

Requested by Representative LIVELY

**PROPOSED AMENDMENTS TO
HOUSE BILL 2258**

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**
3 **a part of ORS chapter 285B.**

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

10 **“(2) Industrial development that provides new traded sector jobs**
11 **reinforces the economies of local and regional communities and con-**
12 **tributes to the economic recovery of the State of Oregon.**

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

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

20 **“(5) The purpose of sections 2 to 12 of this 2023 Act is to provide**
21 **financial assistance to project sponsors for development and planning**

1 projects related to industrial land development, in an amount deter-
2 mined on a case-by-case basis by the Oregon Business Development
3 Department.

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

6 **“(1) ‘Administrative costs’ includes, but is not limited to, the direct**
7 **and indirect costs incurred by the Oregon Business Development De-**
8 **partment for:**

9 **“(a) Investigating and processing applications submitted under sec-**
10 **tion 8 of this 2023 Act;**

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

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

15 **“(d) Closing a project; and**

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

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

18 **“(3)(a) ‘Development project’ means a project for the acquisition,**
19 **improvement, construction, demolition or redevelopment of publicly**
20 **or privately owned utilities, buildings, land, transportation facilities**
21 **or other facilities that assist the economic and community develop-**
22 **ment of a municipality.**

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

26 **“(4) ‘Eligible project’ means a development project or a planning**
27 **project.**

28 **“(5) ‘Environmental action’ has the meaning given that term in**
29 **ORS 285A.188.**

30 **“(6) ‘Industrial land’ means land planned and zoned for industrial**

1 use that:

2 “(a) Is suitable for new industrial uses, or the expansion of existing
3 industrial uses, that can provide significant additional employment in
4 Oregon;

5 “(b) Has land characteristics that provide significant competitive
6 advantages that are difficult or impossible to replicate; and

7 “(c) Has access to transportation and freight infrastructure, in-
8 cluding, but not limited to, rail, port, airport, multimodal freight or
9 transshipment facilities and other major transportation facilities or
10 routes.

11 “(7)(a) ‘Industrial use’ means a use that generates income from the
12 production, handling or distribution of goods or services, including
13 goods or services in the traded sector.

14 “(b) ‘Industrial use’ includes, but is not limited to, manufacturing,
15 assembly, fabrication, processing, storage, logistics, warehousing,
16 importation, distribution, transshipment and research and develop-
17 ment.

18 “(8) ‘Planning project’ means:

19 “(a) A project related to a potential development project for pre-
20 liminary and final land use planning and engineering;

21 “(b) A survey, land investigation or environmental action;

22 “(c) A financial, technical or other feasibility report, study or plan;

23 or

24 “(d) Any activity that the department determines to be necessary
25 or useful in planning for a potential development project.

26 “(9) ‘Private owner’ means a private business entity or property
27 owner that has entered into an agreement with a local jurisdiction for
28 the development of public infrastructure to serve a private site.

29 “(10) ‘Project sponsor’ means:

30 “(a) A public entity or private owner of industrial land that is in-

1 vesting in the preparation of the land for industrial use by a third
2 party; or

3 “(b) A public entity that has entered into a development or other
4 agreement with the private owner of industrial land to prepare the
5 land for industrial use.

6 “(11) ‘Public entity’ means:

7 “(a) A city or county in Oregon;

8 “(b) A port formed under ORS 777.005 to 777.725;

9 “(c) The Port of Portland created by ORS 778.010;

10 “(d) The tribal council of a federally recognized Indian tribe in this
11 state; or

12 “(e) An airport district established under ORS chapter 838.

13 **“SECTION 4. Financial assistance for development projects. (1)(a)**

14 **The Oregon Business Development Department may provide financial**
15 **assistance to a project sponsor, for allowable costs expended for an**
16 **industrial land development project, from moneys in the Industrial**
17 **Site Loan Fund established under section 12 of this 2023 Act, in ac-**
18 **cordance with this section.**

19 **“(b) The financial assistance may be in the form of a loan to the**
20 **project sponsor or the purchase of bonds issued by the project sponsor.**

21 **“(c) The department shall determine the amount of the financial**
22 **assistance on a case-by-case basis.**

23 **“(2) Financial assistance may be provided only with respect to a**
24 **development project that is:**

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

26 **“(b) The subject of a management contract or an operating agree-**
27 **ment to which the project sponsor is a party.**

28 **“(3)(a) If a development project consists solely of the purchase or**
29 **acquisition of land, financial assistance may be provided only if the**
30 **land is:**

1 “(A) Identified in the applicable land use or capital plan as neces-
2 sary for a potential industrial land development project; or

3 “(B) Zoned solely for industrial use.

4 “(b) Notwithstanding paragraph (a) of this subsection, financial as-
5 sistance may not be denied under this subsection solely because the
6 costs of the development project include the costs of acquiring off-site
7 property for purposes that are directly related to the development
8 project, including, but not limited to, wetland mitigation.

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

11 “(a) The payment of:

12 “(A) A penalty or fine; or

13 “(B) Environmental remediation activities conducted at an indus-
14 trial land site that is listed or proposed to be listed as a national pri-
15 ority pursuant to the Comprehensive Environmental Response,
16 Compensation, and Liability Act of 1980 (42 U.S.C. 9605), for which the
17 project sponsor, or any party to the loan agreement entered into pur-
18 suant to section 9 of this 2023 Act to which the project sponsor is a
19 party, is liable under 42 U.S.C. 9607;

20 “(b) Retirement of debt;

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

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

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

28 “SECTION 5. Forgivable loans for planning projects. (1)(a) The
29 Oregon Business Development Department may make a forgivable
30 loan to a project sponsor, for allowable costs related to a planning

1 project, from moneys in the Industrial Site Loan Fund established
2 under section 12 of this 2023 Act, in accordance with this section.

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

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

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

10 “(a) Be a stand-alone project that is not intended to lead to a de-
11 velopment project.

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

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

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

19 “(1) Provide to project sponsors of an industrial land eligible project
20 any form of financial assistance that the department considers appro-
21 priate, including the refinancing of temporary project financing.

22 “(2) Purchase goods or services related to an eligible project on be-
23 half of the project sponsor.

24 “(3)(a) Finance guaranty agreements that are issued to guarantee
25 any portion of the obligation of a project sponsor to finance an in-
26 dustrial land development project and that are not sold to the State
27 of Oregon.

28 “(b) Guaranty agreements under this subsection shall be payable
29 solely from moneys in the fund and shall not constitute a debt or ob-
30 ligation of the State of Oregon.

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

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

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

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

10 “(a) Property acquisition and assembly costs associated with creat-
11 ing large development parcels, including any easement or right of way
12 directly related to and necessary for a development project.

13 “(b) Transportation improvements such as access roads, rail spurs
14 and sidings, marine facility access, airport facilities necessary to pro-
15 vide industrial land access, intersections, turning lanes, signals, side-
16 walks, curbs, transit stops and storm drains.

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

19 “(d) Natural resource mitigation.

20 “(e) Land grading activities.

21 “(f) Environmental remediation and mitigation activities to address
22 brownfield issues, in accordance with state and federally approved re-
23 mediation plans.

24 “(g) Interest-carrying costs incurred by a project sponsor for
25 amounts borrowed to develop industrial land and financing costs, in-
26 cluding capitalized interest.

27 “(h) Direct project management costs.

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

29 “(j) Construction costs and expenses.

30 “(k) Costs of acquiring off-site property for purposes directly related

1 to a development project, including, but not limited to, wetland miti-
2 gation.

3 “(L) Other costs that the Oregon Business Development Depart-
4 ment determines to be necessary or useful for the project.

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

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

8 “(A) The preparation of applications for local, state and federal
9 permits and related administrative costs.

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

11 “(b) Other costs that the department determines to be necessary
12 or useful for the project.

13 **“SECTION 8. Application process for financial assistance. (1)(a) A**
14 **project sponsor seeking financial assistance from the Industrial Site**
15 **Loan Fund must submit an application in the manner and form re-**
16 **quired by the Oregon Business Development Department.**

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

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

19 “(B) A description of the nature of the project;

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

22 “(D) The proposed activities to be funded;

23 “(E) A description and estimate of the allowable costs to be in-
24 curred for the project; and

25 “(F) All other information and documentation that the department
26 requires.

27 “(2)(a) The department shall review all timely and complete appli-
28 cations and approve or reject each application in accordance with rules
29 adopted by the department.

30 “(b) The department shall notify each applicant of its decision. The

1 rejection of an application may not be appealed.

2 **“SECTION 9. Agreement for financial assistance. (1) Upon approval**
3 **of an application submitted under section 8 of this 2023 Act, the**
4 **Oregon Business Development Department, notwithstanding any other**
5 **provision of law or any restriction on indebtedness contained in a**
6 **charter, and the project sponsor of the eligible project to which the**
7 **application relates may enter into an agreement for financial assist-**
8 **ance based on the application. The department shall determine the**
9 **maximum amount of financial assistance based on a reasonable and**
10 **prudent expectation of the ability of the project sponsor to repay the**
11 **financial assistance.**

12 **“(2) An agreement entered into pursuant to this section must in-**
13 **clude:**

14 **“(a) A provision that the obligation of the state under the agree-**
15 **ment is contingent on the availability of moneys in the Industrial Site**
16 **Loan Fund for the financial assistance agreed upon.**

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

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

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

26 **“(3) For an eligible project owned by a public entity, a loan agree-**
27 **ment entered into pursuant to this section must be authorized by an**
28 **ordinance, resolution or order adopted by the governing body of the**
29 **project sponsor.**

30 **“(4) In making a determination to enter into a loan agreement with**

1 the project sponsor for an industrial land development project, the
2 department shall consider the reasonableness of the project sponsor's
3 estimated costs to prepare the land for industrial use, including, but
4 not limited to, allowable costs for land preparation.

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

9 “(6) In assisting project sponsors with eligible projects, and to meet
10 the goals of sections 2 to 12 of this 2023 Act, the department and other
11 state agencies shall cooperate to the maximum extent possible with
12 each other and federal agencies.

13 **“SECTION 10. Repayment. (1) A project sponsor may repay financial**
14 **assistance provided for an eligible project under sections 2 to 12 of this**
15 **2023 Act from any source, including, but not limited to:**

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

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

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

20 “(2) A plan for repayment to the Industrial Site Loan Fund of fi-
21 nancial assistance provided for an industrial land development project:

22 “(a) Shall provide for repayment by the project sponsor of the fi-
23 nancial assistance with interest to begin no later than seven years
24 after the date of project completion or at such other time as the
25 Oregon Business Development Department may provide.

26 “(b) Shall provide for such evidence of debt assurance of, and se-
27 curity for, repayment by the project sponsor as is considered necessary
28 by the department.

29 “(c) Shall set forth a schedule of payments and the period of the
30 loan, not to exceed the useful life of the contracted project or 30 years

1 from the date of the project completion, whichever is less, and the
2 manner of determining when loan payments are delinquent.

3 “(d) May provide for a reasonable extension of the time for making
4 any repayment as set forth under paragraph (c) of this subsection in
5 emergency or hardship circumstances, if approved by the department.

6 “(e) Shall include repayment of interest that accrues during any
7 period of delay in repayment authorized under paragraph (a) of this
8 subsection. The repayment of accrued interest may be in varying
9 amounts.

10 “(f) Shall allow for other forms of payment than principal and in-
11 terest payments on loans, in accordance with rules adopted by the
12 department.

13 **“SECTION 11. Breach; default. (1) If a project sponsor fails to**
14 **comply with an agreement entered into under section 9 of this 2023**
15 **Act, the Oregon Business Development Department may seek appro-**
16 **priate legal remedies to secure any repayment of obligations due from**
17 **the project sponsor to the Industrial Site Loan Fund.**

18 **“(2)(a) If a project sponsor defaults on payments of obligations to**
19 **the fund under sections 2 to 12 of this 2023 Act, the State of Oregon**
20 **may withhold any amounts otherwise due to the project sponsor to**
21 **offset against the obligations. The department may waive this right**
22 **to withhold.**

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

27 **“SECTION 12. Industrial Site Loan Fund. (1)(a) The Industrial Site**
28 **Loan Fund is established in the State Treasury, separate and distinct**
29 **from the General Fund. Interest earned by the Industrial Site Loan**
30 **Fund shall be credited to the fund.**

1 **“(b) Moneys in the fund are continuously appropriated to the**
2 **Oregon Business Development Department for the purposes set forth**
3 **in sections 2 to 12 of this 2023 Act. In addition, the department may**
4 **finance administrative costs incurred by the department under**
5 **sections 2 to 12 of this 2023 Act.**

6 **“(c) The department may establish other accounts within the fund**
7 **for the payment of project costs, reserves, debt service payments,**
8 **credit enhancement, administrative costs and operation expenses or**
9 **any other purpose necessary to carry out sections 2 to 12 of this 2023**
10 **Act.**

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

14 **“(3) The fund shall consist of moneys credited to the fund, includ-**
15 **ing:**

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

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

18 **“(c) Earnings on moneys in the fund;**

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

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

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

25 **“(4)(a) The department may commit moneys in the fund, or reserve**
26 **future income of the fund, for expenditure in future years in accord-**
27 **ance with this section.**

28 **“(b) The department may commit moneys or reserve future income**
29 **under this subsection only after:**

30 **“(A) Allowing for contingencies; and**

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

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

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

6 In line 42, delete “2” and insert “14”.

7 On page 3, delete lines 2 through 4 and insert:

8 **“SECTION 15. The section captions used in this 2023 Act are pro-**
9 **vided only for the convenience of the reader and do not become part**
10 **of the statutory law of this state or express any legislative intent in**
11 **the enactment of this 2023 Act.**

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

15
