

# Chapter 285A

2017 EDITION

## Economic Development I

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## GENERAL PROVISIONS

**285A.010 Definitions for ORS 284.101 to 284.148 and ORS chapters 285A, 285B and 285C.** As used in ORS 284.101 to 284.148 and ORS chapters 285A, 285B and 285C, unless the context requires otherwise:

(1) "Administrator" means the administrator of the Oregon Infrastructure Finance Authority.

(2) "Association" means a nonprofit, private, incorporated or unincorporated institution, foundation, organization, entity or group, whether local, state, regional or national, that is operating or doing business in Oregon.

(3) "Authority" means the Oregon Infrastructure Finance Authority.

(4) "Board" means the Oregon Infrastructure Finance Authority Board.

(5) "Commission" means the Oregon Business Development Commission.

(6) "Community" means an area or locality in which the body of inhabitants has common economic or employment interests. The term is not limited to a city, county or other political subdivision and need not, but may be, limited by political boundaries.

(7) "Department" means the Oregon Business Development Department.

(8) "Director" means the Director of the Oregon Business Development Department.

(9) "Distressed area" means a county, city, community or other geographic area that is designated as a distressed area by the department, based on indicators of economic distress or dislocation, including but not limited to unemployment, poverty and job loss.

(10) "International trade" means the export and import of products and services and the movement of capital for the purpose of investment.

(11) "Local government" has the meaning given that term in ORS 174.116.

(12) "Municipality" means an Oregon city or county, the Port of Portland created by ORS 778.010, a county service district organized under ORS chapter 451, a district as defined in ORS 198.010, a tribal council of a federally recognized Indian tribe in this state or an airport district organized under ORS chapter 838.

(13) "Public body" has the meaning given that term in ORS 174.109.

(14) "Rural area" means an area located entirely outside of the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth boundaries of cities with populations of 30,000 or more.

(15) "Small business" means a business having 100 or fewer employees.

(16) "State agency" includes state officers, departments, boards and commissions.

(17) "Traded sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists. [Formerly 285.001; 1999 c.509 §1; 2003 c.114 §1; 2007 c.804 §1; 2009 c.830 §8]

**285A.020 Legislative findings; purpose; declaration of economic strategy; principles for investment of resources; priorities for funding and assistance.** (1) The Legislative Assembly finds that:

(a) Oregon possesses unique and sustaining virtues that will guide and assist in maintaining the state's economic health, including but not limited to Oregon's:

(A) Special heritage;

(B) Respect for and cultivation of the environment; and

(C) Attention to quality of life issues that are important to the state's economic development, including but not limited to access to quality, affordable child care for all children in Oregon.

(b) Oregon is strategically placed to compete and succeed in the global marketplace.

(c) All regions of the state should share in Oregon's economic recovery.

(d) Creating and retaining quality jobs are vital to the state's economic health.

(e) Oregon's agriculture and natural resource industries provide opportunities for beneficial economic enterprise, including sustainable business development activities.

(f) A well educated and trained workforce is necessary to support business and industry needs throughout the state.

(g) The ability of existing businesses to grow is critical to Oregon's prosperity.

(h) The state must utilize its competitive advantages to retain existing businesses and attract new companies and investment into the state.

(i) Continued development in Oregon depends on strengthening traded sector industries.

(j) International trade and development of international trade are essential for future business development opportunities.

(k) Small businesses remain a critical element of the state's economy.

(L) Capacity building to support business development in rural and distressed areas is a key component of economic development and revitalization efforts.

(m) Oregon's ports are important partners in the state's economic development efforts and are key components of local and state economic development strategies.

(n) Improving and enhancing infrastructure is necessary to the state's future economic development.

(o) Federal, state and local agencies working together will continue to enhance industrial site development and other economic development activities.

(2) It is the purpose of ORS 284.101 to 284.148 and ORS chapters 285A, 285B and 285C to enable the creation, retention, expansion and attraction of businesses that provide sustainable, living wage jobs for Oregonians through public-private partnerships and leveraged funding and to support economic opportunities for Oregon companies and entrepreneurs.

(3) The Legislative Assembly declares that it is the immediate economic strategy of the state to:

(a) Promote a favorable investment climate to strengthen businesses, create jobs and raise real wages;

(b) Improve the national and global competitiveness of Oregon companies; and

(c) Assist and further efforts to retain, expand and attract businesses.

(4) To promote the advancement of the Oregon economy and implement the immediate economic strategy of the state, the Oregon Business Development Department shall invest resources in accordance with the following principles:

(a) Processes for making public investments and working with local and regional issues must be designed for flexibility so that actions can adapt to the constantly changing conditions and demands under which communities and businesses operate.

(b) Partnerships among local, state and federal governments and public and private organizations and entities should be strengthened to further the economic strategy of the state.

(c) The expected impact of public investment and assistance shall be identified, in terms of measurable outcomes, whenever possible.

(d) State, federal and community goals, constraints and obligations should be identified at the beginning of the planning process, and the state should work actively with community partners, regions and state and local agencies to address and accomplish their mutual objectives.

(5) When the department provides funds or assistance for projects, programs, techni-

cal support or other authorized activities pursuant to ORS 284.101 to 284.148 and ORS chapters 285A, 285B and 285C, the department shall give priority to projects, programs and activities that:

(a) Retain and create jobs and raise real wages;

(b) Promote capacity building, emphasizing rural and distressed areas to further economic development initiatives;

(c) Assist small business creation and expansion;

(d) Invest and engage in training a skilled workforce;

(e) Retain and expand existing companies and recruit new investment to Oregon;

(f) Capitalize on Oregon's competitive advantages and strategically invest resources to offset competitive disadvantages;

(g) Support innovation and research;

(h) Assist industry clusters to succeed;

(i) Market Oregon's advantages;

(j) Promote international trade and attract foreign direct investment;

(k) Support the development of industrial and commercial lands;

(L) Advance the efforts of ports to promote economic development activities; and

(m) Build capacity in Oregon's arts and cultural organizations, creative businesses and individual artists. [Formerly 285.005; 1999 c.509 §2; 2001 c.883 §1b; 2007 c.804 §§2,88; 2009 c.830 §9]

## ADMINISTRATION (Commission)

**285A.040 Oregon Business Development Commission; appointment; confirmation; qualifications of members; term; compensation and expenses; presiding officer; quorum; meetings; effect of vacancy.** (1) There is established the Oregon Business Development Commission consisting of nine members appointed as follows:

(a) One nonvoting member appointed from among the members of the Senate by the President of the Senate;

(b) One nonvoting member appointed from among the members of the House of Representatives by the Speaker of the House of Representatives; and

(c) Seven members appointed by the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. The Governor shall appoint members of the commission in compliance with all of the following:

(A) Members shall be appointed with consideration given to representation of the different geographic regions of the state, and

at least one member shall be a resident of the area east of the Cascade Range.

(B) Not more than five members may belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(C) Members shall be appointed with consideration given to representation of the following areas of expertise or training:

- (i) International trade;
- (ii) Traded sector business development;
- (iii) Small business development;
- (iv) Local economic development;
- (v) Finance and business investment;
- (vi) Innovation; or
- (vii) Other areas of training or expertise identified by the Governor.

(2)(a) The term of office of each member appointed by the Governor is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member appointed by the Governor, the Governor shall appoint a successor whose term begins on July 1 of the following year. A member appointed by the Governor is eligible for reappointment. In case of a vacancy among the members appointed by the Governor for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(b) The term of office of the member appointed by the President of the Senate is four years. In case of a vacancy for any cause, the President of the Senate shall appoint a Senator to fill the office for the unexpired term.

(c) The term of office of the member appointed by the Speaker of the House of Representatives is two years. In case of a vacancy for any cause, the Speaker of the House of Representatives shall appoint a Representative to fill the office for the unexpired term.

(3) A member of the commission who is appointed by the Governor is entitled to compensation and expenses as provided by ORS 292.495. Legislative members of the commission are prohibited from receiving compensation and reimbursement for expenses.

(4) Subject to confirmation by the Senate, the Governor shall appoint one of the voting commissioners as presiding officer of the commission. The presiding officer shall have duties and powers as the commission determines are necessary for the office.

(5) Five voting members of the commission constitute a quorum for the transaction of business.

(6) The commission shall meet at least quarterly at a time and place determined by the commission. The commission shall also meet at other times and places as are specified by the call of the presiding officer or by the call of a majority of the voting members of the commission.

(7) A vacancy among the voting members of the commission does not impair the right of the remaining voting commissioners to exercise all the powers of the commission. If the remaining voting commissioners are unable to agree, the Governor shall have the right to vote as a member of the commission.

(8) A member of the commission appointed due to expertise or training in local economic development described in subsection (1)(c)(C)(iv) of this section shall also be an elected local government official with experience in economic development matters. [Formerly 285.009; 1999 c.509 §3; 2005 c.835 §34; 2007 c.804 §3; 2009 c.830 §10]

**285A.045 Duties and functions of commission; exercise of commission powers; rules.** (1) As its primary duty, the Oregon Business Development Commission shall develop and maintain the economic development policy and strategy for this state outlined in ORS 285A.020.

(2) The commission shall provide oversight and direction to the Oregon Business Development Department in carrying out the economic development policies and strategy established by the commission. In addition, the commission may perform any other duty vested in the commission by law.

(3) The commission shall keep complete and accurate records of all the meetings, transactions and business of the commission at the office of the department.

(4) When a power, duty or function is vested in the commission, the commission may designate department officers, agents, employees or committee members to exercise the power, duty or function of the commission. When the commission designates a person in writing to exercise a power, duty or function of the commission, the person may exercise the power, duty or function.

(5) In carrying out its duties under subsection (1) of this section, the commission shall coordinate its activities with federal, state and local agencies, community partners and regions, when appropriate.

(6) The commission may prepare and submit suggested administrative rules to the Director of the Oregon Business Development Department that the commission determines are necessary for the objectives and programs of the department. [Formerly 285.011; 1999 c.509 §4; 2001 c.174 §1; 2001 c.419 §7; 2001 c.883 §1c; 2007 c.804 §4; 2009 c.830 §11]

**285A.050 Biennial report; content.** (1) The Oregon Business Development Commission shall report biennially to the Governor and the Legislative Assembly on the success of economic development efforts. The report shall include the progress toward achievement of performance measures for the Oregon Business Development Department as adopted by the Legislative Assembly. At a minimum, the report shall include the following:

(a) For the overall department and for identifiable programs and funding sources:

(A) The number of jobs created and retained;

(B) The average wage levels of jobs created and retained; and

(C) Other measures identified by the commission.

(b) The status of the Oregon economy as it relates to the economic strategy outlined in ORS 285A.020.

(c) Other issues identified by the commission.

(2) Reports to the Legislative Assembly required under this section shall be made in accordance with ORS 192.245. [Formerly 285.013; 1999 c.509 §5; 2001 c.174 §2; 2001 c.419 §8; 2003 c.773 §1; 2003 c.800 §6; 2007 c.804 §5; 2009 c.830 §12]

**285A.055 Prerequisites for certain commission actions.** Prior to the approval of bond financing of economic development projects under ORS 285B.320 to 285B.371 or the making of loans or the granting of any moneys from any source, the Oregon Business Development Commission, or the Oregon Business Development Department as the designee of the commission, shall:

(1) Determine that the action is cost effective, considering both major public expenses and major public benefits;

(2) Find that the project will produce goods or services which are sold in markets for which national or international competition exists or, if the project is to be constructed and operated by a nonprofit organization, that the project will not compete with local for-profit businesses;

(3) Determine that the action is the best use of the moneys involved, considering other pending applications for those moneys;

(4) Find that the project involved is consistent with the Oregon Business Development Department's comprehensive policy and programs; and

(5) Find that the project involved is consistent with applicable adopted local economic development plans. [Formerly 285.025; 1999 c.509 §6; 2001 c.883 §2; 2007 c.804 §6; 2009 c.830 §13]

**285A.060 Advisory and technical committees.** (1) To aid and advise the Oregon Business Development Commission in the performance of its duties, the commission may establish such advisory and technical committees as it considers necessary. Such committees may be continuing or temporary. The presiding officer of the commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members. Members shall be appointed with due consideration given to the geographic representation described in ORS 285A.040 (1). The Director of the Oregon Business Development Department, or designee, shall be an ex officio member of each committee.

(2) Members of the committees appointed pursuant to this section shall receive no compensation, but may receive payment for their actual and necessary travel and other expenses while engaged in the performance of their official duties. [Formerly 285.030; 2009 c.830 §14]

#### (Department)

**285A.070 Oregon Business Development Department; organization; director; confirmation; duties and powers; rules.** (1) The Oregon Business Development Department is established.

(2) The department shall be under the supervision of the Director of the Oregon Business Development Department, who shall be appointed by and shall hold office at the pleasure of the Governor.

(3) The appointment of the director shall be subject to confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.

(4) Subject to policy direction by the Oregon Business Development Commission, the director shall:

(a) Be the administrative head of the department;

(b) Administer the laws of the state relating to economic development; and

(c) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies that may substantially affect economic development within Oregon.

(5) In addition to duties otherwise required by law, and subject to policy direction by the commission, the director shall prescribe rules for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property, based on best managerial practices as determined by the

director and in a manner consistent with applicable law.

(6) The director shall organize the department in whatever manner the director considers necessary to conduct the work of the department efficiently and effectively, subject to approval by the commission.

(7) The director may appoint all subordinate officers and employees of the department and may prescribe their duties, assignments and reassignments and fix their compensation, subject to any applicable provisions of the State Personnel Relations Law. Subject to any other applicable law regulating travel expenses, the officers and employees of the department shall be allowed such reasonable and necessary travel and other expenses as may be incurred in the performance of their duties.

(8) The director may delegate the exercise or discharge of any power, duty or function that is vested in or imposed by law upon the director to any department employee for the purpose of conducting an official act in the name of the director. The official act of any person acting in the name of the director by the authority of the director is an official act of the director.

(9) The director may require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The director shall fix the amount of the bond, except as otherwise provided by law, and approve the sureties. The department shall pay the premiums on the bond.

(10) The commission shall report periodically to the Governor on the director's performance and make appropriate recommendations. [Formerly 285.033; 1999 c.509 §7; 2007 c.804 §7; 2009 c.830 §15]

### **(Temporary provisions relating to Oregon Broadband Advisory Council)**

**Note:** Sections 1 and 3 to 5, chapter 782, Oregon Laws 2009, provide:

**Sec. 1.** (1) The Oregon Broadband Advisory Council is established within the Oregon Business Development Department. The council consists of 14 members, of whom:

(a) The Governor shall appoint 12 members as follows:

(A) One member to represent the counties of this state.

(B) One member to represent the cities of this state.

(C) Three members to represent telecommunications service providers and Internet service providers in this state. At least one member must represent rural telecommunications consortia.

(D) One member to represent Oregon tribes.

(E) One member to represent education.

(F) One member to represent economic development.

(G) One member to represent public safety.

(H) One member to represent health.

(I) One member to represent the State Chief Information Officer.

(J) One member from the Public Utility Commission.

(b) The Speaker of the House of Representatives shall appoint one nonvoting member who is a member of the House of Representatives.

(c) The President of the Senate shall appoint one nonvoting member who is a member of the Senate.

(2) The term of office of each voting member is four years, but a voting member serves at the pleasure of the Governor. Before the term of a voting member expires, the Governor shall appoint a successor whose term begins on January 1 next following. A voting member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment that becomes immediately effective for the unexpired term.

(3) The nonvoting legislative members shall serve two-year terms and are eligible for reappointment.

(4) Members of the council who are not members of the Legislative Assembly are not entitled to compensation, but voting members may be paid expenses if funding is available from contributions the Oregon Business Development Department accepts under section 3 (2), chapter 782, Oregon Laws 2009.

(5) Members of the council who are members of the Legislative Assembly are entitled to compensation and expense reimbursement as provided in ORS 171.072.

(6) The council shall select one of the council's voting members as chairperson and another voting member as vice chairperson, for such terms and with duties and powers necessary for performing the functions of the offices as the council determines.

(7) A majority of the voting members of the council constitutes a quorum for transacting business.

(8) The council shall meet at least once every three months at a place, day and hour determined by the council. The council may also meet at other times and places specified by the call of the chairperson or of a majority of the members of the council.

(9) A majority of the voting members of the council must approve official action by the council. The council may recommend legislation, which must be prepared in time for presession filing by December 15 of the year preceding an odd-numbered year regular session of the Legislative Assembly.

(10) The Oregon Business Development Department shall provide staff or facilities to the council.

(11) The State Chief Information Officer, the Public Utility Commission and the Department of Education may provide staff or facilities to the council.

(12) All agencies of state government, as defined in ORS 174.111, shall assist the council in the performance of the council's duties and, to the extent permitted by law relating to confidentiality, to furnish such information and advice as the members of the council consider necessary to perform the members' duties. [2009 c.782 §1; 2011 c.272 §9; 2011 c.545 §3; 2015 c.807 §33]

**Sec. 3.** (1) The Oregon Broadband Advisory Council Fund is established, separate and distinct from the General Fund. Interest earned by the Oregon Broadband Advisory Council Fund shall be credited to the fund. Moneys in the Oregon Broadband Advisory Council Fund are continuously appropriated to the Oregon Business Development Department for the purposes of carrying out the duties of the Oregon Broadband Advisory Council.

(2) The department, on behalf of the council, may accept contributions of funds and assistance from the United States Government or agencies of the United

States Government or from any other source, public or private, and agree to conditions not inconsistent with the purposes of the council. All such funds are to aid in financing the functions of the council and must be deposited in the Oregon Broadband Advisory Council Fund to the credit of separate accounts for the council to disburse for the purposes for which the funds were contributed.

(3) The council shall encourage:

(a) Coordination between existing organizations and sectors that can leverage broadband to their advantage;

(b) State agencies to utilize broadband telecommunications;

(c) The development and support of digital inclusion and education programs to encourage broadband adoption and provide citizens with institutions to teach digital skills necessary for success in the workplace;

(d) Efforts to provide cost-effective quality workforce development training using telecommunications infrastructure and facilities to access distance learning opportunities;

(e) Schools, education service districts and local education agencies in unserved areas to promote broadband access for the surrounding community;

(f) Public and private entities to seek opportunities for partnership with educational institutions that will stimulate the use of broadband technologies through community projects and public education;

(g) The use of broadband communications technologies for telehealth and telemedicine; and

(h) Public and private organizations to work together in partnership to promote the use of telecommunications infrastructure and new technology. [2009 c.782 §3]

**Sec. 4.** The Oregon Broadband Advisory Council shall submit a report by November 1 of each even-numbered year to the Joint Legislative Committee on Information Management and Technology on the following subjects:

(1) The affordability and accessibility of broadband technology in all areas of this state;

(2) The extent of broadband technology use in this state in the telehealth industry, energy management, education and government; and

(3) The role of broadband technology in local, state and regional economies and economic development. [2009 c.782 §4; 2015 c.807 §35; 2017 c.124 §1]

**Sec. 5.** (1) Sections 1 to 4, chapter 782, Oregon Laws 2009, are repealed on January 2, 2020.

(2) The amendments to ORS 403.450 by section 4, chapter 87, Oregon Laws 2014, become operative on January 2, 2020. [2009 c.782 §5; 2014 c.87 §5; 2015 c.483 §1; 2015 c.807 §36]

### **285A.075 Department duties; rules; contract authority; foreign trade offices.**

(1) The Oregon Business Development Department shall:

(a) Implement programs and adopt rules in accordance with applicable provisions of ORS chapter 183 that are consistent and necessary to carry out the policies established by the Oregon Business Development Commission and the duties, functions and powers vested by law in the department.

(b) Act as the official state liaison agency for persons interested in locating industrial or business firms in the state and for state and local groups seeking new industry or

business, and maintain the confidentiality of negotiations conducted pursuant to this paragraph, if requested.

(c) Coordinate state and federal economic and community development programs.

(d) Actively recruit domestic and international business firms to those communities desiring business recruitment.

(e) Work with existing Oregon companies to assist in their expansion or help them retain jobs in the state.

(f) Consult with local governments to establish regions for the purpose of job development to facilitate economic activities in the region. Regions established for this purpose need not be of the same size in geographic area or population.

(g) Establish and operate foreign trade offices in foreign countries in which the department considers a foreign trade office necessary. The department shall use department employees, contracts with public or private persons or a combination of employees and contractors to establish and operate foreign trade offices. Department employees, including managers, who are assigned to work in a foreign trade office shall be in the unclassified service, and the director shall set the salaries of such employees. ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235, 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870, 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not apply to the department's operation of foreign trade offices outside the state.

(h) Consult with other state agencies and with local agencies and officials prior to defining or designating distressed areas for purposes of ORS 285A.020.

(i) Budget moneys for travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel to accomplish the purposes of ORS 284.101 to 284.148 and ORS chapters 285A, 285B and 285C. The department may expend moneys duly budgeted to pay the travel and other expenses of such persons if the director determines the expense may promote the purposes of this subsection.

(j) Promulgate rules to govern contracts.

(k) Develop strategies to address issues that are necessary and appropriate to Oregon's future and adopt goals that include measurable indicators of success (Oregon benchmarks) that show the extent to which each goal is being achieved.

(L) Use practices and procedures that the department determines are the best practices for carrying out the duties of the department.

(2) The department shall have no regulatory power over the activities of private persons. Its functions shall be solely advisory, coordinative and promotional.

(3) Notwithstanding ORS 279A.140, the department may award grants or enter into contracts as necessary or appropriate to carry out the duties, functions and powers vested in the department by law. [Formerly 285.035; 2001 c.883 §3; 2003 c.794 §235; 2007 c.804 §89; 2007 c.858 §28; 2009 c.830 §16]

**285A.080 Salaries and expenses of personnel.** The Director of the Oregon Business Development Department and all unclassified personnel shall receive such salary as may be provided by law or be fixed by the Oregon Business Development Commission. In addition to salaries, the director and all unclassified personnel, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred in the performance of official duties. [Formerly 285.036; 2009 c.830 §17]

**285A.083 Authority to require fingerprints for criminal records check.** For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Business Development Department may require the fingerprints of a person who:

(1)(a) Is employed or applying for employment by the department; or

(b) Provides services or seeks to provide services to the department as a contractor, vendor, intern or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) In which the person has access to information that state or federal laws, rules or regulations prohibit disclosing or define as confidential;

(c) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;

(d) That has mailroom duties as a primary duty or job function;

(e) In which the person has responsibility for auditing the department or other business entities;

(f) That has personnel or human resources functions as a primary responsibility;

(g) In which the person has access to personal information, including Social Security numbers, dates of birth, driver license numbers, credit card information or criminal background information, about staff or members of the public; or

(h) In which the person has access to tax or financial information about individual or business entities. [2017 c.222 §2]

**285A.085** [Formerly 285.038; 1999 c.509 §8; repealed by 2007 c.804 §86]

**285A.090** [Formerly 285.050; 1999 c.509 §9; 2001 c.883 §40; 2003 c.773 §1a; 2003 c.800 §7; 2007 c.858 §29; repealed by 2007 c.804 §§86,87]

#### **(Oregon Infrastructure Finance Authority Board)**

**285A.091 Oregon Infrastructure Finance Authority Board; members; terms; quorum.** (1) The Oregon Infrastructure Finance Authority Board is created as a policy-making and advisory body within the Oregon Business Development Department. The board consists of nine members as follows:

(a) One nonvoting member appointed from members of the Senate by the President of the Senate;

(b) One nonvoting member appointed from members of the House of Representatives by the Speaker of the House of Representatives;

(c) One member appointed by the State Treasurer; and

(d) Six members appointed by the Governor.

(2) Persons appointed members of the board must be Oregon residents, well qualified by experience to make policy and recommendations in areas of concern to the Oregon Infrastructure Finance Authority and to perform the duties of office. Members shall be appointed with consideration given to knowledge and experience:

(a) In the field of state and municipal finance;

(b) Of the infrastructure and public works needs in Oregon cities;

(c) Of the infrastructure and public works needs in Oregon counties;

(d) Of issues related to ports that affect the state;

(e) Of issues related to special service district services furnished across the state; and

(f) Of infrastructure and public works necessary to further Oregon's long term economic growth.

(3) The office of the State Treasurer may recommend persons with expertise in the field of state and municipal finance for membership on the board.

(4) The term of a member of the board appointed by the Governor, the State Treasurer or the President of the Senate is four years. The term of a member appointed by the Speaker of the House of Representatives is two years.

(5) In case of a vacancy on the board for any cause, the appointing authority shall appoint a successor to serve for the unexpired term.

(6) A member of the board may be appointed to serve two consecutive terms. A member who serves two consecutive terms is not eligible for reappointment within one year following the expiration of the second term.

(7) The board shall select one of its members to chair the board for such term and with duties and powers necessary to perform the functions of the office as the board determines.

(8) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(9) Notwithstanding ORS 171.072, members of the board who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the board.

(10) Members of the board who are not members of the Legislative Assembly are entitled to compensation and reimbursement for expenses as provided in ORS 292.495. [2009 c.830 §1a; 2011 c.272 §5]

**285A.093 Board duties; rules.** The Oregon Infrastructure Finance Authority Board shall:

(1) Serve as a body to advise municipalities, state agencies and private persons on the development and implementation of state policies and programs relating to the infrastructure needs of this state and its communities.

(2) Advise the Governor, the Oregon Business Development Commission, the Director of the Oregon Business Development Department and the Oregon Business Development Department on matters identified by the commission as being of interest to the Governor, the commission, the director and the department that relate to infrastructure and public works programs administered, and actions taken, by the Oregon Infrastructure Finance Authority.

(3) Provide the commission with the opportunity to comment and provide direction on matters relating to infrastructure and public works programs administered, and actions taken, by the authority.

(4) Seek and receive the views of all levels of government and the private sector with respect to state policies and programs to address the infrastructure needs of this state.

(5) Prepare and submit to the director suggested administrative rules that the board determines are necessary for the operation of the programs under the direction of the authority.

(6) Establish policies and procedures for loan and grant programs administered by the authority, except for the seismic rehabilitation grant program administered under ORS 401.910. [2009 c.830 §2; 2011 c.48 §1; 2013 c.782 §3]

**285A.095** [1997 c.535 §2; 2003 c.773 §1b; 2003 c.800 §8; repealed by 2007 c.804 §86]

#### (Oregon Infrastructure Finance Authority)

**285A.096 Oregon Infrastructure Finance Authority; duties; staff.** (1) The Oregon Infrastructure Finance Authority is established as an administrative section within the Oregon Business Development Department, subject to the supervision of the administrator of the authority and the policies and procedures established by, and recommendations of, the Oregon Infrastructure Finance Authority Board.

(2) The authority consists of the administrator and all personnel employed by the authority.

(3) Subject to subsection (1) of this section, the authority shall develop and administer programs and funds of the department that address the infrastructure needs of this state.

(4) The authority shall provide the board with staff and other assistance as necessary for the board to perform its duties.

(5) The authority shall employ, in accordance with the State Personnel Relations Law, the staff necessary to allow the authority to carry out its responsibilities. [2009 c.830 §3; 2011 c.48 §2]

**285A.098 Powers of Oregon Infrastructure Finance Authority; administration of federal Community Development Block Grant funding program.** (1) The Oregon Infrastructure Finance Authority may:

(a) Conduct hearings and conferences to develop facts, explain programs and activities, and obtain advice;

(b) Enter into agreements with other public bodies, as defined in ORS 174.109, or associations or private persons for services to assist the authority and the Oregon Infrastructure Finance Authority Board;

(c) Enter into agreements with other public bodies, as defined in ORS 174.109, the federal government, associations or private persons for cooperative endeavors that further programs administered by the authority;

(d) Subject to applicable policies and procedures, enter into agreements for loans, grants or other assistance, including, but not limited to, direct purchase of goods or services, with local governments, as defined in ORS 174.116, special government bodies, as defined in ORS 174.117, or other eligible applicants for infrastructure development;

(e) Appoint committees, consultants or other persons with expertise in infrastructure-related matters to advise the Oregon Infrastructure Finance Authority Board or the authority;

(f) Obtain assistance or data from any state agency; or

(g) Perform any other act necessary to carry out the duties of the authority.

(2) The authority shall administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq. [2009 c.830 §3a]

**285A.100** [Formerly 285.055; repealed by 2007 c.804 §86]

**285A.101 Administrator; powers; rules; staff.** (1) The Director of the Oregon Business Development Department, upon consultation with and the approval of the Oregon Infrastructure Finance Authority Board, shall appoint an administrator of the Oregon Infrastructure Finance Authority who shall serve at the pleasure of the director.

(2) The administrator shall receive such salary as may be provided by law or as fixed by the director.

(3) The administrator shall be the administrative head of the authority.

(4) The administrator may suggest rules to the director for the government of the authority, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property.

(5) The administrator shall hire the staff necessary to allow the authority to carry out its duties. In accordance with the State Personnel Relations Law, the administrator and any manager hired by the administrator shall be in the unclassified service. [2009 c.830 §4]

**285A.103 Oregon Infrastructure Finance Fund; sources; uses; rules.** (1) The Oregon Infrastructure Finance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Infrastructure Finance Fund shall be credited to the fund. The Oregon Infrastructure Finance Fund consists of all moneys credited to the fund, including moneys from the Administrative Services Economic Development Fund, federal funds collected or received and fees, moneys or other revenues, including miscellaneous receipts, collected or received by the Oregon Infrastructure Finance Authority. The moneys in the Oregon Infrastructure Finance Fund are continuously appropriated to the Oregon Business Development Department for the authority for the purposes of ORS 285A.091 to 285A.108.

(2) The authority may finance programs and projects determined to further infrastructure development within this state by making grants or loans using moneys in the fund.

(3) The Oregon Infrastructure Finance Authority Board may suggest to the Director of the Oregon Business Development Department administrative rules for establishing standards, objectives and criteria for use of moneys in the fund. The department shall adopt rules to establish standards, objectives and criteria for use of moneys in the fund. [2009 c.830 §5]

**285A.105** [Formerly 285.060; 2003 c.242 §6; repealed by 2007 c.804 §86]

**285A.106 Prohibited acts.** The Oregon Infrastructure Finance Authority may not direct, supervise or control the policy, programs, personnel or administration of any program or entity unless specifically authorized by statute. [2009 c.830 §6]

**285A.108 Rules.** The Director of the Oregon Business Development Department, in accordance with ORS chapter 183, may adopt rules for the operation of the Oregon Infrastructure Finance Authority as the director determines necessary or convenient for the authority to perform its duties and functions and as are consistent with and necessary to carry out the policies established by the Oregon Infrastructure Finance Authority Board. [2009 c.830 §7]

**285A.110** [Formerly 285.065; 2001 c.104 §97; repealed by 2007 c.804 §86]

**285A.112** [2003 c.773 §58 and 2003 c.800 §1; repealed by 2007 c.804 §86]

**285A.114** [2003 c.800 §4; 2005 c.748 §25; repealed by 2007 c.804 §86]

**285A.115** [Formerly 285.068; repealed by 1999 c.509 §61]

### (Regional Organization)

**285A.116 Regions for job development; economic innovation coordination.** (1) The Oregon Business Development Department shall establish regions for the purpose of job development. When establishing the regions, the department shall consider the optimal size for each region that will most effectively facilitate economic development activities in the region. Regions established by the department do not have to be of the same size or population.

(2) The Director of the Oregon Business Development Department shall provide for economic innovation coordination in the central office, which shall assist the field representatives in establishing contacts between local businesses and universities and community colleges in Oregon to promote the use of the research capacities of these institutions for development of new products. [2003 c.773 §60; 2005 c.748 §26; 2009 c.830 §18]

**Note:** 285A.116 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285A.125** [1997 c.700 §1; repealed by 2007 c.804 §86]

**285A.128** [1997 c.700 §2; repealed by 2003 c.114 §4]

**285A.131** [Formerly 285.071; 1999 c.509 §24; 2001 c.204 §1; 2003 c.114 §2; repealed by 2007 c.804 §86]

**285A.133** [Formerly 285.073; 2003 c.114 §3; repealed by 2007 c.804 §86]

**285A.136** [1997 c.700 §6; 2003 c.800 §9; repealed by 2007 c.804 §86]

**285A.139** [Formerly 285.069; repealed by 2007 c.804 §86]

**285A.141** [1999 c.817 §2; 2003 c.563 §1; repealed by 2007 c.804 §86]

### (Sister States)

**285A.143 Sister State Committee; membership; term.** (1) The Sister State Committee shall be appointed as described in subsection (2) of this section. The committee may consist of not more than 21 members.

(2) Membership of the Sister State Committee includes:

(a) A cochairperson of the committee who is appointed by the President of the Senate from among the members of the Senate;

(b) A cochairperson of the committee who is appointed by the Speaker of the House of Representatives from among the members of the House of Representatives;

(c) Two members of the Senate who are not members of the same political party, appointed by the President of the Senate;

(d) Two members of the House of Representatives who are not members of the same

political party, appointed by the Speaker of the House of Representatives; and

(e) Additional members selected according to criteria established by the committee and appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

(3) The President of the Senate and the Speaker of the House of Representatives shall jointly select one of the members appointed under subsection (2)(e) of this section to be executive director to plan for and coordinate activities under ORS 285A.145.

(4)(a) A member of the Legislative Assembly appointed under subsection (2)(a) to (d) of this section serves at the pleasure of the appointing authority and may continue to serve as long as the member remains in the chamber of the Legislative Assembly from which the member was appointed. Before the expiration of the legislative term of office of a member appointed under subsection (2)(a) to (d) of this section, the appointing authority shall appoint a successor whose term on the committee begins when the former member's legislative term of office ends. If there is a vacancy for a member appointed under subsection (2)(a) to (d) of this section for any other cause, the appointing authority shall make an appointment to become effective immediately.

(b) The term of office of committee members appointed under subsection (2)(e) of this section is two years. A member appointed under subsection (2)(e) of this section is eligible for reappointment. If there is a vacancy for a member appointed under subsection (2)(e) of this section before the expiration of the term, the appointing authority shall make an appointment to become effective immediately for the unexpired term.

(5) Members of the Legislative Assembly who are members of the Sister State Committee are entitled to a per diem as provided in ORS 171.072 except when members are out of the United States.

(6) The cochairpersons of the Sister State Committee shall preside alternately at Sister State Committee meetings.

(7) A majority of the members of the Sister State Committee constitutes a quorum for the transaction of business.

(8) The Legislative Policy and Research Director shall provide administrative staff support for one meeting of the Sister State Committee held before each visit described in ORS 285A.145 (2) and for one meeting held after each visit.

(9) The Sister State Committee shall plan, coordinate or conduct activities under ORS 285A.145 for all sister states of this

state except provinces described in ORS 285A.152.

(10) For the purposes of this section and ORS 285A.145, "sister state" means an international state or province. [2001 c.284 §1; 2003 c.14 §142; 2007 c.246 §1; 2013 c.222 §3; 2016 c.88 §14]

**Note:** 285A.143 and 285A.145 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285A.145 Sister State Committee authority.** The Sister State Committee may:

(1) Organize activities for and host visiting delegations from the sister states;

(2) Organize activities for, visit or participate in delegations visiting sister states and nations in which sister states are located;

(3) Provide for the exchange of information between the State of Oregon and sister states;

(4) Work with representatives of sister states on joint projects; and

(5) Take all actions necessary to facilitate and promote relations between the State of Oregon and sister states. [2001 c.284 §2; 2007 c.246 §2]

**Note:** See note under 285A.143.

**285A.148 Oregon-China Sister State Committee; membership; term.** (1) The Oregon-China Sister State Committee is created consisting of the following members:

(a) The President of the Senate as an ex officio member and cochairperson of the committee;

(b) The Speaker of the House of Representatives as an ex officio member and cochairperson of the committee;

(c) Two members of the Senate who are not members of the same political party, appointed by the President of the Senate;

(d) Two members of the House of Representatives who are not members of the same political party, appointed by the Speaker of the House of Representatives;

(e) Four members representing Oregon's business community, appointed by the President of the Senate;

(f) Four members representing Oregon's business community, appointed by the Speaker of the House of Representatives;

(g)(A) One former member of the Senate, appointed by the President of the Senate, and one former member of the House of Representatives, appointed by the Speaker of the House of Representatives; or

(B) If one of the potential appointees described in subparagraph (A) of this paragraph is not available, two former members of the

Legislative Assembly, appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

(h) Two public members, appointed by the President of the Senate;

(i) Two public members, appointed by the Speaker of the House of Representatives; and

(j) If the cochairpersons agree, one elected state official, appointed jointly by the cochairpersons.

(2)(a) The President of the Senate and the Speaker of the House of Representatives may each designate an alternate from time to time from among the members of their respective chambers to exercise powers as a member of the Oregon-China Sister State Committee when the President or Speaker is not in attendance at a committee meeting, except that an alternate may not preside over a committee meeting in place of the President or Speaker.

(b) The President of the Senate and the Speaker of the House of Representatives shall jointly select one of the members appointed under subsection (1)(e) or (f) of this section to be executive director to plan for and coordinate activities under ORS 285A.152.

(3)(a) A member of the Legislative Assembly appointed under subsection (1)(c) or (d) of this section serves at the pleasure of the appointing authority and may continue to serve as long as the member remains in the chamber of the Legislative Assembly from which the member was appointed. Before the expiration of the legislative term of office of a member appointed under subsection (1)(c) or (d) of this section, the appointing authority shall appoint a successor whose term on the committee begins when the former member's legislative term of office ends. If there is a vacancy for a member appointed under subsection (1)(c) or (d) of this section for any other cause, the appointing authority shall make an appointment to become effective immediately.

(b) The term of office of committee members appointed under subsection (1)(e) to (j) of this section is two years. A member appointed under subsection (1)(e) to (j) of this section is eligible for reappointment. If there is a vacancy for a member appointed under subsection (1)(e) to (j) of this section before the expiration of the term, the appointing authority shall make an appointment to become effective immediately for the unexpired term.

(4) Members of the Legislative Assembly who are members of the Oregon-China Sister State Committee are entitled to a per diem as provided in ORS 171.072 except when members are out of the United States.

(5) The cochairpersons of the Oregon-China Sister State Committee shall preside alternately at meetings of the committee.

(6) A majority of the members of the Oregon-China Sister State Committee constitutes a quorum for the transaction of business.

(7) The Legislative Policy and Research Director shall provide administrative staff support for one meeting of the Oregon-China Sister State Committee held before each visit described in ORS 285A.152 (2) and for one meeting held after each visit. [2007 c.246 §3; 2013 c.222 §1; 2016 c.88 §15]

**Note:** 285A.148 and 285A.152 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285A.150** [1997 c.495 §1; 2001 c.582 §1; 2005 c.837 §17; renumbered 284.600 in 2007]

**285A.152 Oregon-China Sister State Committee authority.** (1) The Oregon-China Sister State Committee established under ORS 285A.148 may:

(a) Organize activities for and host visiting delegations from provinces of the People's Republic of China;

(b) Organize activities for and participate in delegations visiting provinces in China;

(c) Provide for the exchange of information between the State of Oregon and provinces in China;

(d) Work with representatives of provinces in China on joint projects; and

(e) Take all actions necessary to coordinate and promote Oregon exports to China and Chinese investments within Oregon.

(2) The Oregon-China Sister State Committee may visit China at least biennially for the purpose of fulfilling the objectives described in subsection (1) of this section.

(3) For purposes of this section, "province" means a province or a provincial level division as defined under the laws of the People's Republic of China. [2007 c.246 §4; 2009 c.830 §19; 2013 c.222 §2]

**Note:** See note under 285A.148.

**285A.153** [1997 c.495 §2; 2001 c.582 §2; 2005 c.837 §20; renumbered 284.604 in 2007]

**285A.156** [1997 c.495 §4; renumbered 284.608 in 2007]

**285A.159** [1997 c.495 §5; 2001 c.582 §3; renumbered 284.612 in 2007]

**285A.162** [1997 c.495 §6; 2001 c.582 §4; renumbered 284.615 in 2007]

**285A.165** [1997 c.495 §7; 2001 c.582 §5; renumbered 284.618 in 2007]

**285A.168** [1997 c.495 §8; 2001 c.582 §6; renumbered 284.622 in 2007]

**285A.170** [2001 c.918 §11; renumbered 284.625 in 2007]

**285A.171** [Formerly 184.007; 2001 c.582 §7; repealed by 2005 c.837 §21]

**285A.174** [1997 c.495 §9; 2001 c.582 §8; renumbered 284.628 in 2007]

#### (Brownfields Redevelopment and Cleanup)

**285A.185 Brownfields redevelopment; department duties; rules.** (1) As used in this section, "brownfield" means real property where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(2) The Oregon Business Development Department shall assist private persons and local governments to redevelop brownfields.

(3) The department shall:

(a) Act as the primary point of contact for information regarding public and private funding options available to a person interested in redeveloping a brownfield;

(b) Facilitate the funding process involving landowners or prospective purchasers, lending institutions, other state agencies, local jurisdictions, consultants and interested citizens;

(c) Serve as a key advocate for the redevelopment of brownfields in Oregon;

(d) Provide information to private persons and local governments on brownfield redevelopment funding;

(e) Enhance the availability of funding resources through program development, grant proposals and other appropriate opportunities; and

(f) Adopt rules necessary to carry out this section. [1997 c.738 §2; 2001 c.96 §1; 2005 c.81 §1; 2009 c.830 §20]

**285A.188 Brownfields Redevelopment Fund; definitions; uses; priorities for loans and grants; eligibility; rules.** (1) As used in this section:

(a) "Environmental action" means activities undertaken to:

(A) Determine if a release has occurred or may occur, if the release or potential release poses a significant threat to human health or the environment or if additional remedial actions may be required at the site;

(B) Conduct a remedial investigation and a feasibility study;

(C) Plan for remedial action or removal action; or

(D) Conduct a remedial action or removal action at a site.

(b) "Facility," "hazardous substance," "release," "remedial action" and "removal" have the meanings given those terms in ORS 465.200.

(c) "Substantial public benefit" includes, but is not limited to:

- (A) The generation of funding or other resources facilitating substantial remedial action at a facility in accordance with this section;
- (B) A commitment to perform substantial remedial action at a facility in accordance with this section;
- (C) Productive reuse of a vacant or abandoned industrial or commercial facility; or
- (D) Development of a facility by a municipality or a nonprofit organization to address an important public purpose.

(2) There is created within the State Treasury a revolving fund known as the Brownfields Redevelopment Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in the Brownfields Redevelopment Fund are continuously appropriated to the Oregon Business Development Department and shall be used to fund loans and grants for environmental actions on properties that are brownfields, as defined in ORS 285A.185.

(3)(a) Subject to paragraph (b) of this subsection, when making a loan or grant for an environmental action, the Oregon Business Development Department shall give priority to persons who, at the time of applying for the loan or grant, are not liable under ORS 465.255 for a release of a hazardous substance at the property at which the environmental action is to be conducted. No more than 60 percent of the total amount of the Brownfields Redevelopment Fund in any biennium shall be awarded to persons who are liable with respect to the subject property under ORS 465.255. A person is not eligible to receive a loan or grant from moneys in the Brownfields Redevelopment Fund if the person has knowingly violated applicable laws or regulations or has knowingly violated or failed to comply with an order of the Department of Environmental Quality, if such action or inaction has resulted in one or more of the following:

- (A) Contribution to or exacerbation of existing contamination at the facility;
- (B) Release of a hazardous substance at the facility; or
- (C) Interference with necessary investigation or remedial actions at the facility.

(b) Notwithstanding paragraph (a) of this subsection:

- (A) When making a grant to a municipality, the Oregon Business Development Department shall give priority to municipalities that provide matching funds from a loan under this section, from another source or from both.
- (B) When making a grant to an entity that is not a municipality, the department shall require that:

- (i) The recipient is not liable for the subject property under ORS 465.255;
- (ii) The environmental action provides a substantial public benefit; and
- (iii) The recipient provides matching funds from a loan under this section, from another source or from both.

(c) The department may establish by rule circumstances in which the department may waive or subsidize the interest on a short-term loan.

(4) When making a loan or grant for an environmental action, the department shall consider:

- (a) The extent to which actual or perceived contamination prevents the property from being fully utilized;
- (b) The need for providing public assistance, after considering the difficulty of obtaining financing from other sources or of obtaining financing at reasonable rates and terms;
- (c) The degree to which redevelopment of the property provides opportunity for achieving protection of human health or the environment by reducing or eliminating the contamination of the property and for contributing to the economic health and diversity of the area;
- (d) The probability of the success of the intended use or the degree to which redevelopment of the property provides a public purpose following remediation of the property;
- (e) Compliance with the land use plan of the local government with jurisdiction over the property; and
- (f) Endorsement from the local government with jurisdiction over the property.

(5) Before making a loan or grant decision pursuant to this section, the Oregon Business Development Department shall consult with the Department of Environmental Quality.

(6) The Oregon Business Development Department may use a portion of the Brownfields Redevelopment Fund to:

- (a) Pay for administrative costs of environmental actions;
- (b) Pay for administrative costs associated with administering the program and fund; and
- (c) Satisfy contracts entered into as required to ensure that environmental reviews

are conducted in a manner consistent with existing environmental cleanup laws and rules.

(7) The department shall adopt rules necessary to carry out the requirements of this section. The department shall develop procedures to ensure that activities for which loans or grants are made are consistent with existing environmental cleanup laws and rules. [1997 c.738 §3; 2001 c.96 §2; 2005 c.81 §2; 2007 c.804 §11; 2009 c.830 §21]

**285A.190 Oregon Coalition Brownfields Cleanup Program; loans and grants; rules.** (1) There is established in the Oregon Business Development Department the Oregon Coalition Brownfields Cleanup Program.

(2) The department may make grants, loans and expenditures from the Oregon Coalition Brownfields Cleanup Fund to provide financial or other assistance to public and private owners of eligible brownfield properties for the purpose of cleaning up the properties.

(3) An eligible owner of a brownfield property may borrow moneys from the fund by entering into a loan agreement with the department in accordance with rules adopted by the department.

(4) The owner of a publicly owned brownfield property may enter into a loan agreement with the department notwithstanding any restrictions on indebtedness in the charter or bylaws of the public body or any other provision of law.

(5) The department may adopt rules necessary to carry out the provisions of this section and ORS 285A.192. The rules shall include, but are not limited to, requirements for eligibility for financial assistance or other assistance from the program, good and sufficient collateral required to secure loans from the fund and the complete or partial waiver of interest on short-term loans made from the fund.

(6) As used in this section:

(a) "Brownfield" has the meaning given that term in ORS 285A.185.

(b) "Other assistance" includes, but is not limited to, direct purchase of goods or services related to brownfields cleanup by the department.

(c) "Public body" has the meaning given that term in ORS 174.109. [2005 c.81 §3; 2009 c.830 §22]

**Note:** 285A.190 and 285A.192 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285A.192 Oregon Coalition Brownfields Cleanup Fund; sources; uses.** (1) There is established in the State Treasury, separate and distinct from the General Fund, a revolving fund known as the Oregon Coalition Brownfields Cleanup Fund. Interest earned by the Oregon Coalition Brownfields Cleanup Fund shall be credited to the fund. All moneys in the Oregon Coalition Brownfields Cleanup Fund are continuously appropriated to the Oregon Business Development Department for the purposes of ORS 285A.190.

(2) The Oregon Coalition Brownfields Cleanup Fund shall consist of all moneys credited to the fund, including but not limited to:

(a) Moneys received from the federal government, other state agencies or local governments;

(b) Moneys appropriated or transferred to the fund by the Legislative Assembly or the Oregon Business Development Commission; and

(c) Repayment of financial assistance, including interest earnings, provided by moneys from the fund. [2005 c.81 §4; 2009 c.830 §23]

**Note:** See note under 285A.190.

**(Financial Affairs)**

**285A.200 Gifts; federal aid; fees.** (1) The Oregon Business Development Department may accept gifts of money or other property from any public or private agency or person made for the purpose of assisting the department to carry out any programs or laws that the department is charged with administering. Moneys so received shall be paid into an appropriate fund or account. Property so received shall be used for the purposes for which that property is given.

(2) The department may apply for, receive from the United States or any of its agencies, and disburse or supervise the disbursement of federal aid for the purposes for which the aid is provided. The department may also disburse or supervise the disbursement of funds provided by the State of Oregon for expenditure as a condition of receiving the federal aid.

(3) The department may assess and charge fees:

(a) For loans made from any of its funds or accounts; and

(b) For program benefits provided and administrative expenses incurred by the department in the administration of the process developed in accordance with ORS 284.565 to certify sites that are ready for industrial or traded sector development. [Formerly 285.086; 2001 c.883 §4; 2009 c.830 §24; 2011 c.155 §1]

**285A.203** [Formerly 285.090; repealed by 2007 c.804 §86]

**285A.206 Department to prepare financial statements; contents; reporting period.** (1) In each calendar year, the Oregon Business Development Department shall prepare, in accordance with generally accepted governmental accounting principles, a financial statement for individual funding programs as required by law.

(2) The financial statements required by this section shall record and summarize all the financial transactions during the reporting period that involved moneys credited to a fund or account and shall describe the financial condition of the fund or an account at the end of the reporting period. The reporting period for financial statements required by this section shall be the fiscal year commencing on July 1 and ending on June 30.

(3) The financial statements required by this section shall be in a form prescribed by the Secretary of State.

(4) Each financial statement required by this section shall describe the financial transactions and condition of a single fund and shall be submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives not later than December 31 in each year. [Formerly 285.095; 1999 c.509 §10; 2003 c.167 §10; 2007 c.804 §9; 2009 c.830 §25]

**285A.209** [Formerly 285.100; repealed by 2007 c.804 §86]

**285A.212** [Formerly 285.105; repealed by 1999 c.509 §61]

**285A.213 Safe Drinking Water Revolving Loan Fund; administration; sources; uses.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Safe Drinking Water Revolving Loan Fund. All moneys in the Safe Drinking Water Revolving Loan Fund are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the purposes set forth in this section.

(2) The Oregon Infrastructure Finance Authority shall administer the Safe Drinking Water Revolving Loan Fund in accordance with a memorandum of understanding between the Oregon Infrastructure Finance Authority and the Oregon Health Authority.

(3) The Safe Drinking Water Revolving Loan Fund shall consist of:

(a) Moneys transferred to the fund by the Oregon Health Authority for purposes authorized by the memorandum of understanding between the Oregon Health Authority and the Oregon Infrastructure Finance Authority.

(b) Moneys transferred to the fund by the federal government, other state agencies or local governments.

(c) Moneys transferred to the fund by the Legislative Assembly or the Oregon Infrastructure Finance Authority.

(d) Proceeds from the sale of revenue bonds.

(e) Repayment of financial assistance provided with moneys from the fund.

(f) Interest and other earnings on moneys in the fund.

(4) Moneys in the Safe Drinking Water Revolving Loan Fund shall be used to provide financial or other assistance to publicly owned and privately owned water systems under the Safe Drinking Water Act Amendments of 1996, P.L. 104-182, and rules of the Oregon Business Development Department. As used in this subsection, "assistance" includes direct purchase by the Oregon Infrastructure Finance Authority of goods or services related to a water system project to the extent permitted by the memorandum of understanding between the Oregon Infrastructure Finance Authority and the Oregon Health Authority, and by the Safe Drinking Water Act Amendments of 1996, and as authorized by rules of the Oregon Business Development Department.

(5) The owner of a water system may borrow from the Safe Drinking Water Revolving Loan Fund by entering into a loan agreement with the Oregon Infrastructure Finance Authority. The owner of a municipally owned water system may enter into a loan agreement with the Oregon Infrastructure Finance Authority notwithstanding any restriction on indebtedness in the charter or bylaws of the municipality or any other provision of law. Moneys owed to the Oregon Infrastructure Finance Authority by the borrower under a loan agreement may be paid from:

(a) Revenue from any water system project of the borrower, including special assessment revenue;

(b) Amounts withheld under subsection (6) of this section;

(c) The general fund of the borrower;

(d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or

(e) Any other source.

(6) If a borrower fails to comply with a loan agreement entered into under subsection (5) of this section, the Oregon Business Development Department may seek appropriate legal remedies to secure any repayment due the Safe Drinking Water Revolving Loan Fund. If a borrower defaults on repayment due the fund, the State of Oregon may with-

hold any amounts otherwise due to the borrower. Any amounts withheld under this subsection shall be credited toward repayment of the borrower's indebtedness to the fund. [1999 c.236 §1; 2001 c.883 §4a; 2003 c.773 §2; 2009 c.595 §199; 2009 c.830 §26a]

**285A.215** [Formerly 285.110; repealed by 1999 c.509 §61]

**285A.216** [1999 c.386 §3; 2001 c.954 §1; renumbered 359.405 in 2001]

**285A.218** [Formerly 285.115; repealed by 1999 c.509 §61]

**285A.221** [Formerly 285.117; repealed by 1999 c.509 §61]

**285A.224 Business Retention Fund; purpose; administration; uses; rules.** (1) It is the purpose of the Business Retention Fund to assist businesses, communities and workers affected by significant business transitions, economic dislocation or the possibility of economic dislocations to evaluate and implement alternative business or community opportunities and to focus on the long term survivability of businesses.

(2) The Business Retention Fund is created separate and distinct from the General Fund. The fund shall be administered by the Oregon Business Development Department. The fund may be credited with contributions of moneys from public and private sources and with repayments as provided in this section. Interest earned by the fund shall be credited to the fund.

(3)(a) The department may allocate moneys in the fund for the following purposes:

(A) Business retention service;

(B) Employee ownership;

(C) Community response to plant closures or community distress, or both; and

(D) Feasibility studies, transition plans or restructuring plans.

(b) The department shall establish the maximum percentage of the fund that may be allocated for the purposes described in paragraph (a) of this subsection and a minimum match requirement, if any.

(4) The department may grant, expend or loan moneys in the fund for financial assistance, feasibility studies, transition plans, restructuring plans, technical assistance and management consulting services for business firms in transition, troubled firms that may close without assistance, for troubled firms that are experiencing major layoffs or firms that have actually closed or announced closure, and for communities that are experiencing distress due to the business closures, under such terms and conditions as the department may determine.

(5) The department shall provide that firms receiving assistance repay to the Business Retention Fund any assistance provided

under subsection (4) of this section. When the department sets repayment terms for a firm receiving assistance, the department shall consider the financial ability of the firm to repay assistance.

(6) In providing assistance from the Business Retention Fund, the department may give preference to Oregon's rural and distressed areas and its traditional agriculture, forestry and fishing industries. The department may also give priority to areas including but not limited to emerging industries and industry clusters with high potential for job retention and creation and market growth, as well as traded sector firms competing in markets for which regional, national or international competition exists.

(7) The department shall adopt by rule specific criteria for expenditure of moneys from the Business Retention Fund. [Formerly 285.120; 1999 c.509 §11; 2003 c.773 §4; 2007 c.804 §12; 2009 c.830 §27]

**285A.227 Oregon Business, Innovation and Trade Fund; uses; sources; rules.** (1) There is created within the State Treasury, separate and distinct from the General Fund, the Oregon Business, Innovation and Trade Fund. Interest earned by the Oregon Business, Innovation and Trade Fund shall be credited to the fund. The moneys in the Oregon Business, Innovation and Trade Fund are continuously appropriated to the Oregon Business Development Department for the purpose of financing programs and projects that promote business and economic development throughout the state. The fund shall consist of all moneys credited to the fund, including moneys from the Administrative Services Economic Development Fund, federal funds collected or received, and fees, moneys or other revenues, including Miscellaneous Receipts, collected or received by the department, and all interest earnings that accrue to the fund.

(2) The Oregon Business, Innovation and Trade Fund is created to provide a flexible funding source for financing those programs and projects that are determined by the Oregon Business Development Commission under the policies, criteria and standards set forth in ORS 285A.020, 285A.045 and 285A.055 to further business and economic development. The Oregon Business Development Department may finance programs and projects determined by the commission to further business and economic development by making grants or loans using moneys in the fund. Notwithstanding ORS 279A.140, the department may enter into contracts as necessary or appropriate to implement programs and projects determined by the commission to further business and economic development using moneys in the fund.

(3) The Oregon Business Development Department, by rule, shall adopt standards, objectives and criteria for use of the moneys in the Oregon Business, Innovation and Trade Fund and for the adjustment of allocations to programs and projects that receive funding from the fund. [1997 c.620 §1; 2001 c.883 §5; 2003 c.794 §236; 2007 c.804 §10; 2009 c.830 §28]

**Note:** 285A.227 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## PACIFIC NORTHWEST ECONOMIC REGION COMPACT

**285A.240 Legislative findings.** The Legislative Assembly finds that:

(1) There is a new emerging global economy in which countries and regions located in specific areas of the world are forging new cooperative arrangements.

(2) These new cooperative arrangements are increasing the competitiveness of the participating countries and regions, thus increasing the economic benefits and the overall quality of life for the citizens of the individual countries and regions.

(3) The Pacific Northwest states of Alaska, Idaho, Montana, Oregon and Washington and the Canadian provinces of Alberta and British Columbia are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the individual states and provinces that will provide substantial economic benefits for all of their citizens. [Formerly 285.693]

**285A.243 Compact.** The Pacific Northwest Economic Region is established by law and entered into by the State of Oregon as a party, and is in full force and effect in accordance with the terms of ORS 285A.240 and this section.

## THE PACIFIC NORTHWEST ECONOMIC REGION

### ARTICLE I

#### POLICY AND PURPOSE

States and provinces participating in the Pacific Northwest Economic Region shall seek to develop and establish policies that: Promote greater regional collaboration among the seven entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific Northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually

beneficial. These areas include, but are not limited to: International trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific Northwest Economic Region may take the form of uniform legislation enacted by two or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

## ARTICLE II

### ELIGIBLE PARTIES AND EFFECTIVE DATE

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon and Washington. This agreement establishing the Pacific Northwest Economic Region shall become effective when it is executed by one state, one province and one additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

## ARTICLE III

### ORGANIZATIONAL STRUCTURE

Each state and province participating in this agreement shall appoint representatives to the Pacific Northwest Economic Region. The organizational structure of the Pacific Northwest Economic Region shall consist of the following: A delegate council consisting of four legislators and the governor or the governor's designee from each participating state and four representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one legislator from each participating state and/or province who is a member of the delegate council and four of the seven governors and premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four governor or premier members of the executive committee

shall be chosen by the governors and premiers from among the governors and premiers on the delegate council. At least one of the four members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific Northwest Economic Region.

#### ARTICLE IV

##### DUTIES AND RESPONSIBILITIES

The delegate council shall have the following duties and responsibilities: Facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific Northwest Economic Region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific Northwest Economic Region. The executive committee shall perform the following duties and responsibilities: Elect the president and vice-president of the Pacific Northwest Economic Region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of and, if appropriate, apply for, (1) tax-exempt status under the laws and regulations of the United States or any state or subdivision thereof and (2) similar status under the laws and regulations of Canada or any province or subdivision thereof, and approve such rules, regulations, organizational policies and staffing structure for the Pacific Northwest Economic Region and take such further actions on behalf of the Pacific Northwest Economic Region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax-exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific Northwest Economic Region. The rules and regulations of the Pacific Northwest Economic Region shall establish the procedure for voting.

#### ARTICLE V

##### MEMBERSHIP OF POLICY COMMITTEES

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators and governors and

premiers to sit on these committees in accordance with its own rules and regulations concerning such appointments.

#### ARTICLE VI

##### GENERAL PROVISIONS

This agreement shall not be construed to limit the powers of any state or province or to repeal or prevent the enactment of any legislation.

[Formerly 285.695]

**285A.255** [Formerly 285.130; 2003 c.818 §13; renumbered 284.101 in 2007]

**285A.258** [Formerly 285.133; renumbered 284.104 in 2007]

**285A.261** [Formerly 285.135; 2003 c.818 §14; renumbered 284.107 in 2007]

**285A.264** [Formerly 285.137; 2001 c.883 §6; 2003 c.818 §19; renumbered 284.111 in 2007]

**285A.267** [Formerly 285.140; 2003 c.818 §21; renumbered 284.114 in 2007]

**285A.269** [2003 c.818 §§18,18a; renumbered 284.118 in 2007]

**285A.270** [Formerly 285.143; repealed by 2003 c.818 §31]

**285A.271** [2003 c.818 §20; renumbered 284.122 in 2007]

**285A.272** [2003 c.818 §22; renumbered 284.126 in 2007]

**285A.273** [Formerly 285.145; 2003 c.794 §237; repealed by 2003 c.818 §§31,31a]

**285A.274** [2003 c.818 §23; 2005 c.443 §20; renumbered 284.131 in 2007]

**285A.276** [Formerly 285.146; 2001 c.883 §7; 2003 c.405 §5; 2003 c.794 §238; repealed by 2003 c.818 §§31,31b]

**285A.277** [2003 c.818 §28; 2007 c.218 §5; renumbered 284.134 in 2007]

**285A.279** [Formerly 285.148; 2003 c.818 §25; renumbered 284.138 in 2007]

**285A.282** [Formerly 285.153; 2003 c.818 §26; renumbered 284.142 in 2007]

**285A.285** [Formerly 285.160; repealed by 2003 c.818 §31]

**285A.288** [Formerly 285.163; 2003 c.818 §27; renumbered 284.146 in 2007]

#### TITLE I BANK FUND

**285A.300 Definition for ORS 285A.300 to 285A.312.** As used in ORS 285A.300 to 285A.312, "fund" means the Title I Bank Fund. [Formerly 285.680; 1999 c.509 §12]

**285A.303 Findings; purpose.** (1) The Legislative Assembly finds that:

(a) Local government is experiencing increasing difficulty in obtaining necessary financing for eligible community development projects, such as public works projects, causing project delays and significant increased costs to property owners and municipalities.

(b) The improvement, expansion and new construction of eligible community development projects contributes to orderly economic growth by providing the framework necessary to attract industry to this state and to promote increased employment opportunities and other community improvements which are for the benefit of the people of Oregon.

(c) It is important, therefore, that state agencies authorized to distribute state or federal funds for such improvements be able to provide programs and allocate moneys that will provide the greatest impetus to community development opportunities in Oregon.

(2) Since municipalities in this state often suffer from a lack of available financing for eligible community development projects, it is the purpose of ORS 285A.300 to 285A.312 to provide financial assistance to municipalities in order that they may develop and construct community development projects and may construct, improve and repair facilities necessary for orderly community development. [Formerly 285.683]

**285A.306 Title I Bank Fund; investment; sources; administration; rules and policies; costs.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Title I Bank Fund. All moneys in the fund are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority to provide financing for community development projects. Interest earned by the Title I Bank Fund shall be credited to the fund.

(2) Moneys in the Title I Bank Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.857, and the earnings from such investments and other program income shall be credited to the Title I Bank Fund.

(3) The Title I Bank Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly.

(b) Repayment of loans made by cities and counties with grants from the Oregon Community Development Block Grant Program, including interest earnings.

(4) The Oregon Infrastructure Finance Authority shall administer the fund.

(5) The department shall adopt rules and policies for the administration of the fund.

(6) The authority may charge program administrative costs to the fund to pay for administrative expenses incurred to the authority for processing applications and investigating community development projects. [Formerly 285.685; 1999 c.509 §13; 2009 c.830 §29]

**285A.309 Use of funds.** All payments, receipts and interest from outstanding indebtedness shall be retained and accumulated in the Title I Bank Fund and used for the purposes specified in ORS 285A.303. [Formerly 285.687; 1999 c.509 §14]

**285A.312 Application of federal statutes.** All federal overlay statutes associated with moneys received from the federal Housing and Urban Development Community Development Block Grant Program for Small Cities shall continue to apply to the use of those moneys in the Title I Bank Fund received from sources described in ORS 285A.306 (3)(b). [Formerly 285.690; 1999 c.509 §15; 2005 c.22 §203]

## FOREIGN TRADE ZONES

**285A.325 Foreign trade zones; operators of zones.** (1) Any port organized under the laws of this state, any municipal corporation in this state or any dock commission of any city of this state may apply to the United States for permission and may establish, operate and maintain foreign trade zones within or without their boundaries.

(2) A private for-profit corporation may also establish, operate and maintain a foreign trade zone in this state when the corporation is:

(a) Incorporated and organized under the laws of this state for the purpose of establishing, operating and maintaining a foreign trade zone; and

(b) Authorized to establish, operate and maintain a foreign trade zone under a special Act of the Legislative Assembly that specifically names and grants such authority to the corporation. [Formerly 307.850]

**Note:** 285A.325 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285A.328 Specific corporation authorized to maintain foreign trade zone.** Klamath International Trade & Transportation Services (KITTS), an Oregon corporation, is authorized by ORS 285A.325 and 285A.328 to establish, operate and maintain a foreign trade zone in this state. [1997 c.499 §2]

**Note:** 285A.328 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## ASSISTANCE TO SMALL BUSINESSES

**285A.340 Legislative findings; declaration of policy.** The Legislative Assembly declares that it is the purpose of ORS 285A.340 to 285A.349:

(1) To assist the development of small businesses, with special emphasis on increasing the percentage of businesses owned by women and members of minority groups;

(2) To encourage competition among publicly supported small business service providers in order to supply the most effective, highest quality services to the greatest number of businesses for the most significant long term outcomes;

(3) To foster cooperation among state agencies, state-supported organizations and private sector entities that provide services to small businesses in order to best meet the needs of small business clients;

(4) To encourage and support private sector organizations, to serve the needs of the small businesses in this state and, to the maximum extent feasible, to coordinate the small business programs of this state; and

(5) To provide support for organizations that encourage and assist the development and expansion of small businesses in Oregon. [Formerly 285.121; 1999 c.509 §16; 2003 c.773 §5; 2007 c.804 §13]

**Note:** 285A.340 to 285A.349 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285A by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285A.343** [Formerly 285.123; repealed by 2003 c.773 §56]

**285A.346 Purchases of assistance services for small businesses; grants; requirements for providers of services; waiver of federal requirements.** (1)(a) The Oregon Business Development Department may purchase business assistance services from public or private organizations for delivery to small businesses in this state or may provide grants to public or private organizations to support, aid, stimulate or otherwise affect the delivery of business assistance services to small businesses in this state.

(b) For the purposes of ORS 285A.340 to 285A.349, "business assistance services" includes:

(A) Basic business training, including elements of accounting, personnel management, marketing and tax compliance.

(B) Counseling on business needs and problems, including but not limited to specialized assistance with intellectual property rights, federal research grants, international markets, lean manufacturing and electronic commerce.

(C) Assistance in securing state and federal procurement contracts.

(D) Assistance in securing Oregon suppliers for goods and services.

(2) An organization or association that receives state moneys for the purpose of providing business assistance services to small businesses shall comply, to the greatest extent feasible, with the state policies established under ORS 285A.340 to 285A.349.

(3) To the extent that federal laws or regulations impose requirements that limit the payment of fees by recipients of business assistance services to small businesses, the department and the providers of those services shall apply for waivers of such federal requirements. [Formerly 285.125; 1999 c.509 §25; 2003 c.773 §6; 2007 c.804 §14; 2009 c.830 §30]

**Note:** See note under 285A.340.

**285A.349 Evaluation of effectiveness of assistance.** The Oregon Business Development Department shall evaluate the efficiency and effectiveness of the delivery of business assistance services to small businesses. [Formerly 285.127; 2003 c.773 §7; 2007 c.804 §15; 2009 c.830 §31]

**Note:** See note under 285A.340.

**285A.360** [Formerly 285.175; repealed by 1999 c.509 §61]

**285A.363** [Formerly 285.176; repealed by 1999 c.509 §61]

**285A.366** [Formerly 285.178; repealed by 1999 c.509 §61]

**285A.369** [Formerly 285.179; repealed by 1999 c.509 §61]

**285A.380** [Formerly 285.250; repealed by 1999 c.509 §56]

**285A.383** [Formerly 285.253; repealed by 1999 c.509 §61]

**285A.386** [Formerly 285.255; repealed by 1999 c.509 §61]

**285A.389** [Formerly 285.257; repealed by 1999 c.509 §61]

**285A.392** [Formerly 285.260; repealed by 1999 c.509 §61]

**285A.415** [Formerly 285.170; repealed by 1999 c.509 §61]

**285A.418** [Formerly 285.173; repealed by 1999 c.509 §61]

## BEGINNING AND EXPANDING FARMER LOAN PROGRAM

**285A.420 Legislative findings.** (1) The Legislative Assembly finds that the demand in Oregon for local food is surging, that the interest in farming among younger generations is on the rise and that access to capi-

tal is one of the most important factors contributing to the development and success of a local market agricultural sector in the Oregon economy.

(2) The Legislative Assembly also finds that the establishment and implementation of a federal-state, public-private partnership program to assist beginning farmers is a cost-effective way for Oregon to support beginning farmers and the growth of the local market agricultural sector across this state and to stabilize the agricultural workforce. Such a program would represent no cost or risk to the state and would allow participating lenders to earn federally tax exempt interest income on loans to eligible beginning farmers. [2013 c.742 §1; 2015 c.165 §1]

**Note:** 285A.420 to 285A.435 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285A.422 Definitions for ORS 285A.420 to 285A.435.** As used in ORS 285A.420 to 285A.435:

(1) "Agricultural improvements" means any improvements, buildings, structures or fixtures suitable for use in farming that are located on agricultural land.

(2) "Agricultural land" means land located in this state that is suitable for use in farming and that is or will be operated as a farm.

(3) "Agricultural project" means agricultural improvements, agricultural land or depreciable agricultural property.

(4) "Beginning farmer" means a person, as defined by the Oregon Business Development Department by rule.

(5) "Depreciable agricultural property" means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code, including but not limited to farm machinery and trucks but not including feeder livestock, seed, feed, fertilizer and other types of inventory or supplies.

(6) "Eligible revenue" means the revenue or assets of an eligible agricultural project that are provided as security for a loan under ORS 285A.420 to 285A.435 by a beginning farmer, an agent of the beginning farmer or a related party to the beginning farmer.

(7) "Lender" means a person or entity authorized to make loans to beginning farmers pursuant to ORS 285A.420 to 285A.435, that is one of the following:

(a) An insured institution, as defined in ORS 706.008, that is authorized to do business in Oregon;

(b) A person selling agricultural land to a beginning farmer pursuant to an owner-financed agreement or sales contract;

(c) An institution organized and existing under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); and

(d) Other persons or entities as defined by rule adopted by the Oregon Business Development Department. [2013 c.742 §2; 2015 c.165 §2]

**Note:** See note under 285A.420.

**285A.425 Beginning and Expanding Farmer Loan Program; eligibility and qualifications; rules; fees; authority to enter into contracts and agreements.** (1)

The Oregon Business Development Department, in consultation with the State Department of Agriculture and potential lenders, shall create the Beginning and Expanding Farmer Loan Program to facilitate the making of loans to beginning farmers to finance the acquisition of an approved agricultural project.

(2) Before revenue bonds may be issued for the program, an agricultural project must be determined to be eligible for a loan under ORS 285A.420 to 285A.435 and the beginning farmer must be qualified by the lender to receive the loan.

(3) The Oregon Business Development Department shall adopt rules for the operation of the program, to define terms and to establish an application process and requirements, criteria and eligibility standards for beginning farmers and lenders to participate in the program. The department may approve a loan only if all of the following are satisfied:

(a) The lender is approved to participate in the program.

(b) The beginning farmer is a resident of this state.

(c) The agricultural project that is the subject of the loan is located, or will be used, in this state.

(d) The lender acknowledges that the loan to the beginning farmer is secured only by the eligible revenue of an eligible agricultural project and not by revenue or assets of the State of Oregon.

(e) The beginning farmer will materially and substantially participate in the farming for which the loan is sought.

(f) The eligible agricultural project will be used for farming only by the beginning farmer or by the beginning farmer and the beginning farmer's family.

(g) The beginning farmer and the lender have complied with any other requirement, criterion or standard prescribed by the department by rule.

(4)(a) The department may charge fees to lenders and beginning farmers as necessary:

(A) To administer the program; and

(B) To cover the cost of procurement of bond counsel, State Treasurer fees, department issuance fees and trustee fees.

(b) Lenders may charge fees and points as agreed to by the beginning farmer and the lender and as approved by the department.

(5) The lender and the beginning farmer shall agree to the terms of the loan, including interest rate and length of loan. The lender is responsible for making an independent credit evaluation of the beginning farmer or the farming enterprise for which the loan is sought.

(6) The Oregon Business Development Department may enter into contracts and agreements as necessary and appropriate to implement and manage the program. [2013 c.742 §3]

**Note:** See note under 285A.420.

**285A.430 Revenue bonds to finance agricultural projects.** (1) At the request of the Oregon Business Development Department, the State Treasurer may from time to time issue revenue bonds to:

(a) Finance agricultural projects determined eligible for financing under ORS 285A.420 to 285A.435;

(b) Refund bonds issued for the program; or

(c) Pay bond-related costs and other costs related to loans approved under ORS 285A.420 to 285A.435.

(2) If the State Treasurer issues the revenue bonds pursuant to this section:

(a) The State Treasurer shall:

(A) Issue the revenue bonds in the name of the State of Oregon in the manner provided by ORS chapter 286A; and

(B) Identify the revenue bonds to the agricultural projects financed by the revenue bonds.

(b) The State Treasurer or the department shall designate the trustee, financial advisor and bond counsel, if any, and enter into appropriate agreements with each to carry out ORS 285A.420 to 285A.435. The powers conferred on a related agency under ORS chapter 286A with respect to the designation of trustee, financial advisor and bond counsel do not apply to revenue bonds issued under this section.

(3) A trustee designated to carry out provisions of ORS 285A.420 to 285A.435 must agree to make reports as required by the State Treasurer or the department.

(4) The State Treasurer may charge administrative expenses of the State Treasurer against proceeds of the revenue bonds or eligible revenues of agricultural projects.

(5) The State Treasurer is the elected representative for purposes of approving the issuance of revenue bonds under ORS 285A.420 to 285A.435 to the extent that approval is required under section 147(f) of the Internal Revenue Code.

(6) The validity of revenue bonds authorized by ORS 285A.420 to 285A.435 is not dependent on or affected by the validity or regularity of proceedings relating to the acquisition, purchase, construction, reconstruction, installation, improvement, betterment, extension, management, operation or funding of the agricultural project for which revenues bonds are issued. The revenues bonds must contain a recital that the bonds are issued pursuant to this section and the recital is conclusive evidence of the validity and the regularity of the issuance of the bonds.

(7) Revenue bonds issued under this section are not:

(a) Secured by, payable from and chargeable to moneys other than the eligible revenue of agricultural projects that are pledged to pay the revenue bonds.

(b) A liability of the State of Oregon. A holder or owner of the revenue bonds may not compel an exercise of the taxing power of the state to pay the revenue bonds or the interest on the revenue bonds or enforce payment of the revenue bonds against property of the state except the eligible revenue of an agricultural project.

(c) A charge lien or encumbrance, legal or equitable, upon property of the state, except the eligible revenue of an agricultural project.

(8) Bonds issued under this section must contain a recital that:

(a) The revenue bonds and interest on the revenue bonds are payable solely from the eligible revenue of an agricultural project.

(b) The revenue bonds do not constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation.

(9) The holders or owners of revenue bonds issued under this section, or a trustee, may, if permitted by the documents associated with the revenue bonds:

(a) By action or proceeding for legal or equitable remedies, enforce rights granted against, and compel the performance of duties and obligations of, the State of Oregon or its officers, agents or employees.

(b) By action require the state to account as if it were the trustee of an express trust.

(c) By action enjoin any acts or things that are unlawful or in violation of a right of the bondholders.

(d) Bring action upon the revenue bonds.

(e) Exercise rights or remedies conferred by ORS 285A.420 to 285A.435 in addition to and not in lieu of any other right or remedy conferred by ORS 285A.420 to 285A.435 or any other law of this state. [2013 c.742 §4]

**Note:** See note under 285A.420.

**285A.433 Authority of Oregon Business Development Department; document specifications; prohibited actions.** (1) The Oregon Business Development Department may:

(a) Lend the proceeds of revenue bonds authorized by ORS 285A.420 to 285A.435 for approved agricultural projects.

(b) Make contracts, execute instruments and do what is necessary or appropriate to carry out ORS 285A.420 to 285A.435.

(2) The documents associated with revenue bonds or loans authorized by ORS 285A.420 to 285A.435 may specify:

(a) The use and disposition of the revenues of an eligible agricultural project.

(b) The creation and maintenance of sinking funds and the regulation, disposition and use of moneys in the sinking funds.

(c) The creation and maintenance of funds to provide for maintaining the eligible agricultural project and replacement of properties depreciated, damaged, destroyed or condemned.

(d) The disposition and use of the proceeds of revenue bonds.

(e) The nature of mortgages or other encumbrances on the eligible agricultural project made in favor of the holder or owners of revenue bonds or in favor of an escrow agent, vendor, lender, other financing party or trustee.

(f) The events of default, the rights and liabilities and the terms and conditions upon which the holders or owners of revenue bonds issued under ORS 285A.430 may bring an action or proceeding on the revenue bonds.

(g) The conditions under which additional revenue bonds or other obligations may be issued that are payable from eligible revenue of an eligible agricultural project.

(h) The insurance to be carried on an eligible agricultural project and the disposition and use of insurance moneys.

(i) The keeping of books of account and the inspection and audit of the books.

(j) The terms and conditions upon which all or part of the revenue bonds become, or may be declared, due before maturity and the terms and conditions upon which a declaration and the consequences of the declaration may be waived.

(k) The rights, liabilities, powers and duties arising upon the breach by a beginning farmer, a lender or a related party.

(L) The appointing of and vesting in a trustee of the right to enforce covenants made to secure or to pay the revenue bonds, the powers and duties of the trustee and the limitation of the liability of the trustee.

(m) The terms and conditions upon which holders or owners of the revenue bonds may enforce covenants made by beginning farmers, trustees and other parties to the bond documents.

(n) The subordination of the security of revenue bonds authorized by ORS 285A.420 to 285A.435, and the payment of principal and interest on the revenue bonds, to other bonds or obligations of the State of Oregon that:

(A) Are issued to finance the approved agricultural project; or

(B) That are outstanding when the subordinated revenue bonds are issued and delivered.

(o) Other terms approved by the department that are consistent with ORS 285A.420 to 285A.435.

(3) The State of Oregon:

(a) May not acquire an ownership or leasehold interest in an approved agricultural project in connection with the financing of the agricultural project.

(b) May not operate an approved agricultural project as a business or in any manner whatsoever.

(c) May not expend moneys on an eligible agricultural project, other than eligible revenue of the eligible agricultural project, the proceeds of revenue bonds issued under ORS 285A.430 or other moneys received by the state as grants or gifts with which to make payments for an eligible agricultural project. [2013 c.742 §5]

**Note:** See note under 285A.420.

**285A.435 Beginning and Expanding Farmer Loan Program Fund.** (1) There is created the Beginning and Expanding Farmer Loan Program Fund, separate and distinct from the General Fund. Interest earned by the Beginning and Expanding Farmer Loan Program Fund shall be credited to the fund. All moneys credited to the fund are continuously appropriated to the Oregon Business Development Department for the purpose of implementing and operating the Beginning

and Expanding Farmer Loan Program under ORS 285A.420 to 285A.435.

(2) The fund shall consist of all moneys credited to the fund, including:

(a) Moneys appropriated to the fund by the Legislative Assembly or transferred to the fund by the Oregon Business Development Department;

(b) Earnings on moneys in the fund;

(c) Fees paid to the department by beginning farmers and lenders; and

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

(3) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857 and the earnings from investments shall be credited to the fund.

(4) The department may establish accounts within the fund to carry out ORS 285A.420 to 285A.435. [2013 c.742 §6]

**Note:** See note under 285A.420.

**285A.440** [Formerly 285.190; renumbered 660.303 in 2001]

**285A.443** [Formerly 285.180; 1999 c.39 §6; 2001 c.684 §4; renumbered 660.300 in 2001]

**285A.446** [Formerly 285.183; 1999 c.39 §7; 2001 c.684 §13; renumbered 660.339 in 2001]

**285A.449** [Formerly 285.185; repealed by 2001 c.684 §38]

**285A.452** [1997 c.652 §1; renumbered 660.306 in 2001]

**285A.455** [1997 c.652 §2; 2001 c.684 §15; renumbered 660.312 in 2001]

**285A.458** [1997 c.652 §3; 2001 c.684 §16; 2001 c.900 §52; renumbered 660.315 in 2001]

**285A.461** [1997 c.652 §5; repealed by 2001 c.524 §4]

**285A.480** [Formerly 285.670; repealed by 1999 c.509 §61]

**285A.483** [Formerly 285.672; 1999 c.509 §17; repealed by 2009 c.830 §171]

**285A.486** [Formerly 285.674; 1999 c.509 §58; 2005 c.835 §28; repealed by 2009 c.830 §171]

**285A.489** [Formerly 285.676; 1999 c.509 §18; repealed by 2009 c.830 §171]

**285A.492** [Formerly 285.677; repealed by 1999 c.509 §61]

**285A.495** [Formerly 285.678; repealed by 2009 c.830 §171]

## ECONOMIC DISLOCATIONS

**285A.510 Definitions for ORS 285A.510 to 285A.522.** As used in ORS 285A.510 to 285A.522:

(1) "Community" means an area or locality in which the inhabitants have common economic or employment interests and which is undergoing an economic emergency. The term is not limited to a city, county or other political subdivision and need not, but may, be limited by political lines and boundaries. A large populous area under one or more governing bodies may be composed of several communities.

(2) "Employer," "mass layoff" and "plant closing" have the meanings given those terms on October 3, 1989, in the Worker Adjustment and Retraining Notification Act (P.L. 100-379). [Formerly 285.450]

**285A.513 Policy.** The Legislative Assembly declares that it is the policy of the State of Oregon to assist employers, workers and communities in this state in coping with the effects of plant closings, mass layoffs and other economic dislocations. [Formerly 285.453]

**285A.516 Agency to receive notice of plant closing or layoff.** The Office of Community Colleges and Workforce Development is the state agency that shall be notified when an employer is required to provide written notice of a plant closing or mass layoff under section 3 of the Worker Adjustment and Retraining Notification Act (P.L. 100-379). [Formerly 285.457; 2001 c.684 §18; 2015 c.366 §69]

**285A.519 Notice to employers of agency that receives closing or layoff notice; assistance programs.** (1) The Office of Community Colleges and Workforce Development shall notify employers subject to the Worker Adjustment and Retraining Notification Act (P.L. 100-379) that the Office of Community Colleges and Workforce Development is the state agency that must be notified when the employers are required to provide notice of a plant closing or mass layoff under the Worker Adjustment and Retraining Notification Act (P.L. 100-379).

(2) When notifying employers as provided in subsection (1) of this section, the office shall provide employers with a statement of the programs, projects, expenditures and other forms of assistance the office and other state agencies can provide to communities, employers and workers affected by a plant closing or mass layoff. [Formerly 285.460; 2001 c.684 §19; 2015 c.366 §70]

**285A.522 Annual report of plant closings and layoffs; contents.** (1) The Office of Community Colleges and Workforce Development shall prepare an annual report concerning plant closings and mass layoffs in this state. The report shall describe in detail each plant closing or mass layoff during the period covered by the report and the assistance and services provided to the affected employers, workers and communities. The report shall also contain the most recent information available relating to the current status of the employer, workers and community affected by each plant closing or mass layoff.

(2) The report prepared under this section shall be presented to the Governor, the President of the Senate, the Speaker of the House of Representatives and appropriate

legislative committees. [Formerly 285.463; 2007 c.354 §12; 2015 c.366 §71]

**285A.535** [Formerly 285.263; repealed by 1999 c.509 §61]

**285A.538** [Formerly 285.265; repealed by 1999 c.509 §61]

**285A.541** [Formerly 285.267; repealed by 1999 c.509 §61]

**285A.544** [Formerly 285.270; repealed by 1999 c.509 §61]

**285A.547** [Formerly 285.273; repealed by 1999 c.509 §61]

**285A.550** [Formerly 285.275; repealed by 1999 c.509 §61]

## PORTS (Generally)

**285A.600 Policy.** (1) The Legislative Assembly declares that it is the policy of this state to include Oregon's ports in planning and implementing economic development and transportation programs. To that end, the Oregon Business Development Commission and the Oregon Business Development Department, through the Oregon Infrastructure Finance Authority, may work to:

(a) Coordinate with the Department of Transportation and other state agencies, commissions and advisory committees engaged in activities affecting ports to facilitate port planning and development;

(b) Promote local cooperation in statewide planning and development of the ports;

(c) Promote long-term economic self-sufficiency of the ports;

(d) Encourage cost-effective investments with prudent financial consideration of port development projects; and

(e) Facilitate ports in their efforts to respond to domestic and international market opportunities.

(2) The Legislative Assembly also declares that:

(a) The State of Oregon recognizes, supports and promotes a federal role in the continuation of the maintenance and development of federally authorized waterway projects.

(b) Because the federal role is changing, the responsibilities of this state may vary in terms of direct involvement in waterway transportation.

(c) It is the policy of the State of Oregon to support the continued maintenance and development of the following waterways as key elements of the statewide transportation system:

(A) The navigation channels of the Columbia River, Coos Bay and Yaquina Bay and any other commercial waterway segments that provide a link for movement of

products to and from world and regional markets.

(B) Waterway segments that serve as transportation corridors for large volumes of bulk and agricultural commodities and that provide shippers a cost-effective means to transport products.

(C) The coastal channels and harbors that support commercial and water-dependent activities. [Formerly 285.800; 2007 c.804 §22; 2009 c.830 §32]

**285A.603 "Port" defined for ORS 285A.603 to 285A.627.**

As used in ORS 285A.603 to 285A.627, unless the context requires otherwise, "port" means the Port of Portland and any port formed pursuant to ORS 777.005 to 777.725 and 777.915 to 777.953. [Formerly 285.805; 2003 c.802 §153; 2007 c.804 §23]

**285A.606** [Formerly 285.806; repealed by 2007 c.804 §86]

**285A.609** [Formerly 285.808; 2003 c.773 §8; repealed by 2007 c.804 §86]

**285A.612** [Formerly 285.809; 2003 c.773 §9; repealed by 2007 c.804 §86]

**285A.615 Provision of managerial assistance and technical services; duties of authority; cooperation with other agencies.** (1) The Oregon Infrastructure Finance Authority shall provide managerial assistance and technical referral services to ports.

(2) The authority shall disseminate such research and technical information as is available to the authority.

(3) The authority shall work cooperatively with existing organizations and agencies that provide research and technical services, including, but not limited to:

(a) The Department of State Lands;

(b) The State Marine Board; and

(c) The Sea Grant College and marine extension services at Oregon State University. [Formerly 285.810; 2007 c.804 §24; 2009 c.830 §33]

**285A.618** [Formerly 285.811; 2003 c.773 §10; repealed by 2007 c.804 §86]

**285A.621** [Formerly 285.813; repealed by 1999 c.509 §61]

**285A.624** [Formerly 285.814; repealed by 2007 c.804 §86]

**285A.627 Authority as coordinating entity for port activities; approval required for creation of new ports.** (1) The Oregon Business Development Commission and the Oregon Business Development Department, through the Oregon Infrastructure Finance Authority, shall be the statewide coordinating, planning and research entity for all ports and port authorities in this state to ensure the most orderly, efficient and economical development of the state port system.

(2) Notwithstanding any other provision of law, after July 1, 1969, no port or port authority may be formed without the prior approval of the Oregon Infrastructure Finance Authority.

(3) The authority is the statewide coordinating, planning and research entity for port activities involving international trade and international trade development and industrial, commercial and recreational development. [Formerly 285.815; 2007 c.804 §25; 2009 c.830 §34]

**285A.630** [Formerly 285.817; repealed by 2007 c.804 §86]

**285A.633** [Formerly 285.820; repealed by 2007 c.804 §86]

**285A.636** [Formerly 285.825; repealed by 1999 c.509 §61]

**285A.639** [Formerly 285.827; repealed by 1999 c.509 §61]

**285A.642** [Formerly 285.830; repealed by 1999 c.509 §61]

**285A.645** [Formerly 285.833; repealed by 1999 c.509 §61]

**285A.648** [Formerly 285.837; repealed by 1999 c.509 §61]

**285A.651** [Formerly 285.843; repealed by 1999 c.509 §61]

### (Planning and Marketing)

**285A.654 Port Planning and Marketing Fund; uses; sources; investment.** (1) There is created within the State Treasury, separate and distinct from the General Fund, the Port Planning and Marketing Fund. All moneys in the Port Planning and Marketing Fund are appropriated continuously to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority and shall be used by the authority for:

(a) Administrative expenses of the authority in processing grant applications and investigating proposed planning or marketing projects related to ports.

(b) Payment of grants under ORS 285A.654 to 285A.660 to ports formed under ORS 777.010 and 777.050.

(c) Direct purchase by the authority of goods or services to assist ports in implementing planning or marketing projects approved for grant financing under ORS 285A.654 to 285A.660.

(2) The Port Planning and Marketing Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly.

(b) Moneys obtained from gifts or grants received under ORS 285A.200.

(c) Moneys obtained from interest earned on the investment of such moneys.

(3) Moneys in the Port Planning and Marketing Fund, with the approval of the

State Treasurer, may be invested as provided by ORS 293.701 to 293.857, and the earnings from such investments shall be credited to the Port Planning and Marketing Fund. [Formerly 285.850; 2001 c.883 §7a; 2003 c.802 §154; 2007 c.804 §26; 2009 c.830 §35]

**285A.657 Grants; purposes; application; eligibility; standards; prohibited funding.** (1) The Oregon Infrastructure Finance Authority may make grants, as funds are available, to any port formed under ORS chapter 777 or 778 for:

(a) A planning project conducted under ORS 285A.627 or any other planning project necessary for improving the port's capability to carry out its authorized functions and activities relating to trade and commerce; or

(b) A marketing project necessary for improving the port's capability to carry out its authorized functions and activities relating to trade and commerce.

(2) Any port may file with the authority an application for a grant from the Port Planning and Marketing Fund to finance a specific planning project or marketing project.

(3) An application under this section shall be filed in such a manner and contain or be accompanied by such information as the authority may prescribe.

(4) Upon receipt of an application, the authority shall determine whether the planning project or marketing project is eligible for funding under ORS 285A.654 to 285A.660. If the authority determines that the project is not eligible, it shall within 60 days:

(a) Reject the application; or

(b) Require the applicant to submit additional information as may be necessary.

(5) The authority may approve a grant for a planning project or a marketing project described in an application filed under this section if, after investigation, the authority finds that:

(a) The project meets the standards and criteria established by the authority for grant financing from the Port Planning and Marketing Fund; and

(b) Moneys in the Port Planning and Marketing Fund are or will be available for the project.

(6) Grants to ports under ORS 285A.654 to 285A.660 shall not exceed \$50,000 and shall not exceed 75 percent of the total cost of the project.

(7) The authority shall not fund any program that subsidizes regular port operating expenses.

(8) In lieu of all or part of the grant financing approved under ORS 285A.654 to

285A.660 for a planning or marketing project, the authority may purchase goods or services to assist a port in implementing a project. [Formerly 285.857; 2001 c.883 §7b; 2003 c.802 §155; 2007 c.804 §27; 2009 c.830 §36]

**285A.660 Funding priorities; port strategic business plans; rules.** (1) The Oregon Infrastructure Finance Authority shall develop marketing grant funding priorities considering such factors as community need and whether the project will lead to economic diversification, development of a new or emerging industry and redevelopment of existing public facilities. The authority shall give priority to regional or cooperative projects, and projects that leverage other marketing efforts by the state or other local government units.

(2) The authority shall review all proposals to avoid duplication of marketing efforts among ports, and to maintain consistency with the applicable county or city comprehensive plans.

(3) Ports shall develop and maintain strategic business plans before obtaining funding. A strategic business plan developed and maintained under this subsection must comply with standards and requirements for strategic business plans established by the Oregon Business Development Department by rule. The department shall also establish by rule the date by which ports seeking funding must have a strategic business plan in place. [Formerly 285.860; 2007 c.804 §28; 2009 c.830 §37]

**285A.663** [Formerly 285.863; repealed by 1999 c.509 §61]

#### **(Oregon Port Revolving Fund)**

**285A.666 Definitions for ORS 285A.666 to 285A.732.** As used in ORS 285A.666 to 285A.732, unless the context requires otherwise:

(1) "Flexible manufacturing space project" means a project for the acquisition, construction, improvement or rehabilitation, in whole or in part, of any building suitable for the conduct of manufacturing processes and, by design, able to be readily modified when necessary to accommodate the operations of the tenants of the building. The term includes any preproject planning activities for a flexible manufacturing space project.

(2) "Fund" means the Oregon Port Revolving Fund.

(3) "Port district" means any port formed pursuant to ORS 777.005 to 777.725 and 777.915 to 777.953 or ORS chapter 778.

(4) "Project" means a project authorized under ORS 777.105 to 777.258, including engineering, acquisition, improvement, rehabil-

itation, construction, operation, maintenance or preproject planning necessary to carry out the project. [Formerly 285.870; 2001 c.883 §8; 2003 c.773 §11; 2003 c.802 §156; 2007 c.804 §29]

**285A.669 Application for project money.** Any Oregon port district may file with the Oregon Infrastructure Finance Authority an application to borrow money from the Oregon Port Revolving Fund for a project as provided in ORS 285A.666 to 285A.732. The application shall be filed in such a manner and contain or be accompanied by such information as the authority may prescribe. [Formerly 285.873; 2001 c.883 §9; 2009 c.830 §38]

**285A.672 Review of application; fee.** (1) Upon receipt of an application filed as provided in ORS 285A.669, the Oregon Infrastructure Finance Authority shall determine whether the plans and specifications for the proposed project set forth in or accompanying the application are satisfactory. If the authority determines that the plans and specifications are not satisfactory, the authority may within 60 days:

(a) Reject the application.

(b) Require the applicant to submit additional information of the plans and specifications as may be necessary.

(2) The authority shall charge and collect from the applicant, at the time the application is filed, a fee of not to exceed \$100. Moneys referred to in this subsection shall be paid into the Oregon Port Revolving Fund. [Formerly 285.875; 2001 c.883 §10; 2009 c.830 §39]

**285A.675 Private contract for project not prohibited.** Nothing in ORS 285A.666 to 285A.732 is intended to prevent an applicant from employing a private engineering firm and construction firm to perform the engineering and construction work on a proposed project. [Formerly 285.880; 2001 c.883 §11]

**285A.678 Qualifications for approval of project funding.** The Oregon Infrastructure Finance Authority may approve a project proposed in an application filed as provided in ORS 285A.669, if, after investigation, the authority finds that:

(1) The proposed project is feasible and a reasonable risk from practical and economic standpoints, and the loan has reasonable prospect of repayment.

(2) Moneys in the Oregon Port Revolving Fund are or will be available for the proposed project.

(3) There is a need for the proposed project, and the applicant's financial resources are adequate to provide the working capital needed to ensure success of the project.

(4) The applicant has received all necessary permits required by federal, state or local agencies.

(5) The applicant will not owe more than \$3 million in principal to the Oregon Port Revolving Fund if the loan is approved.

(6) The standards under ORS 285A.055 have been met. [Formerly 285.883; 2001 c.883 §12; 2003 c.773 §12; 2009 c.830 §40]

**285A.681 Loan from fund; required contract terms; repayment plan; rules.** (1) If the Oregon Infrastructure Finance Authority approves the project, the authority, on behalf of the state, and the applicant may enter into a loan contract that is secured by good and sufficient collateral. The loan contract shall set forth, among other matters:

(a) A plan for repayment by the applicant to the Oregon Port Revolving Fund of moneys borrowed from the fund for the project and interest on the moneys at a rate of interest of not less than one percent less than the prevailing interest rate on United States Treasury bills of comparable term, as determined by the authority. The repayment plan, among other matters:

(A) Shall provide for commencement of repayment by the port district of moneys used for the project and interest thereon no later than one year after the date of the loan contract or at any other time as the authority may provide. However, upon approval by the authority, a repayment plan for a flexible manufacturing space project may provide that no interest shall accrue until the building is at least 25 percent occupied or until three years after the date of the loan contract, whichever is earlier.

(B) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances if approved by the authority.

(C) Shall provide for evidence of debt assurance of, and security for, repayment by the applicant as are considered necessary by the authority.

(D) Shall specify a loan term that may not exceed the usable life of the contracted project or 25 years from the year of project completion, whichever is less. The payment schedule shall include repayment of interest that accrues during any period of delay in repayment authorized by subparagraph (A) of this paragraph, and the payment schedule may require payments of varying amounts for collection of the accrued interest.

(E) Shall provide for partial or complete repayment, in excess of scheduled payments, of any outstanding principal loan amount without penalty. If any prepayment is made, that amount may not be included in any computation for the purposes of ORS 285A.678 (5).

(b) Provisions satisfactory to the authority for field engineering and inspection, the

authority to be the final judge of completion of the contract.

(c) That the liability of the state under the contract is contingent upon the availability of moneys in the Oregon Port Revolving Fund for use in the project.

(d) Any other provision the authority considers necessary to ensure expenditure of the funds for the purposes set forth in the approved application.

(2) The Oregon Infrastructure Finance Authority may make limited moneys available from the Oregon Port Revolving Fund to eligible ports for grants to assist with capital improvement projects.

(3) The Oregon Business Development Department shall adopt by rule eligibility criteria and award limits for grants from the fund. [Formerly 285.885; 2001 c.883 §13; 2003 c.773 §13; 2005 c.835 §20; 2009 c.830 §41]

**285A.684 Payment from fund upon loan approval.** If the Oregon Infrastructure Finance Authority approves a loan for a project, the authority shall pay moneys for the project from the Oregon Port Revolving Fund, in accordance with the terms of the loan contract as prescribed by the authority. [Formerly 285.887; 2001 c.883 §14; 2009 c.830 §42]

**285A.687 Filing of lien against port; notice of satisfaction.** (1) If the Oregon Infrastructure Finance Authority accepts a lien against any port district's real or personal property as collateral required by ORS 285A.681, the authority shall file notice of the loan with the recording officer of each county in which is situated any real or personal property of the port district. The notice shall contain a description of the encumbered property, the amount of the loan, and a statement that loan payments are liens against such property.

(2) Upon payment of all amounts loaned to a port district pursuant to ORS 285A.666 to 285A.732, the authority shall file with each recording officer referred to in subsection (1) of this section a satisfaction notice that indicates repayment of the loan. [Formerly 285.890; 2009 c.830 §43]

**285A.690 Powers to enforce loan agreement.** (1) The Oregon Business Development Department may institute proceedings to foreclose any lien for delinquent loan payments.

(2) If a port district fails to comply with a contract entered into pursuant to ORS 285A.681, the department may seek appropriate legal remedies to secure the loan, and may contract with any port project developer for continuation of the project and for repayment of moneys from the Oregon Port Revolving Fund used therefor and interest thereon.

(3) The department may also provide by contract or otherwise for a project until the project is assumed by the new port project developer. [Formerly 285.893; 2001 c.883 §15; 2009 c.830 §44]

**285A.693 Sources of loan repayment moneys.** A port district that enters into a contract with the Oregon Infrastructure Finance Authority for a project and repayment as provided in ORS 285A.681 may obtain moneys for repayment to the Oregon Port Revolving Fund under the contract in the same manner as other moneys are obtained for purposes of the port district or other moneys available to the developer. [Formerly 285.895; 2001 c.883 §16; 2009 c.830 §45]

**285A.696 Duties of director.** The Oregon Business Development Commission may appoint the Director of the Oregon Business Development Department as their representative and agent in all matters pertaining to ORS 285A.666 to 285A.732. The director shall ensure that all provisions of ORS 285A.666 to 285A.732 are complied with and that appropriately trained personnel are employed pursuant to ORS 285A.070 to properly administer the fiscal and other portions of ORS 285A.666 to 285A.732. [Formerly 285.905; 2009 c.830 §45a]

**285A.699 Reimbursement to port revolving fund upon refinancing of project.** Except as provided in ORS 285A.702, if any project is refinanced or financial assistance is obtained from other sources after the execution of the loan from the state, all such funds shall be used to repay the state first if such refinancing or financial assistance applies only to the project authorized and does not include any subsequent addition, expansion, improvement or further development. [Formerly 285.907; 2001 c.883 §17]

**285A.702 Funds for joint projects or match money; form of application.** (1) The Oregon Infrastructure Finance Authority may authorize funds from the Oregon Port Revolving Fund to be used in appropriate joint governmental participation projects or as match money with any port, state or federally funded project authorized within a port district, subject to the stipulations of ORS 285A.666 to 285A.732.

(2) Any application for a loan under this section shall be in such form as the authority prescribes and shall furnish such proof of federal, state or local approval as appropriate for funding of the project. [Formerly 285.910; 2001 c.883 §18; 2003 c.773 §14; 2009 c.830 §46]

**285A.705 Loan contract; required provisions.** If the Oregon Infrastructure Finance Authority approves an application for the loan of moneys authorized by ORS 285A.702, the authority shall enter into a loan contract, secured by good and sufficient

collateral, with the port district that provides, among other matters:

(1) That a notice of any lien against the property be filed with the recording officer of each county as provided for in ORS 285A.687 (1) and (2).

(2) That the loan bear interest at the same rate of interest as provided in ORS 285A.681 (1)(a).

(3) That the loan term may not exceed the usable life of the contracted project or 25 years from the year of project completion, whichever is less. The same schedule shall include repayment of interest that accrues during any period of delay in repayment authorized by ORS 285A.666 to 285A.732. The repayment schedule may require payments of varying amounts for collection of accrued interest. However, the authority may make provisions for extensions of time in making repayment if the delinquencies are caused by acts of God or other conditions beyond the control of the port district and the security will not be impaired thereby.

(4) Any other provision the authority considers necessary to ensure expenditure of the moneys loaned for the purposes provided in ORS 285A.702, including all provisions of ORS 285A.678.

(5) That the authority may cause to be instituted appropriate proceedings to foreclose liens as provided for in ORS 285A.690 (1) and (2) for delinquent loan payments and shall pay the proceeds of any foreclosure, less the authority's expenses incurred in foreclosing, into the Oregon Port Revolving Fund. [Formerly 285.913; 2005 c.835 §21; 2009 c.830 §47]

**285A.708 Oregon Port Revolving Fund; uses; sources; debt limit; prohibited use.**

(1) There is created within the State Treasury a revolving fund known as the Oregon Port Revolving Fund, separate and distinct from the General Fund. Interest earned by the Oregon Port Revolving Fund shall be credited to the fund. Moneys in this fund are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the following purposes:

(a) Administrative expenses of the authority in processing applications and investigating proposed projects.

(b) Payment of loans to port districts pursuant to ORS 285A.666 to 285A.732.

(c) Administrative expenses of the authority relating to ports. In any one year, administrative expenses charged under this paragraph may not be greater than the total revenues received in that year from fees provided for in subsection (2)(a) of this section, plus an amount not to exceed five percent of the total asset value of the fund.

(2) The fund created by subsection (1) of this section shall consist of:

(a) Application fees required by ORS 285A.672 (2).

(b) Repayment of moneys loaned to port districts or others from the Oregon Port Revolving Fund, including interest on such moneys.

(c) Payment of such moneys as may be appropriated to the fund by the Legislative Assembly.

(d) Moneys obtained from any interest accrued from such funds.

(3) Outstanding debt on the fund shall not exceed 95 percent of all deposits, accounts payable, and other assets of the fund.

(4) No money shall be expended from the Oregon Port Revolving Fund for any economic development study costing more than \$50,000 unless a work plan and budget for such study has been provided to appropriate legislative committees. [Formerly 285.915; 2001 c.883 §19; 2007 c.354 §13; 2007 c.804 §30; 2009 c.830 §48]

**285A.709 Transfers to Port Planning and Marketing Fund.** (1) Notwithstanding ORS 285A.708 (1) and 285A.711, available moneys in the Oregon Port Revolving Fund that were accrued as net earned income of the fund may be transferred to the Port Planning and Marketing Fund created under ORS 285A.654.

(2) Notwithstanding ORS 285A.654 (1)(b), moneys transferred to the Port Planning and Marketing Fund under this section may be used for payments of grants under ORS 285A.654 to 285A.660 to ports formed under ORS 285A.603 to 285A.732 or ORS chapter 777 or 778.

(3) In addition to and notwithstanding any other law, an amount not to exceed five

percent of the assets of the Oregon Port Revolving Fund as calculated on July 1 of each year shall be transferred to the Port Planning and Marketing Fund under this section. [1987 c.607 §19; 1991 c.539 §2; repealed by 1987 c.607 §20, as amended by 1991 c.539 §3, 1995 c.436 §4 and 1999 c.58 §1; amendments by 2003 c.773 §55 and 2003 c.802 §157 treated as reenactments; 2007 c.804 §31]

**Note:** 285A.709 was added to and made a part of 285A.666 to 285A.732 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**285A.711 Use of fund proceeds.** All payments, receipts and interest from outstanding indebtedness shall be retained in the Oregon Port Revolving Fund and accumulated for new project disbursal, and repayment of funds allocated pursuant to section 25, chapter 838, Oregon Laws 1977. All interest earnings of the fund from whatever source shall be retained and accumulated in the Oregon Port Revolving Fund and shall be used for projects, and repayment of funds allocated pursuant to section 25, chapter 838, Oregon Laws 1977. [Formerly 285.920; 2001 c.883 §20]

**285A.714** [Formerly 285.923; repealed by 1999 c.509 §61]

**285A.717** [Formerly 285.927; repealed by 1999 c.509 §61]

**285A.720** [Formerly 285.930; repealed by 1999 c.509 §61]

**285A.723** [Formerly 285.933; repealed by 1999 c.509 §61]

**285A.726** [Formerly 285.935; repealed by 1999 c.509 §61]

**285A.729** [Formerly 285.940; repealed by 1999 c.509 §61]

**285A.732 Short title.** ORS 285A.666 to 285A.711 shall be known as the Oregon Port Revolving Fund Act. [Formerly 285.943]

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