements negotiated by counties and cities on or after the effective date of this 2023 Act.

(3) The amendments to ORS 307.123 by section 5 of this 2023 Act apply to property determined to be an eligible project on or after the effective date of this 2023 Act.

SECTION 7. The amendments to ORS 285C.606, 285C.609, 285C.623, 285C.635 and 307.123 by sections 1 to 5 of this 2023 Act apply to property tax years beginning on or after July 1, 2024.

SECTION 8. Section 9 of this 2023 Act is added to and made a part of ORS 285C.600 to 285C.635.

SECTION 9. (1) An agreement described in ORS 285C.609 (4) may not take effect if entered into on or after July 1, 2030.

(2) Notwithstanding subsection (1) of this section, an agreement described in ORS 285C.609 (4) that is entered into before July 1, 2030, shall continue in effect for the full term of the agreement and may be used to support a request under ORS 285C.609 (1) made before, on or after July 1, 2030.

SECTION 10. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.