# Chapter 285B

## 2005 EDITION

# Economic Development II


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## BUSINESS DEVELOPMENT PROJECTS

**285B.050 Definitions for ORS 285B.050 to 285B.098.** As used in ORS 285B.050 to 285B.098, unless the context requires otherwise:

(1) "Business development project" means the acquisition, engineering, improvement, rehabilitation, construction, operation or maintenance of any property, real or personal, that is used or is suitable for use by an economic enterprise and that will result in, or will aid, promote or facilitate, development of one or more of the following activities:

(a) Manufacturing or other industrial production;

(b) Agricultural development or food processing;

(c) Aquacultural development or seafood processing;

(d) Development or improved utilization of natural resources;

(e) Convention facilities and trade centers;

(f) Transportation or freight facilities; and

(g) Other activities that represent new technology or type of economic enterprise the Oregon Economic and Community Development Commission determines is needed to diversify the economic base of an area but not including:

(A) Construction of office buildings, including corporate headquarters; and

(B) Retail businesses, shopping centers or food service facilities.

(2) "Commission" means the Oregon Economic and Community Development Commission established under ORS 285A.040.

(3) "Fund" means the Oregon Business Development Fund.

(4) "Collateral" has the meaning given that term in ORS 79.0102 for property subject to a security interest.

(5) "Municipality" means any city, municipal corporation or quasi-municipal corporation.

(6) "Person" means any individual, association of individuals, joint venture, partnership or corporation.

(7) "Local development group" means any public or private corporation which has as one of its primary purposes, as stated in its articles of incorporation, charter or bylaws, the promotion of economic development in any part of the State of Oregon.

(8) "Applicant" means any county, municipality, person or any combination of counties, municipalities or persons applying for a loan from the Oregon Business Development Fund under ORS 285B.050 to 285B.098.

(9) "Owned and operated by women and minorities" means, with regard to any specific business enterprise, the ownership or control of more than 50 percent of the units of proprietary or ownership interest in that business enterprise by individuals who are women or minority individuals, as defined by ORS 200.005.

(10) "Emerging small business" has the meaning given that term by ORS 200.005.

(11) "County" means any county or federally recognized Oregon Indian tribe. [Formerly 285.403; 2001 c.445 §171; 2003 c.167 §1]

**Note:** For transition provisions regarding secured transactions, see notes under 79.0628.

**285B.053 Borrowing money from Oregon Business Development Fund for projects.** (1) Any county, municipality, person or any combination of counties, municipalities and persons may file with the Oregon Economic and Community Development Commission an application to borrow money from the Oregon Business Development Fund for a business development project as provided in ORS 285B.050 to 285B.098. The application shall be filed in such a manner and contain or be accompanied by such information as the commission may prescribe.

(2) Any applicant receiving a loan from the Oregon Business Development Fund shall annually report to the Economic and Community Development Department the estimated number of jobs created as a result of the business development project financed under ORS 285B.050 to 285B.098. The reporting requirement under this section shall continue for five years following the receipt of the loan proceeds or for the life of the loan, whichever period is longer. Agreement to comply with the requirements of this section shall be a condition for obtaining a loan from the Oregon Business Development Fund. [Formerly 285.405]

**285B.056 Evaluation of project; fee.** (1) Upon receipt of an application under ORS 285B.053, the Oregon Economic and Community Development Commission shall determine whether the plans and specifications for the proposed business development project set forth in or accompanying the application are satisfactory. If the commission determines that the plans and specifications are not satisfactory, it shall:

(a) Reject the application with a written statement of the reason for that rejection; or

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

(2) The commission shall charge and collect from the applicant, at the time the application is filed, a fee not to exceed $100. Moneys referred to in this subsection shall be paid into the Oregon Business Development Fund. [Formerly 285.410]

**285B.059 Conditions for commission approval of project; preferences; limits.** (1) The Oregon Economic and Community Development Commission may approve a business development project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation, it finds that:

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

(b) The applicant can provide good and sufficient collateral for the loan.

(c) Moneys in the Oregon Business Development Fund are or will be available for the proposed business development project.

(d) There is a need for the proposed business development project, and the applicant's financial resources are adequate to ensure success of the project.

(e) The applicant has not received or entered into a contract or contracts exceeding $1 million with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days, nor is there an amount equal to 20 percent of the total value of the fund in outstanding loans with the commission at any one time for business development projects located in the same county as the proposed project. However, nothing in this paragraph prevents the commission from making a loan to an emerging small business, as provided in subsection (6) of this section, for a project in a distressed area or making a loan of less than $100,000, as provided in ORS 285B.080.

(2) Preference shall be given to a business development project which has a high ratio of employment to the amount of money sought to be borrowed from the Oregon Business Development Fund, which benefits businesses with fewer than 50 employees or which is located within a rural or distressed area of the state. Consideration also shall be given to the extent of participation by local development groups, and the availability and cost of money to the applicant from, or through, commercial lending or financial institutions, or other financial sources, inasmuch as the Oregon Business Development Fund is intended to complement, not supplant, other sources of money for economic development.

(3) The total amount of moneys loaned from the fund for any business development project shall not exceed 50 percent of the cost of the project. Working capital equity contributed by the applicant or a related party shall not be included in the calculation of total project costs.

(4) Except in cases where the applicant is a county or municipality, no money shall be loaned from the fund for any business development project unless there exists a commitment from a commercial or private lender, or a local development group, to participate in the financing of the project.

(5) To encourage private sector and local development group participation in the financing of business development projects, the commission may subordinate the security position of the fund to that of other lenders.

(6) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending from the Oregon Business Development Fund are reserved for loans to certified emerging small business enterprises which are located in or draw their workforces from within distressed areas as determined by the Economic and Community Development Department in cooperation with the Employment Department of this state. Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added to the amount reserved for loans to such businesses in the subsequent fiscal year. If the Economic and Community Development Department is unable to obtain a sufficient number of approvable applications to meet the requirements of this subsection, it may, notwithstanding the limitations imposed by ORS 285B.050 (1)(g)(B), make loans to service and retail businesses operated by certified emerging small business enterprises.

(7) In the operation of the Oregon Business Development Fund, the commission and the department shall, to the maximum extent feasible and consistent with constitutional limitations, seek to assure that an amount equal to that specified in subsection (6) of this section be loaned to businesses owned and operated by women and minorities. [Formerly 285.413; 1999 c.509 §27; 2003 c.167 §2]

**285B.062 Agreement for project loan; required provisions; interest rate; discount for early repayment.** If the Oregon Economic and Community Development Commission approves the business development project, the commission, on behalf of the state, and the applicant may enter into a loan contract of not more than $1 million, secured by good and sufficient collateral, which shall set forth, among other matters:

(1) A plan for repayment by the applicant to the Oregon Business Development Fund

of moneys borrowed from the fund used for the business development project with interest charged on those moneys at the rate of not less than one percentage point more than the prevailing interest rate on United States Treasury bills, notes or bonds of a comparable term, as determined by the commission. The repayment plan, among other matters:

(a) Shall provide for commencement of repayment by the applicant of moneys used for the business development project and interest thereon no later than one year after the date of the loan contract or at such other time as the commission may provide.

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

(c) Shall provide for such evidence of debt assurance of, and security for, repayment by the applicant as is considered necessary by the commission.

(d) Shall set forth a schedule of payments and the period of loan which shall not exceed the usable life of the contracted project or 25 years from the date of the contract, whichever is less, and shall also set forth the manner of determining when loan payments are delinquent. The payment schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may require payments of varying amounts for collection of accrued interest.

(e) Shall set forth a procedure for formal declaration of default of payment by the commission, including formal notification of all relevant federal, state and local agencies; and further, a procedure for notification of all relevant federal, state and local agencies that declaration of default has been rescinded when appropriate.

(f) May offer a discount not to exceed 10 percent of the outstanding principal for the early repayment of the entire outstanding principal of any loan. The commission by rule shall adopt policies that provide for greater discounts for earlier repayments and that provide for greater discounts for firms that have created at least one job per each $15,000 loaned to the firm from the Oregon Business Development Fund.

(2) Provisions satisfactory to the commission for field engineering and inspection, the commission to be the final judge of completion of the contract.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Oregon Business Development Fund for use in the business development project.

(4) Such further provisions as the commission considers necessary to insure expenditure of the funds for the purposes set forth in the approved application.

(5) That the commission may institute appropriate action or suit to prevent use of the facilities of a business development project financed by the Oregon Business Development Fund if the applicant is delinquent in the repayment of any moneys due the fund. [Formerly 285.415; 2003 c.167 §3]

**285B.065 Loans in distressed areas exempt from requirements of ORS 285B.059 and 285B.062.** The Economic and Community Development Department may make loans in distressed areas, as defined by the department, without regard to the requirements for security and collateral under ORS 285B.059 and 285B.062 that are otherwise applicable. [Formerly 285.416]

**285B.068 Payment of moneys for project; applicant to pay percentage of loan principal to Oregon Business Development Fund.** (1) If the Oregon Economic and Community Development Commission approves a loan for a business development project and the applicant has received all necessary permits required by federal, state and local agencies, the commission shall pay moneys for the project from the Oregon Business Development Fund, in accordance with the terms of the loan contract as prescribed by the commission.

(2) Immediately upon receiving the loan proceeds, the applicant shall pay to the commission one and one-half percent of the principal amount of the loan, to be paid back to the Oregon Business Development Fund. A maximum of three percent of the principal amount of the loan may be paid from the fund to local development groups for the purposes set forth in ORS 285B.092 (1)(a). [Formerly 285.417]

**285B.071 Authority to obtain moneys to repay fund.** Any county or municipality that enters into a contract with the Oregon Economic and Community Development Commission for a business development project and repayment as provided in ORS 285B.062 may obtain moneys for repayment to the Oregon Business Development Fund under the contract in the same manner as other moneys are obtained for purposes of the county or municipality or other moneys available to the developer. [Formerly 285.420]

**285B.074 Contract for loan service; fee.** The Economic and Community Development Department may, by contract, provide for local business development funds to service outstanding loans from the Oregon Business Development Fund. The department may provide for a fee of up to two percent of the outstanding loan balance on such

loans to compensate local business development funds for services provided under this section. [Formerly 285.425]

**285B.077 Report required.** The Oregon Economic and Community Development Commission shall submit to the Legislative Assembly and the Governor a biennial report of the transactions of the Oregon Business Development Fund in such detail as will adequately indicate the condition of the fund. [Formerly 285.430]

**285B.080 Director as agent; limitation on authority.** (1) The Oregon Economic and Community Development Commission may appoint the Director of the Economic and Community Development Department as its representative and agent in all matters pertaining to ORS 285B.050 to 285B.098.

(2) The director shall ensure that all provisions of ORS 285B.050 to 285B.098 are complied with and that appropriately trained personnel are employed to properly administer the fiscal and other portions of ORS 285B.050 to 285B.098.

(3) The director shall have the authority in the director's sole discretion to approve loans for business development projects in the amount of $100,000 or less and to disburse funds for such projects. [Formerly 285.433]

**285B.083 Use of refinancing and other financial assistance.** Except as provided in ORS 285B.086, if any business development project is refinanced or financial assistance is obtained from other sources after the execution of the loan from the state, those shall be first used to repay the state, unless provided otherwise by the committee, if the refinancing or financial assistance applies only to the business development project authorized and does not include any subsequent addition, expansion, improvement or further development. [Formerly 285.435]

**285B.086 Authority to lend funds for joint governmental projects or match money; form of loan application; loan limit.** (1) The Oregon Economic and Community Development Commission may authorize funds from the Oregon Business Development Fund to be used in appropriate joint governmental participation projects or as match money with any municipally, county, state or federally funded business development project authorized within a county or city, subject to the stipulations of ORS 285B.050 to 285B.098.

(2) Any application for a loan under this section shall be in such form as the commission prescribes and shall furnish such proof of federal, state or local approval as appropriate for funding of the business development project.

(3) The total amount of moneys loaned from the fund for federal, state or local joint business development project purposes shall not exceed $1 million per project. [Formerly 285.437; 2003 c.167 §4]

**285B.089 Loan contract; required provisions.** If the Oregon Economic and Community Development Commission approves an application for the loan of moneys authorized by ORS 285B.086, the commission shall enter into a loan contract, secured by good and sufficient collateral, with the applicant that provides, among other matters:

(1) That the loan bear interest at the same rate of interest as provided in ORS 285B.062 (1).

(2) That the contract shall set forth a schedule of payments including interest and principal for the period of the loan, which shall not exceed the usable life of the contracted project or 25 years from the date of the contract, whichever is less, and shall set forth the manner of determining when loan payments are delinquent. The same schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by ORS 285B.050 to 285B.098, and the repayment schedule may require payments of varying amounts for collection of that accrued interest. However, the commission 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 applicant and the security will not be impaired thereby.

(3) Such provisions as the commission considers necessary to insure expenditure of the moneys loaned for the purposes provided in ORS 285B.086, including all provisions of ORS 285B.059. [Formerly 285.440]

**285B.092 Oregon Business Development Fund; uses.** (1) There is created within the State Treasury a revolving fund known as the Oregon Business Development Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in this fund are continuously appropriated to the Oregon Economic and Community Development Commission for the following purposes:

(a) Administrative expenses of the commission in marketing public business finance, processing applications, investigating proposed business development projects and servicing outstanding loans. 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 four percent of the total asset value of the fund.

(b) Payment of loans to applicants under ORS 285B.050 to 285B.098.

(c) Purchase or buy out of superior or prior liens or mortgages on or a security interest in any business development project financed in part by a loan from the fund, when the commission determines:

(A) A loan from the fund is in default and is in liquidation or at risk of being forced into liquidation by another creditor to the project;

(B) Such action is necessary to maintain or enhance the value of the commission's collateral in the project; and

(C) The amount of the purchase or buyout of superior or prior liens or mortgages on that project does not exceed $1 million.

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

(a) Fees required by ORS 285B.056 (2) and 285B.068 (2).

(b) Repayment of moneys loaned to counties, municipalities or persons from the Oregon Business Development Fund, including interest on those 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 funds.

(e) Moneys from any grant made to the fund by any federal agency.

(3) Notwithstanding any other law, if at any time there are insufficient funds in the Oregon Entrepreneurial Development Loan Fund established by ORS 285B.758, the Director of the Economic and Community Development Department may direct the transfer of unobligated funds from the Oregon Business Development Fund to the Oregon Entrepreneurial Development Loan Fund. Transfers under this subsection shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the entrepreneurial loan program. [Formerly 285.443; 1999 c.247 §3; 1999 c.509 §28; 2003 c.167 §5]

**285B.093 Oregon Targeted Development Account; purpose.** (1) The Oregon Economic and Community Development Commission may establish the Oregon Targeted Development Account as an account within the Oregon Business Development Fund.

(2) If the account is established, the purpose of the Oregon Targeted Development Account is to promote cooperation and foster partnership among the commission, the Economic and Community Development Department and financial institutions in Oregon to encourage investment in distressed areas, as defined by the department.

(3) The Economic and Community Development Department may make loans from the Oregon Targeted Development Account in distressed areas without regard to the minimum rate of interest that is otherwise applicable under ORS 285B.062. The department may make loans in distressed areas at an interest rate that is determined by the Oregon Economic and Community Development Commission.

(4) ORS 285B.059 (2) does not apply to business development projects financed wholly or in part with moneys from the Oregon Targeted Development Account. [1999 c.247 §1; 2003 c.167 §6]

**285B.095 Retention and use of payments, receipts and interest.** All payments, receipts and interest from outstanding indebtedness or any other source shall be retained and accumulated in the Oregon Business Development Fund and shall be used for the purposes of the fund. [Formerly 285.445]

**285B.098 Status of loan to county or municipality.** A loan made to a county or municipality under ORS 285B.050 to 285B.098 shall not be a general obligation of that county or municipality, nor a charge upon the tax revenues of that county or municipality, nor a charge upon any other revenues or property of that county or municipality not specifically pledged thereto. A loan made to a county or municipality under ORS 285B.050 to 285B.098 may be secured by the business development project for which the loan is made, as well as by any revenues derived from that project, and any nontax-derived revenues or property of the county or municipality not otherwise pledged or committed for other purposes. A county or municipality may repay any portion of a loan incurred under ORS 285B.050 to 285B.098 from any funds available to it. [Formerly 285.447]

**285B.103** [2001 c.944 §2; 2003 c.374 §1; renumbered 285C.500 in 2003]

**285B.105** [2001 c.944 §3; 2003 c.374 §2; renumbered 285C.503 in 2003]

**285B.108** [2001 c.944 §4; 2003 c.374 §3; renumbered 285C.506 in 2003]

## SMALL BUSINESS DEVELOPMENT

### (Generally)

**285B.120 Oregon Small Business Development Act.** ORS 271.510, 271.520, 285B.092, 285B.123, 285B.165 to 285B.171, 285B.320 to 285B.326, 285B.335, 285B.341, 285B.344, 285B.350, 285B.365, 285B.371, 657.471, 659A.015 and 777.250 shall be known as the Oregon Small Business Development Act of 1983. [Formerly 285.500]

**285B.123 Policy.** (1) The Legislative Assembly finds that:

(a) Small businesses comprise more than 97 percent of the business entities in this state.

(b) Small businesses provide more than three-quarters of the private sector jobs in this state.

(c) The small business contribution to the economy of this state exceeds the national average contribution and its continuance is vital to the economic health and growth of this state.

(d) All national economic indicators establish that the greatest source of future new jobs is in the small business sector of the economy.

(2) The purpose of the Oregon Small Business Development Act of 1983 is to encourage and assist the development and continued growth of small business in this state.

(3) As used in the Oregon Small Business Development Act of 1983, "small business" means a manufacturing business having 200 or fewer employees and all other forms of business having 50 or fewer employees.

(4) The provisions of ORS 285B.120 and 657.471 are intended to assist in carrying out the Oregon Small Business Development Act of 1983. [Formerly 285.503]

**(Capital Access for Small Businesses)**

**285B.126 Definitions for ORS 285B.126 to 285B.147.** As used in ORS 285B.126 to 285B.147, unless the context requires otherwise:

(1) "Financial institution" means a financial institution, as defined in ORS 706.008.

(2) "Loss reserve account" means an account in the State Treasury or any financial institution which is established and maintained by the Economic and Community Development Department for the benefit of a financial institution participating in the capital access program established under ORS 285B.126 to 285B.147.

(3) "Qualified business" means any person, conducting business for profit or not for profit, that is authorized to conduct business in the State of Oregon.

(4) "Qualified loan" means a loan or portion of a loan made by a financial institution to a qualified business for any business activity that has its primary economic effect in Oregon. The term does not include:

(a) A loan for the construction or purchase of residential housing.

(b) A loan for purchase of real property that is not used for the business operations of the borrower.

(c) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased. [Formerly 285.507]

**285B.129 Policy.** (1) The Legislative Assembly finds that:

(a) There is a persistent shortage of equity capital available to small businesses in Oregon.

(b) Small businesses make important contributions to economic growth and vitality in this state.

(c) Many financial institutions in Oregon are limited in their ability to provide financing to small but rapidly growing businesses.

(2) It is the purpose of ORS 285B.126 to 285B.147 to establish a capital access program under which the State of Oregon will provide public fiscal resources to assist Oregon financial institutions to overcome obstacles and constraints in meeting the full range of economically sound financing needs of Oregon businesses. [Formerly 285.510]

**285B.132 Contracts with financial institutions for capital access; contents of contract; status of information.** (1) The Economic and Community Development Department may contract with any financial institution for the purpose of allowing the financial institution to participate in the capital access program established by ORS 285B.126 to 285B.147.

(2) A contract between the Economic and Community Development Department and a financial institution under this section shall provide:

(a) For the creation of a loss reserve account by the department for the benefit of the financial institution.

(b) That the financial institution, qualified business and the department will deposit moneys to the credit of the institution's loss reserve account when the financial institution makes a qualified loan to a qualified business.

(c) That the department will pay moneys in the loss reserve account, not exceeding an amount equal to the total amount credited to the loss reserve account, to the financial institution to reimburse the institution for any financial loss incurred as a result of any qualified loan made under the capital access program established by ORS 285B.126 to 285B.147.

(d) That the liability of the State of Oregon and the Economic and Community Development Department to the financial institution under the contract is limited to

the amount of money credited to the loss reserve account of the institution.

(e) That the financial institution shall provide such information as the department may require, including financial information that is identifiable with, or identifiable from, the financial records of a particular customer who is the recipient of a qualified loan.

(f) For such other terms as the department may require.

(3) A financial institution is not subject to ORS 192.555 (1) when the financial institution provides information to the Economic and Community Development Department as required by subsection (2)(e) of this section. [Formerly 285.513]

**285B.135 Loss reserve accounts; limitations on amount.** (1) The Economic and Community Development Department shall establish a loss reserve account for each financial institution with which the department makes a contract under ORS 285B.132.

(2) The loss reserve account for a financial institution shall consist of moneys paid as fees by borrowers and the financial institution under ORS 285B.138 and moneys transferred to the account from the Capital Access Fund under ORS 285B.138.

(3) Notwithstanding ORS chapter 293 or 295, the department may establish and maintain loss reserve accounts with any financial institution under such policies as the department may adopt. The department may deposit up to $50,000 per financial institution in a loss reserve account to encourage a financial institution to participate in the capital access program. The total amount of such deposits may not exceed $250,000 per biennium.

(4) All moneys in a loss reserve account established under ORS 285B.126 to 285B.147 are the property of the State of Oregon.

(5) The amounts transferred from the Capital Access Fund to a loss reserve account on behalf of any single qualified business shall not exceed $150,000. [Formerly 285.515; 2003 c.167 §7]

**285B.138 Enrollment of qualified loan in program; procedure; fee; transfers to loan reserve account.** (1) When a financial institution participates in the capital access program established by ORS 285B.126 to 285B.147, if the financial institution decides to enroll a qualified loan under the capital access program in order to obtain the protection against loss provided by its loss reserve account, the financial institution shall notify the Economic and Community Development Department of the loan within 30 days after the loan is made. The notification shall be in writing on a form prescribed by the department.

(2) When making a qualified loan that will be enrolled under the capital access program, the financial institution shall require the qualified business to which the loan is made to pay a fee of not less than one and one-half percent of the principal amount of the loan but not more than three and one-half percent of such principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subsection to the department for deposit in the loss reserve account for the institution.

(3) When depositing fees collected under subsection (2) of this section to the credit of the loss reserve account for a financial institution, the department shall transfer an amount that is not less than the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account for the institution. [Formerly 285.517]

**285B.139 Definitions; rules; exception to minimum amount required for transfer to loss reserve account.** (1) As used in this section, "brownfield" and "environmental action" have the meanings given those terms in ORS 285A.185 and 285A.188, respectively.

(2) Notwithstanding the provisions of ORS 285B.138 (3), the Economic and Community Development Department shall adopt rules that provide that, for qualified loans to businesses in distressed areas, as defined by the department, or for use in an environmental action on brownfields, the department shall transfer an amount that is not less than 150 percent of the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account of the institution. However, the total amount transferred under this section shall not exceed 40 percent of the moneys appropriated to the Capital Access Fund. [1991 c.688 §15; 1993 c.765 §80; 1995 c.71 §1; 1997 c.738 §4; 1999 c.247 §5; 2001 c.96 §3]

**285B.141 Claims for reimbursement of losses; amounts subject to reimbursement.** (1) The Economic and Community Development Department shall establish procedures under which financial institutions participating in the capital access program established by ORS 285B.126 to 285B.147 may submit claims for reimbursement for losses incurred as a result of qualified loan defaults.

(2) Costs for which a financial institution may be reimbursed from its loss reserve account include loan principal, accrued interest on the principal, actual and necessary costs of seeking recovery of the principal amount

and interest thereon and any other related costs.

(3) A financial institution may seek reimbursement of loan losses prior to the liquidation of collateral from defaulted loans. The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted loan. [Formerly 285.520]

**285B.144 Financial report of Capital Access Fund.** (1) The Economic and Community Development Department shall annually prepare a report conforming to generally accepted accounting principles that describes the financial condition of the Capital Access Fund.

(2) The reports required under this section shall be submitted to the Governor and to the joint Legislative Committee on Trade and Economic Development. [Formerly 285.525]

**285B.147 Capital Access Fund; use; investment earnings; administrative expenses.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Capital Access Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the purpose of making payments to loss reserve accounts established under ORS 285B.126 to 285B.147.

(2) Moneys in the Capital Access Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings from such investment shall be credited to the Capital Access Fund.

(3) The Capital Access Fund shall consist of:

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

(b) Interest earned on moneys in the fund.

(c) Moneys returned to the fund from loss reserve accounts or other sources.

(4) The Economic and Community Development Department may charge administrative costs to the fund to pay for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining loss reserve accounts under ORS 285B.126 to 285B.147. [Formerly 285.527]

**285B.150 Transfers to Capital Access Fund when insufficient funds available.** (1) Notwithstanding any other law, if at any time there are insufficient funds in the Capital Access Fund established by ORS 285B.147 to continue the operation of the program authorized by ORS 285B.126 to 285B.147, the Director of the Economic and Community Development Department may direct the transfer of unobligated funds from the Oregon Business Development Fund to the Capital Access Fund. Such transfers shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the capital access program.

(2) Notwithstanding any other law, if at any time after the transfer of funds provided for in subsection (1) of this section, there are insufficient funds in the Capital Access Fund established by ORS 285B.147 to continue the operation of the program authorized by ORS 285B.126 to 285B.147, the Director of the Economic and Community Development Department may direct the transfer of unobligated funds from the Credit Enhancement Fund to the Capital Access Fund. Such transfers shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the capital access program. The use of funds so transferred shall continue to be governed by ORS 285B.215 (3). [Formerly 285.528]

**Note:** 285B.150 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285B.153** [Formerly 285.530; repealed by 2003 c.167 §16]

**285B.156** [Formerly 285.533; repealed by 1999 c.509 §61]

**(Local Business Development)**

**285B.159 "Local business development fund" defined.** As used in ORS 285B.074 and 285B.162, unless the context requires otherwise, "local business development fund" means a private nonprofit corporation or other nonprofit entity, a public corporation or public agency that makes loans or provides other financial assistance to businesses in this state for the purpose of promoting economic development. [Formerly 285.535; 2001 c.104 §98]

**285B.162 Coordination of marketing and finance programs.** The Economic and Community Development Department shall work with local business development funds to strengthen the coordination in the marketing of finance programs for small business, the review and analysis of loan applications and the operation of publicly operated business finance programs. [Formerly 285.537]

**(Small Business Development Center)**

**285B.165 Purpose of ORS 285B.165 to 285B.171.** (1) The purpose of ORS 285B.165 to 285B.171 is to establish and sustain a statewide network of small business development centers.

(2) The Legislative Assembly finds that:

(a) It is in the state's interest to help small businesses develop and improve skills in such areas as marketing, management and capital formation through a network of small business development centers;

(b) Small business employers create most of the new jobs in Oregon and are vital to Oregon's long term economic vitality;

(c) Community colleges and state universities can link small business with college resources, expert resource people in the business community and other training resources throughout the state; and

(d) Information resources, business counseling and training assistance in a convenient format support the vitality of small business. [Formerly 285.540; 2001 c.148 §3]

**285B.166 "State university" defined for ORS 285B.165 to 285B.171.** As used in ORS 285B.165 to 285B.171, "state university" means a state institution of higher education listed in ORS 352.002. [2001 c.148 §2]

**285B.168 Grants; application; authorized recipients and uses; eligibility.** (1) The Economic and Community Development Department may make grants available to a community college district, a community college service district or, with the concurrence of the Commissioner for Community College Services and the Chancellor of the Oregon University System, a state university to assist in the formation, improvement and operation of small business development centers. If a community college district, a community college service district or a state university is unable to adequately provide services in a specific geographic area, the department may make grants available to other service providers as determined by the department. The grant application shall include:

(a) Plans for providing small business owners and managers individual counseling, to the greatest extent practicable, in subject areas critical to small business success;

(b) A budget for the year for which a grant is requested, including cost apportionment among the Economic and Community Development Department, small business clients, the community college, state university or other service providers and other sources; and

(c) A plan for evaluating the effect of the program on small business clients served.

(2) The grants made under subsection (1) of this section are to be used by the grant recipient to provide funds for:

(a) Small business development center staff and support staff;

(b) Expert resource persons from the business community;

(c) Other training and business resources in skill areas for which, or areas of the state where, the grant recipient can demonstrate it does not otherwise have the capacity or expertise to provide the resources; and

(d) Other costs related to providing training, counseling and business resources to small business clients.

(3) To be eligible for a grant under subsection (1) of this section, the recipient shall be required to provide funds, in-kind contributions or some combination of funds and contributions, in accordance with rules adopted by the Economic and Community Development Department.

(4) Subject to the approval of the department, a grant recipient may subcontract funds received under this section to any other entity that is eligible to receive funding under this section. [Formerly 285.543; 2001 c.148 §4; 2003 c.773 §15]

**285B.171 Short title.** ORS 285B.165 to 285B.171 shall be known and may be cited as the "Small Business Training Assistance Act." [Formerly 285.547]

**(Miscellaneous)**

**285B.174 Programs to assist businesses in procuring government contracts and grants.** In cooperation with other state and public agencies, state universities as defined in ORS 285B.166 and community colleges may develop programs to assist Oregon businesses with the procurement of government contracts and grants. Small business development centers established under ORS 285B.165 to 285B.171 may assist with these programs. [Formerly 285.550; 2001 c.148 §5]

**285B.177** [Formerly 285.553; repealed by 1999 c.509 §61]

## MICROENTERPRISE DEVELOPMENT

**285B.178 Definitions for ORS 285B.178 to 285B.183.** As used in ORS 285B.178 to 285B.183:

(1) "Local microenterprise support organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or another locally operated nonprofit entity that provides services to disadvantaged entrepreneurs.

(2) "Low income" means income adjusted for family size that does not exceed:

(a) For metropolitan areas, 80 percent of median income; or

(b) For nonmetropolitan areas, the greater of 80 percent of the area median income or 80 percent of the statewide nonmetropolitan area median income.

(3) "Microenterprise" has the meaning given that term under 15 U.S.C. 6901, as amended and in effect on June 18, 2001.

(4) "Microentrepreneur" means an individual conducting a microenterprise.

(5) "Microlending" means the practice of lending moneys to microenterprises or microentrepreneurs.

(6) "Statewide microenterprise support organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or another nonprofit entity that serves as an intermediary between the Economic and Community Development Department and local microenterprise support organizations.

(7) "Training and technical assistance" means services and support offered to microenterprises and microentrepreneurs. "Training and technical assistance" includes, but is not limited to, services to enhance business development, planning, marketing, management skills and access to financial services.

(8) "Very low income" means income adjusted for family size that does not exceed 150 percent of the poverty level determined under 42 U.S.C. 9902, as amended and in effect on June 18, 2001. [2001 c.419 §2]

**Note:** 285B.178 to 285B.183 and 285B.186 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285B.179 Policy.** (1) The Legislative Assembly finds that:

(a) There is a need to develop and expand businesses in economically distressed communities in both rural and urban areas;

(b) There is a need to assist Oregonians who are unemployed, underemployed or in low income jobs;

(c) Microenterprises can provide a means for unemployed, underemployed or low income individuals to find and sustain productive work;

(d) Microenterprises, including self-employment, can enable people with disabilities to use their management skills to create and provide products and services, to acquire new skills in money management and business development and to develop pride and self-esteem;

(e) Microenterprises can provide opportunities for economically distressed communities to thrive, one microentrepreneur at a time;

(f) Microenterprises, including self-employment and start-up businesses, are important elements of the Oregon economy and play a vital role in job creation;

(g) There is a lack of access to capital and training and technical assistance for low income and very low income microentrepreneurs;

(h) Many low income and very low income microentrepreneurs need microlending services and training and technical assistance to start, operate or expand their businesses;

(i) Local microenterprise support organizations have demonstrated cost-effective delivery methods for providing microlending services and training and technical assistance; and

(j) Local and state charitable foundation support, federal program funding and private sector support can be leveraged by a statewide program for development of microenterprises.

(2) The purposes of ORS 285B.178 to 285B.183 are to:

(a) Ensure that microenterprises in Oregon are able to realize their full potential to create jobs, enhance entrepreneurial skills, expand entrepreneurial activity and increase the capacity of low income and very low income households to become self-sufficient;

(b) Enhance the development of a statewide infrastructure for microenterprise support; and

(c) Enable the Economic and Community Development Department to engage in contractual relationships with statewide microenterprise support organizations that have the capacity to administer grants to local microenterprise support organizations, subject to ORS 285B.178 to 285B.183, and to leverage additional funds from sources other than moneys appropriated from the General Fund. [2001 c.419 §3]

**Note:** See note under 285B.178.

**285B.180** [Formerly 285.555; repealed by 1999 c.509 §61]

**285B.183 Biennial report.** The Economic and Community Development Department shall submit a biennial report to the Governor and the Legislative Assembly outlining the actions that the department has taken related to microenterprise development pursuant to ORS 285A.045 and 285A.050. [2001 c.419 §5]

**Note:** See note under 285B.178.

**285B.186 Short title.** ORS 285B.178 to 285B.183 shall be known and may be cited as the Microenterprise Development Act. [2001 c.419 §1]

**Note:** See note under 285B.178.

## CREDIT ENHANCEMENT FUND

**285B.200 Definitions for ORS 285B.200 to 285B.218.** As used in ORS 285B.200 to 285B.218:

(1) "Department" means the Economic and Community Development Department.

(2) "Eligible project costs" includes productive equipment and machinery, working capital for operations and export transactions and such other costs as the department, by rule, may provide.

(3) "Emerging small business" has the meaning given that term in ORS 200.005.

(4) "Financial institution" includes institutions listed in ORS 706.008 and such other institutions defined by rule of the Economic and Community Development Department as financial institutions for purposes of ORS 285B.200 to 285B.218.

(5) "Qualified business" means any existing or proposed business entity with an average annual employment not exceeding 200 employees that, except when located within a distressed area, as defined by the Economic and Community Development Department, sells goods or services in markets for which national or international competition exists or that owns, occupies, operates or has entered into an agreement to own, occupy or operate real property containing a brownfield, as defined in ORS 285A.185. The term includes professional services companies providing services to traded sector industries and other entities within and outside of this state.

(6) "Value-added agricultural products" means agricultural products that have been processed, transformed or refined to the point where they may be distributed to a final consumer without further processing, transformation or refining. The term also includes agricultural products that are processed, transformed or refined for distribution to other than final consumers when such processing, transformation or refining represents a substantial increment in value as determined by the Economic and Community Development Department in consultation with the State Department of Agriculture. [Formerly 285.466; 1999 c.247 §4]

**Note:** 285B.200 to 285B.218 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285B.203 Legislative findings; purpose.** (1) The Legislative Assembly finds that:

(a) Small and medium sized businesses in general, and firms that produce value-added agricultural products in particular, are adversely affected by the current credit crisis.

(b) Small companies have historically had a difficult time obtaining credit, especially on terms that allow them to grow and to create jobs.

(c) The limited availability of credit for export transactions limits the ability of small and medium sized businesses in Oregon to compete in international markets.

(d) The challenge for the public economic sector is to design programs, in conjunction with lending institutions in the private economic sector, that fill the gaps in credit availability and export finance.

(e) Without substantial financial assistance to promote redevelopment, properties containing brownfields, as defined in ORS 285A.185, often remain abandoned or underutilized because of the uncertainty concerning environmental contamination at the sites and the cost of reducing or eliminating the contamination.

(2) The Legislative Assembly declares that it is the purpose of the Credit Enhancement Fund established under ORS 285B.215 (1) and (2) to:

(a) Create incentives and assistance to increase the flow of private capital to the value-added agriculture industries.

(b) Promote industrial modernization and technology adoption.

(c) Encourage the retention and creation of family wage jobs.

(d) Encourage the export of goods and services by Oregon businesses in international markets.

(e) Encourage and promote the redevelopment of brownfields, as defined in ORS 285A.185, by providing assistance to perform environmental action, as defined in ORS 285A.188, on brownfield sites. [Formerly 285.468; 2001 c.96 §4]

**Note:** See note under 285B.200.

**285B.206 Duties of department under ORS 285B.200 to 285B.218; rules.** (1) The Economic and Community Development Department shall develop a program under which the department, under contracts with financial institutions, shall provide loan guarantees, insurance, coinsurance in conjunction with other providers of loan guarantee programs or other forms of credit guarantees for qualified businesses for eligible project costs.

(2) In administering the program created by ORS 285B.200 to 285B.218, the department shall consult and cooperate with financial institutions in this state. The program shall be administered so that administrative procedures and application procedures are as responsive to the needs of qualified businesses and financial institutions as practica-

ble, consistent with prudent investment and lending practices and criteria.

(3) The department shall prescribe by rule the loan or credit guarantee application procedure for a financial institution on behalf of a qualified business.

(4) When the department approves a loan or credit guarantee, the department shall enter into a loan or credit guarantee agreement with the financial institution. The agreement shall specify:

(a) The fee to be charged to the financial institution;

(b) The evidence of debt assurance of, and security for, the loan or credit guarantee;

(c) A loan guarantee or credit guarantee which does not exceed 15 years; and

(d) Such other terms and conditions considered necessary or desirable by the department.

(5) The department may adopt procedures for loan or credit guarantees whereby a qualified business may apply directly to the department for a preliminary guarantee commitment. Such preliminary guarantee commitments may be issued by the department subject to the qualified business securing a commitment for financing from a financial institution. The procedures adopted by the department shall specify the process by which a financial institution may obtain a final loan or credit guarantee. [Formerly 285.474]

**Note:** See note under 285B.200.

**285B.209 Fees and terms for loan and credit guarantees for program under ORS 285B.206 and under ORS 285B.200 to 285B.218.** (1) When making loan or credit guarantees under the program established under ORS 285B.206, the Economic and Community Development Department shall establish fees and other terms for loan or credit guarantees that are calculated to reasonably assure that businesses with access to other forms of private capital will find it economical not to participate in the program.

(2) The department, with due regard for the possibility of losses and administrative costs, shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing.

(3) When making loan or credit guarantees under the program established under ORS 285B.200 to 285B.218, the department shall establish fees and other terms for loan or credit guarantees that are calculated to reasonably assure that qualified businesses with access to other forms of private capital will find it economical not to participate in the program.

(4) With due regard for the possibility of losses and administrative costs, the department shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing.

(5) For a preliminary guarantee commitment issued under ORS 285B.206 (5), the department may charge the qualified business an application fee. The fee shall be in addition to any other fees charged by the department under this section and may not exceed $250 for each application. [Formerly 285.476]

**Note:** See note under 285B.200.

**285B.212 Commission to advise and make recommendations to department concerning specified programs.** The Economic and Community Development Department shall consider the advice and recommendations of the Oregon Economic and Community Development Commission in developing and implementing the programs provided for in ORS 285B.126 to 285B.147, 285B.150 and 285B.200 to 285B.218. [Formerly 285.478]

**Note:** See note under 285B.200.

**285B.215 Credit Enhancement Fund; sources; uses.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Credit Enhancement Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the following purposes:

(a) Payment of claims pursuant to contracts for loan or credit guarantees under ORS 285B.200 to 285B.218.

(b) Payment of administrative costs of the department for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining the program established under ORS 285B.200 to 285B.218.

(c) Repayment of transfers of funds required or authorized by law.

(d) Purchase or buyout of superior or prior liens, mortgages or security interests.

(2) Moneys in the Credit Enhancement Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly, including moneys derived from the Administrative Services Economic Development Fund.

(b) Proceeds from collateral assigned to the department.

(c) Interest earned on moneys in the fund.

(d) Transfers of moneys to the fund.

(e) Fees assessed for guarantees, as determined by the department.

(f) Moneys from gifts.

(g) Moneys from any grant made to the fund by any federal agency.

(h) Proceeds of insurance provided by the Export-Import Bank of the United States or by any other provider of insurance for export transactions.

(3) In each biennium, not less than 20 percent of all moneys available for loan guarantees from the Credit Enhancement Fund is reserved for loan guarantees to emerging small businesses. [Formerly 285.471]

**Note:** See note under 285B.200.

**285B.218 Pledge to assure repayment of loans or other credit.** (1) The Economic and Community Development Department is authorized to pledge up to $75 million to assure the repayment of loan guarantees or other extensions of credit made to or on behalf of qualified businesses for eligible projects costs.

(2) If the balances in the Credit Enhancement Fund are insufficient to cover any claims by financial institutions that arise from loan and credit guarantees made under ORS 285B.200 to 285B.218, the Oregon Department of Administrative Services is directed to transfer in the fiscal year as often as appropriate any funds from the Administrative Services Economic Development Fund to cover such principal, interest and claims, subject to the condition that no such transfer shall be made prior to the satisfaction of the allocation under ORS 391.130 to the Regional Light Rail Extension Construction Fund and the allocation to the Department of Environmental Quality for the debt services described in section 1, chapter 537, Oregon Laws 1993. [Formerly 285.481]

**Note:** See note under 285B.200.

## REGIONAL ECONOMIC DEVELOPMENT

**285B.230 Definitions for ORS 285B.230 to 285B.269.** As used in ORS 285B.230 to 285B.269, unless the context requires otherwise:

(1) "Region" means groups of counties designated by the Economic and Community Development Department or recognized in a regional partnership as provided in ORS 285B.236 (3).

(2) "Regional board" means a board comprised of individuals described in ORS 285B.242 (1) and jointly appointed by the county governing bodies of each county in the region to develop, fund, implement and monitor the achievement of the regional investment strategy.

(3) "Regional investment strategy" is a long-term economic development strategy, updated each biennium, that focuses on the economic development priorities of each region, including but not limited to:

(a) Supporting communities and populations that have been left out of Oregon's economic expansion and diversification;

(b) Helping companies that are starting up or are already doing business in Oregon to compete globally;

(c) Ensuring that economic strategies reinforce Oregon's long-term prosperity and livability; and

(d) Coordinating efforts of economic development, education and workforce development.

(4) "Regional partnership" means a group of regional and economic development partners, including but not limited to cities, counties, ports, Indian tribes, special districts, nonprofit organizations and private organizations, that join together as a regional partnership in a memorandum of understanding between the members of the partnership and the directors of the Department of Transportation, the Economic and Community Development Department, the Housing and Community Services Department, the Department of Land Conservation and Development, the State Department of Agriculture, the Department of State Lands and the Department of Environmental Quality to provide a forum for coordination of economic development planning and investments so that strategies and processes for economic development are leveraged to the greatest extent possible to meet agreed-upon priority issues, challenges and goals. [Formerly 285.630; 1999 c.509 §47; 2003 c.773 §16]

**285B.233 Legislative finding; purpose.** (1) The Legislative Assembly finds that regional investment strategies are essential to the state's economic development goals and that to be effective regional investment strategies must have the coordinated support of available resources.

(2) The Legislative Assembly declares that the purpose of ORS 285B.230 to 285B.269 is:

(a) To encourage the development of regional investment strategies that address the economic development priorities of each region of the state;

(b) To identify and coordinate regional economic development priorities;

(c) To ensure that economic development plans reinforce the long-term prosperity and livability of Oregon;

(d) To effectively utilize available resources through a regional investment program;

(e) To leverage and attract capital investment in Oregon communities; and

(f) To coordinate private and public resources to support economic development. [Formerly 285.633; 1999 c.509 §48; 2003 c.773 §17]

**285B.236 Guidelines for regional investment strategies.** (1) The Economic and Community Development Department, by rule, shall adopt guidelines for submission of regional investment strategies and distribution of funds.

(2) The guidelines shall provide that the regional investment strategies are approved in accordance with criteria reflecting the economic benefits to the state. Each regional investment strategy must at a minimum set forth in measurable terms the extent to which the strategy will accomplish the economic development priorities of the region.

(3) The department, in collaboration with counties, shall establish regions, based on information and advice received from county governing bodies and on historical, cultural and economic links among counties. A region shall consist of at least two contiguous counties. For any area in which a regional partnership is established, the department may accept the regional boundaries designated by the partnership.

(4) The department shall require each region to examine its economic development needs. [Formerly 285.635; 1999 c.509 §49; 2003 c.773 §18]

**285B.239 Required elements of regional investment strategies.** Regional investment strategies shall serve as a basis for state financial assistance to projects or activities to meet regional economic development priorities. Each group of counties that forms a region shall submit a regional investment strategy that at a minimum shall include the following elements:

(1) An identification of short-term and long-term regional economic development priorities;

(2) An analysis of the unique or significant resources that provide the foundation for the regional investment strategy;

(3) An analysis of barriers to implementation of the regional investment strategy and an identification of the means to overcome those barriers;

(4) A long-term plan to implement the regional investment strategy, including necessary actions by:

(a) Local governments;

(b) The private sector;

(c) State government; and

(d) Federal government;

(5) A two-year investment strategy that describes projects and activities to be undertaken or funded by the state from lottery proceeds and other sources. For a region that has a recognized regional partnership under ORS 285B.236, the projects or activities may include investment of all or part of the moneys received by the region from the Regional Investment Fund or the Rural Investment Fund to provide moneys for the administration or financing of long-term or future economic development projects or activities;

(6) A plan for involvement of disadvantaged and minority groups in the region;

(7) Performance measurements for meeting the objective set forth in ORS 285B.236 (2). Each region shall develop an evaluation plan, as part of its regional investment strategy, for measuring and monitoring regional investment strategy performance. The evaluation plan shall include regional benchmarks for monitoring achievement of the regional investment strategies and priorities. When regional benchmarks are established, regional performance measures shall be determined after negotiation between the regional board and the Oregon Economic and Community Development Commission. The regional performance measures shall include goals for:

(a) Projected long-term and short-term job creation and retention activities, including the number of jobs created and retained and wage levels;

(b) Leveraging long-term investments; and

(c) Maximizing moneys leveraged with short-term investments;

(8) Periodic submission by the regional board of performance reports, in a form prescribed by the Economic and Community Development Department for regional investment strategies, to the county governing bodies in the region, the Oregon Economic and Community Development Commission, the Governor and the Legislative Assembly; and

(9) An overall strategy management and project or activity implementation strategy that demonstrates that a region has the capacity to allocate resources and insures that such resources are effectively used. [Formerly 285.637; 1999 c.509 §50; 2001 c.552 §2; 2003 c.773 §19]

**285B.242 Adoption of regional investment strategies; regional boards; hearing; review; approval.** (1) The governing body of each county of this state shall be responsible for the submission of a regional investment strategy as provided in ORS 285B.239. The governing body of a county shall designate a regional board to develop the regional investment strategy. The regional board shall consist of individuals who represent various local interests including cities, counties,

ports, special districts and Indian tribes and significant representation from the private economic sector. The regional board shall include members who are representatives of rural interests, including local government.

(2) The regional board shall be responsible for developing the regional investment strategy for the region.

(3) The regional board shall hold a public hearing in each county in the region prior to a vote by the governing bodies of the counties to recommend to the Governor the regional investment strategy described in ORS 285B.239.

(4) In developing the implementation strategy provided for in ORS 285B.239 (5), a regional board shall consult with industries, cities, ports, special districts, regional workforce committees and federally recognized Oregon Indian tribes located in the region.

(5) A region shall submit the regional investment strategy to the Economic and Community Development Department for review by the Oregon Economic and Community Development Commission. The department shall work with regions to refine regional investment strategies and ensure compliance with the requirements of ORS 285B.230 to 285B.269. The Oregon Economic and Community Development Commission shall make recommendations on approval of the strategy to the Governor for final approval or shall return the strategy to the regional board for further modification.

(6) The Economic and Community Development Department shall be responsible for identifying common issues among regions, developing statewide strategies and organizing opportunities for regions to address them.

(7) After a regional investment strategy is developed by a regional board, adopted by the governing bodies of the counties and approved by the Governor, the regional board, in each biennium, shall update the strategy and recommend a two-year implementation strategy. The implementation strategy shall be adopted by the governing bodies of the counties after input from the cities, ports, special districts, Indian tribes, private economic sector and other parties in the region, shall be reviewed by the Oregon Economic and Community Development Commission and must be approved by the Governor before taking effect.

(8) The Governor may delegate responsibility for review and approval of a regional investment strategy to a regional partnership. [Formerly 285.640; 1999 c.509 §51; 2003 c.773 §20]

**285B.245 Governor to adopt investment strategy; modification; coordination with other economic development efforts.** (1) After considering the recommendations submitted, the Governor may adopt a proposed regional investment strategy or return the strategy to the affected counties for modification.

(2) The Economic and Community Development Department shall coordinate adopted regional investment strategies with existing state and local economic development efforts to support a state strategy for economic development. Regions using regional investment funds for tourism or industrial marketing projects must, as a condition for receiving the funds, demonstrate that the projects complement and are consistent with existing statewide marketing campaigns. The department shall work with regions to ensure coordination among statewide marketing efforts and regional tourism and industrial marketing projects funded through the regional investment program established under ORS 285B.230 to 285B.269.

(3) The department shall discourage competition among regions for existing Oregon businesses and economic activity. [Formerly 285.643; 1999 c.509 §52; 2003 c.773 §21]

**285B.248 All counties to be included in region.** In carrying out the provisions of ORS 285B.230 to 285B.269, the Economic and Community Development Department shall work to ensure that all counties are included in a region with an adopted regional investment strategy and that each regional investment strategy is approved for implementation. [Formerly 285.645; 1999 c.509 §53; 2003 c.773 §22]

**285B.251** [Formerly 285.647; repealed by 1999 c.509 §61]

**285B.254 Rural Investment Fund.** (1) There is created a Rural Investment Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Administrative Services Economic Development Fund, and all interest earned on the Rural Investment Fund. The Rural Investment Fund is created to provide a flexible funding source for financing those locally determined programs and projects that may not be eligible for financing through other state and federal funding sources. The moneys in the fund are continuously appropriated to the Economic and Community Development Department to be used to promote economic development in rural communities.

(2) The department may use moneys in the Rural Investment Fund to pay for the administrative expenses of operating the economic development programs under ORS 285B.257.

(3) After consulting with regional boards and representatives of rural communities, the department, by rule, shall adopt standards, objectives and criteria for the use and dis-

tribution of moneys in the Rural Investment Fund. [Formerly 285.648; 1999 c.509 §54; 2003 c.773 §23]

**285B.257 Rural action plans; distribution of Rural Investment Fund to implement plans; biennial reports; prohibited uses of fund; rules.** (1) Moneys in the Rural Investment Fund shall be distributed to regional boards designated under ORS 285B.242 for economic development programs and projects designed to benefit rural communities.

(2) Each regional board shall update the regional investment strategy prepared under ORS 285B.239 to include a rural action plan consistent with the purpose and objectives of the Rural Investment Fund. A rural action plan must be reviewed by the Oregon Economic and Community Development Commission and approved by the Governor before any moneys from the Rural Investment Fund may be distributed for implementing any program or project described in the rural action plan. Moneys from the Rural Investment Fund shall not be used to retire any debt or pay for expenditures made or expenses incurred prior to the approval of a rural action plan.

(3) In each biennium, a regional board may dedicate a portion of the moneys distributed to the board from the Rural Investment Fund for technical assistance and staff support for updating the rural action plan and for developing programs and projects under the rural action plan. The regional board shall determine the amount of moneys dedicated to such purposes. Notwithstanding subsection (2) of this section, the Economic and Community Development Department may distribute moneys from the Rural Investment Fund for technical assistance and staff support prior to approval of the rural action plan.

(4) In each biennium, each regional board shall submit a report on the expenditure of moneys received under this section and shall indicate the success of the programs and projects financed with moneys from the Rural Investment Fund. The success of programs and projects shall be defined by specific performance measurements developed by the regional board, and performance reports shall be submitted as required for regional investment strategies under ORS 285B.239 (8). Reports required by this subsection shall be made part of the biennial report submitted to the Governor and the Legislative Assembly under ORS 285B.263.

(5) Moneys from the Rural Investment Fund shall not be used to substitute for local government expenditures for existing and continuing public services. The Economic and Community Development Department shall adopt rules to carry out the provisions of this subsection. [Formerly 285.649; 1999 c.509 §55; 2003 c.773 §24]

**285B.260 Regional Investment Fund.** (1) There is created a Regional Investment Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Administrative Services Economic Development Fund, and all interest earned on the Regional Investment Fund. The fund is continuously appropriated to the Economic and Community Development Department to be used for grants to implement ORS 171.845, 280.518 and 285B.230 to 285B.269.

(2) The department may use moneys in the Regional Investment Fund to pay for the administrative expenses of operating the regional investment program under ORS 285B.230 to 285B.269.

(3) The fund shall not be used to retire any debt or to reimburse any person or municipality for expenditures made or expenses incurred prior to the adoption of a regional investment strategy. [Formerly 285.650; 1999 c.509 §56; 2003 c.773 §25]

**285B.263 Expenditure of Regional Investment Fund; distribution.** (1) In each biennium, the Economic and Community Development Department shall expend moneys from the Regional Investment Fund for:

(a) Technical assistance and staff support for preparation and update of regional investment strategies;

(b) Projects or activities implementing an approved regional investment strategy and implementing priorities described in the strategy; and

(c) Personnel necessary to administer the strategies and projects or activities.

(2) In each biennium, the Oregon Economic and Community Development Commission, by rule and in agreement with the Association of Oregon Counties, League of Oregon Cities and Oregon Public Ports Association, may provide funds from any source available to the department to establish strategic regional investment opportunities consistent with the policies described in ORS 285B.266. Funding for projects or activities under this subsection shall be awarded, at the discretion of the commission, according to the quality of the defined projects or activities.

(3) In each biennium, a regional board may dedicate a portion of regional investment funds for technical assistance and staff support for regional investment strategy development and refinement and development and administration of regional partnerships. The portion of funds so dedicated shall be determined by the commission. The commission shall provide regional boards with these

funds prior to approval of regional investment strategies.

(4) In each biennium, a regional board may dedicate a portion of regional investment funds to provide grants or loans to individual private businesses for fixed asset acquisition. Such funds must be used to make grants and loans that are consistent with the regional investment strategy and that support the regional priorities included in the regional investment strategy. The terms and conditions of grants or loans to be made under this subsection must be contained in the regional investment strategy at the time it is submitted for state review.

(5) After a regional investment strategy is adopted, the department in each calendar quarter shall provide regional investment funds, less any moneys used for technical assistance and staff support for regional investment strategy development, to the region. Moneys received under this subsection shall be used for development of projects or activities based upon an evaluation by the regional board of the merit and readiness of the projects or activities. Projects and activities that receive such financial assistance must be consistent with the priorities of the approved regional investment strategy.

(6) In each biennium, each regional board shall submit a report to the Governor and the Legislative Assembly that describes the expenditure of moneys received under this section and indicates the success, as defined by specified performance measurements, of the funded projects or activities in achieving the regional economic development priorities described in ORS 285B.236 (2). [Formerly 285.651; 1999 c.509 §57; 2001 c.552 §3; 2003 c.773 §26]

**285B.264 Evaluations required following distributions from Rural Investment Fund and Regional Investment Fund; rules.** (1) Notwithstanding ORS 285B.254 (3), distributions from the Rural Investment Fund created under ORS 285B.254 and the Regional Investment Fund created under ORS 285B.260 shall be evaluated to determine if the regional investment strategy funded by a distribution has met the criteria established by the strategy for:

(a) Long-term and short-term job creation and retention activities, including the number of jobs created and retained and wage levels;

(b) Leveraging long-term investments; and

(c) Maximizing moneys leveraged with short-term investments.

(2) The Economic and Community Development Department shall adopt rules to ensure that future grants to a regional board are based on the past performance of the board in meeting the criteria established for the regional investment strategy described in subsection (1) of this section. [2003 c.773 §26a]

**285B.266 Strategic Reserve Fund; sources; uses.** (1) There is created a Strategic Reserve Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Administrative Services Economic Development Fund, and all interest earned on the Strategic Reserve Fund. The fund is continuously appropriated to the Economic and Community Development Department to be used to implement statewide strategies for economic development.

(2) The fund shall not be used to retire any debt or, except upon approval of the Joint Ways and Means Committee or, if the Legislative Assembly is not in session, the Emergency Board, to pay administrative expenses of the department. Expenses that are project related shall not be considered to be administrative expenses of the department.

(3) The department is directed to place particular emphasis on investments that assist communities, businesses or industries in cost-effective projects that assist the creation, expansion and preservation of the principal traded sector industries of Oregon and encourage diversification and preservation of regional economies. The fund shall be used to assist economic and community development projects of public entities, industry groups or businesses with significant long-term, regional or statewide economic impacts, to provide interim financing mechanisms to augment existing public or private sector programs or to analyze statewide, long-term economic issues and opportunities. [Formerly 285.653; 1999 c.509 §19]

**285B.269 Short title.** ORS 285B.230 to 285B.269 shall be known as the Regional Economic Development Act. [Formerly 285.655]

## INDUSTRY DEVELOPMENT PROJECTS

**285B.280 Definition of "traded sector."** As used in ORS 285B.280 to 285B.286, unless the context requires otherwise, "traded sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists. [Formerly 285.765; 2005 c.835 §1]

**285B.283 Policy.** The Legislative Assembly declares that it is the policy of the State of Oregon:

(1) Working with private firms, industry associations and others, to encourage cooperative sector-based strategies to promote industrial competitiveness.

(2) That programs to develop particular sectors of this state's economy, to the maximum extent feasible, include firms of all sizes. To promote that policy, the Economic and Community Development Department shall undertake efforts as are necessary to ensure representative participation by small firms under ORS 285B.280 to 285B.286.

(3) To emphasize industry development in those sectors of the economy in which Oregon firms face national and international competition.

(4) To provide an adequate supply of industrial and traded sector sites that are available for immediate development. [Formerly 285.767; 2003 c.800 §22]

**285B.286 Industry development activities.** For traded sector industries, the Economic and Community Development Department shall undertake industry development activities that may include, but are not limited to, all of the following:

(1) Focus groups and other meetings and related studies to identify traded sector industry members and issues of common concern within an industry.

(2) State technical and financial support for formation of industry associations, publication of association directories and related efforts to create or expand the activities of industry associations.

(3) Helping establish research consortia.

(4) Joint training and education programs and curricula related to the specific needs of traded sector industries.

(5) Cooperative market development activities.

(6) Analysis of the need, feasibility and cost for establishing product certification and testing facilities and services.

(7) State technical and financial support to facilitate certification of sites as ready for development for traded sector industry. The support may include performing site assessments to determine the costs associated with development of individual sites. [Formerly 285.770; 1999 c.509 §20; 2003 c.800 §23]

**285B.289** [Formerly 285.773; repealed by 1999 c.509 §61]

**285B.292** [Formerly 285.775; repealed by 1999 c.509 §61]

**285B.295** [Formerly 285.777; repealed by 1999 c.509 §61]

**285B.298** [Formerly 285.780; repealed by 1999 c.509 §61]

## STATE REVENUE BONDS FOR INDUSTRIAL, COMMERCIAL, SOLID WASTE DISPOSAL, RESEARCH AND DEVELOPMENT USES

**285B.320 Policy.** The Legislative Assembly finds that by use of the powers and procedures described in ORS 285B.320 to 285B.371 for the assembling and financing of lands for industrial, solid waste disposal, commercial and research and development uses and for the construction and financing of facilities for such uses, financed through the issuance of bonds secured solely by the properties, lease payments, loan payments, rentals or other financing payments thus made available, the state may be able to reduce substantially in various counties the occurrence of economic conditions requiring more expensive remedial action. It is the purpose of ORS 285B.320 to 285B.371 to authorize the exercise of powers granted by ORS 285B.320 to 285B.371 by this state in addition to and not in lieu of any other powers it may possess. [Formerly 285.310; 1999 c.509 §29; 2001 c.680 §2]

**285B.323 Definitions for ORS 285B.320 to 285B.371.** As used in ORS 285B.320 to 285B.371, unless the context requires otherwise:

(1) "Bond" means any evidence of indebtedness, including but not limited to any bond, note, obligation, loan agreement, financing agreement, contracts for leasing, rental or financing of real or personal property, including contracts for rental, long term leases under an optional contract for purchase, financing agreements with vendors, financial institutions or others or for purchase of any property secured by revenues or from other financing sources as provided in ORS 285B.320 to 285B.371. A bond, as defined in this subsection and issued under ORS 285B.320 to 285B.371, shall be considered a revenue bond for purposes of ORS 286.031.

(2) "Economic development project" includes any properties, real or personal, used or useful in connection with a revenue producing enterprise or any solid waste disposal facilities and related vehicles, rolling stock or equipment. "Economic development project" shall not include any facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy.

(3) "Eligible project" means an economic development project found by the Oregon

Economic and Community Development Commission to meet standards of the commission adopted under ORS 285A.110. The commission may treat as a single eligible project for bonding purposes any number of economic development projects determined to be eligible projects. [Formerly 285.315; 1999 c.509 §30; 2001 c.680 §3]

**285B.326 Determination of eligibility of projects for financing; fees.** (1) Upon determining an economic development project an "eligible project," the Oregon Economic and Community Development Commission shall forward the application to the State Treasurer, who shall determine whether to issue the bonds.

(2) The commission shall collect the fees set forth in subsection (3) of this section from an applicant that seeks to have an economic development project declared eligible for financing. The fee may be collected even though the project has not been determined to be eligible for financing. Moneys collected under this subsection shall be deposited in the Oregon Community Development Fund created under ORS 285A.227 and are continuously appropriated to the commission for the purpose of administration or funding of any program it is authorized to operate.

(3) The fees described in subsection (2) of this section are as follows:

(a) $250 for an application of not to exceed $500,000.

(b) $500 for an application of more than $500,000.

(c) A closing fee of not to exceed one-half of one percent of the total bond issue for the project, as determined by the commission. [Formerly 285.320; 1999 c.509 §31; 2003 c.167 §8]

**285B.329 Review by Oregon Economic and Community Development Commission; exception.** (1) The state, acting through the State Treasurer, shall not undertake to finance any economic development project pursuant to ORS 285B.320 to 285B.371 before the Oregon Economic and Community Development Commission has reviewed the project pursuant to standards adopted under ORS 285A.110.

(2) The commission is not required to make the determination and findings described in ORS 285A.055 (1) and (2) if the economic development project involves a solid waste disposal facility and related vehicles, rolling stock or equipment when the project does not require any private activity volume cap under ORS 286.605 to 286.645. [Formerly 285.325; 1999 c.509 §32; 2001 c.680 §4]

**285B.332 Request by county governing body.** (1) The undertaking of any eligible project must be requested by official action of the governing body of the county taken at a regular or duly called special meeting thereof by the affirmative vote of a majority of its members.

(2) The governing body of any Oregon county is encouraged to forward appropriate prospective eligible projects to the Oregon Economic and Community Development Commission for processing pursuant to ORS 285B.326.

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

(4) If the governing body is requesting the undertaking of an eligible project under ORS 285C.609, it may impose additional reasonable requirements on the applicant. [Formerly 285.330; 1999 c.509 §33]

**285B.335 Powers of State Treasurer.** In addition to any other powers granted by law or by charter, in relation to an eligible project, the state, acting through the State Treasurer or a designee thereof, may:

(1) Enter into agreements to finance the costs of an eligible project by loaning or otherwise making available the proceeds of bonds authorized by ORS 285B.344 to any person, firm or public or private corporation or federal or state governmental subdivision or agency under such terms and with such security as the state may approve;

(2) Lease and sublease eligible projects to any person, firm or public or private corporation or federal or state governmental subdivision or agency in such manner that rents to be charged for the use of such projects shall be established, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued under this section when due, and the lease or financing agreement shall also provide that the lessee, borrower or financing party shall be required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease, during which term ad valorem taxes in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project;

(3) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the revenues of one or more eligible

projects owned or to be acquired by the state, and define and segregate such revenues or provide for the payment thereof to a trustee;

(4) Mortgage or otherwise encumber eligible projects in favor of the holders of such bonds or in favor of any escrow agent, vendor, lender, other financing party or trustee therefor. However, in creating any such mortgages or encumbrances the state can not obligate itself except with respect to the project;

(5) Make all contracts, execute and deliver all instruments, and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; including a contract entered into prior to the construction, acquisition and installation of the eligible project authorizing the lessee, borrower or other financing party, subject to such terms and conditions as the state shall find necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee, borrower or other financing party, and in the manner determined by the lessee, borrower or other financing party, and without advertisement for bids as may be required for the construction, acquisition or installation of other public facilities;

(6) Enter into and perform such contracts and agreements with political subdivisions and state agencies as the respective governing bodies of the same may consider proper and feasible for or concerning the planning, construction, installation, lease, or other acquisition, and the financing of such facilities, which contracts and agreements may establish a board, commission or such other body as may be deemed proper for the supervision and general management of the facilities of the eligible project;

(7) Accept from any authorized agency of the state or federal government loans or grants for the planning, construction, acquisition, leasing, or other provision of any eligible project, and enter into agreements with such agency respecting such loans or grants; and

(8) Acquire, own, sell, assign or otherwise hold legal or equitable title to or an interest in eligible projects or hold federal tax ownership of eligible projects. [Formerly 285.335; 1999 c.509 §34; 2001 c.680 §5; 2003 c.167 §11]

**285B.338 Powers of Oregon Economic and Community Development Commission.** In carrying out its duties under ORS 285B.320 to 285B.371, the Oregon Economic and Community Development Commission, acting for and in behalf of the state as its duly authorized agency, may:

(1) Acquire, construct and hold in whole or in part any lands, buildings, easements, water and air rights, improvements to lands and buildings and capital equipment to be located permanently or used exclusively on such lands or in such buildings, which are deemed necessary in connection with an eligible project to be situated within the state, and construct, reconstruct, improve, better and extend such projects, and enter into contracts therefor; and

(2) Sell and convey all properties acquired in connection with eligible projects, including without limitation the sale and conveyance thereof subject to any mortgage and the sale and conveyance thereof under an option granted to the lessee of the eligible project, for such price, and at such time as the state may determine. However, no sale or conveyance of such properties shall ever be made in such manner as to impair the rights of interests of the holder, or holders, or any bonds issued under the authority of ORS 285B.320 to 285B.371. [Formerly 285.340; 1999 c.509 §35]

**285B.341 Limitation on state power.** Except as provided in ORS 285B.335 and 285B.338, the state does not have the power to operate any eligible project as a business or in any manner whatsoever, and except as provided in ORS 285B.335 and 285B.338, nothing in ORS 285B.320 to 285B.371 authorizes the state to expend any funds on any eligible project, other than the revenues of such projects, or the proceeds of revenue bonds issued hereunder, or other funds granted to the state for the purposes of an eligible project. For the purpose of exercising the powers and authority granted under ORS 285B.335 or 285B.338, the state and the Oregon Economic and Community Development Commission are not subject to the requirements of ORS 279.835 to 279.855 or ORS chapter 279A, 279B or 279C. [Formerly 285.345; 2001 c.680 §6; 2003 c.167 §12; 2003 c.794 §239]

**285B.344 Authority to issue bonds.** (1) If the State Treasurer determines that bonds should be issued:

(a) The State Treasurer may authorize and issue in the name of the State of Oregon bonds secured by revenues from eligible economic development projects or from other financing sources to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project and issued in the manner prescribed by ORS 286.010, 286.020 and 286.105 to 286.135, and refunding bonds may be issued to refinance such bonds.

(b) The State Treasurer shall designate the underwriter, vendor, lender or other financing party, if any, and enter into appropriate agreements with each to carry out the provisions of ORS 285B.320 to 285B.371. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.320 to 285B.371. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this paragraph unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279A.140 does not apply to any appointment or agreement described in this paragraph.

(2) Any escrow agent, bond registrar, paying agent or trustee, if any, designated by the State Treasurer to carry out all or part of the powers specified in ORS 285B.335 must agree to furnish financial statements and audit reports for each bond issue. [Formerly 285.350; 1999 c.509 §36; 2001 c.536 §1; 2003 c.167 §13; 2003 c.794 §240]

**285B.347 Issuance of bonds; determining factors.** In determining whether to issue bonds under ORS 285B.320 to 285B.371, the State Treasurer shall consider:

(1) The market for the types of bonds proposed for issuance.

(2) The terms and conditions of the proposed issue.

(3) Such other relevant factors as the State Treasurer considers necessary to protect the financial integrity of the state. [Formerly 285.355; 1999 c.509 §37]

**285B.350 Method of issuing bonds.** Bonds authorized under ORS 285B.320 to 285B.371 shall be issued in accordance with the provisions of ORS 288.515 to 288.550. [Formerly 285.360]

**285B.353 Administration expenses.** The administrative expenses of the State Treasurer shall be charged against bond proceeds or project revenues. [Formerly 285.365]

**285B.356 Refunding bonds.** The State Treasurer shall have the power, whenever the treasurer deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured. The refunding bonds may be exchanged for bonds to be refunded and the proceeds applied to the purchase, redemption or payment of such bonds. [Formerly 285.370]

**285B.359 Validity of bonds.** The validity of bonds issued under ORS 285B.320 to 285B.371 shall not be dependent on nor be affected by the validity or regularity of any proceeding relating to the acquisition, purchase, construction, installation, reconstruction, improvement, betterment or extension of the eligible project for which the bonds are issued. The official action authorizing such bonds may provide that the bonds shall contain a recital that they are issued pursuant to ORS 285B.320 to 285B.371 and such recital shall be conclusive evidence of their validity and of the regularity of their issuance. [Formerly 285.375]

**285B.362 Covenants in bonds.** The official action authorizing the issuance of bonds under ORS 285B.320 to 285B.371 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 285B.320 to 285B.371 in the following respects and in such other respects as the state, acting through the State Treasurer, or the designee of the treasurer may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 285B.320 to 285B.371;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use and disposition thereof;

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

(5) The purpose or purposes to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the eligible project made in favor of the holder or holders of such bonds or in favor of any escrow agent, vendor, lender, other financing party or trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of any bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the eligible project;

(9) The insurance to be carried upon the eligible project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions or obligations;

(13) The appointing of and vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of their liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 285B.320 to 285B.371;

(15) A procedure by which the terms of any official action authorizing bonds or of any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which may consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued under ORS 285B.320 to 285B.371 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the state, to other bonds or obligations of the state issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered. [Formerly 285.380; 1999 c.509 §38]

**285B.365 Limitations of bonds; recitals.** (1) Revenue bonds issued under ORS 285B.320 to 285B.371:

(a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the state except those projects or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of ORS 285B.320 to 285B.371.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those eligible projects, or portions thereof, mortgaged or otherwise encumbered, under the provisions and for the purposes of ORS 285B.320 to 285B.371.

(2) Each bond issued under ORS 285B.320 to 285B.371 shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof. No such bond shall constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. However, nothing in ORS 285B.320 to 285B.371 is intended to impair the rights of holders of bonds to enforce covenants made for the security thereof as provided in ORS 285B.368. [Formerly 285.385; 2003 c.167 §14]

**285B.368 Powers and rights of bondholders.** Subject to any contractual limitation binding upon the holders of any issue of bonds, or any escrow agent, vendor, lender, other financing party or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) By action or proceeding for legal or equitable remedies, enforce their rights against the state and any of its officers, agents and employees, and may require and compel the state or any such officers, agents or employees to perform and carry out its and their duties and obligations under ORS 285B.320 to 285B.371 and its and their covenants and agreements with bondholders;

(2) By action require the state to account as if it was the trustee of an express trust;

(3) By action enjoin any acts or things which may be unlawful or in violation of the right of the bondholders;

(4) Bring action upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of ORS 285B.320 to 285B.371 and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by ORS 285B.320 to 285B.371 without exhausting and without regard to any other right or remedy conferred by ORS 285B.320 to 285B.371 or any other law of this state, none of which rights and remedies is intended to be exclusive of any other, and each

is cumulative and in addition to every other right and remedy. [Formerly 285.390; 1999 c.509 §39]

**285B.371 Loans to eligible projects when state holds no interest.** The state, acting through the State Treasurer and the Oregon Economic and Community Development Commission, or either of them, may loan the proceeds of the bonds authorized by ORS 285B.320 to 285B.371 for eligible projects without the necessity of the state having any ownership or leasehold interest in the eligible projects. Loans made pursuant to this section shall be secured, if at all, to the extent deemed necessary or desirable by the State Treasurer and the Oregon Economic and Community Development Commission. [Formerly 285.393; 1999 c.509 §40]

**285B.374** [Formerly 285.395; 1999 c.509 §41; repealed by 2003 c.167 §16]

**285B.377** [Formerly 285.397; 1999 c.509 §42; repealed by 2003 c.167 §16]

**285B.380** [Formerly 285.398; 2003 c.662 §7; renumbered 285C.600 in 2003]

**285B.383** [Formerly 285.399; 1999 c.509 §26; 2003 c.662 §8; renumbered 285C.606 in 2003]

**285B.386** [Formerly 285.400; 2003 c.662 §9; renumbered 285C.609 in 2003]

**285B.389** [Formerly 285.401; 1999 c.509 §21; 2003 c.167 §9; 2003 c.662 §10a; renumbered 285C.612 in 2003]

**285B.392** [Formerly 285.402; 2003 c.662 §11; renumbered 285C.620 in 2003]

## INFRASTRUCTURE PROJECTS

### (Generally)

**285B.410 Definitions for ORS 285B.410 to 285B.482.** As used in ORS 285B.410 to 285B.482, unless the context requires otherwise:

(1) "Airport" means:

(a) A runway, taxiway, aircraft parking apron, ramp, auto parking area, access road, safety area or runway protection zone;

(b) An airport-related facility, including a hangar, terminal, air traffic control tower or other building;

(c) A signal, navigational aid or traffic control system; or

(d) A fuel tank or other physical airport improvement.

(2) "Development project" means a project for the acquisition, improvement, construction, demolition, or redevelopment of municipally owned utilities, buildings, land, transportation facilities or other facilities that assist the economic and community development of the municipality, including planning project activities that are necessary or useful as determined by the Economic and Community Development Department.

(3) "Direct project management costs" means expenses directly related to a project that are incurred by a municipality solely to support or manage a project eligible for assistance under ORS 285B.410 to 285B.482. "Direct project management costs" does not include routine or ongoing expenses of the municipality.

(4) "Emergency project" means a development project resulting from an emergency as defined in ORS 401.025, to which federal disaster relief has been committed.

(5) "Energy system" means a facility necessary for the distribution, transmission or generation of energy, including but not limited to facilities powered by wind, solar energy or biofuel and facilities for the collection, storage, transmission or distribution of a fuel, including natural gas, methane or hydrogen.

(6) "Marine facility" means:

(a) A wharf, dock, freight handling or passenger facility;

(b) A navigation channel or structure, including a project funded under ORS 777.267; or

(c) Any other physical marine facility improvement.

(7) "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.

(8) "Planning project" means:

(a) A project related to a potential development project for preliminary, final or construction engineering;

(b) A survey, site investigation or environmental action;

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

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

(9) "Project" means a development, planning or emergency project.

(10) "Railroad" means:

(a) A main line, siding, yard, connecting or auxiliary track, right of way or easement;

(b) An industrial spur or related facility, including a depot, shop, maintenance building or other building;

(c) A signal or traffic control system;

(d) A bridge or tunnel;

(e) A dock, pit, conveyor, bin, crane, piping system, tank or pavement for unloading, loading or transfer of freight, trailers or containers; or

(f) Any other physical railroad improvement.

(11) "Road" means a street, highway or thruway or a road-related structure that provides for continuity of a right of way, including a bridge, tunnel, culvert or similar structure or other physical road-related improvement.

(12) "Rural area" has the meaning given that term in ORS 285A.010.

(13) "Sewage system" means a facility necessary for collecting, pumping, treating or disposing of sanitary sewage.

(14) "Solid waste disposal site" has the meaning given the term "disposal site" in ORS 459.005.

(15) "Storm water drainage system" means a facility necessary for collecting, controlling, conveying, treating or disposing of storm water runoff.

(16) "Telecommunications system" means equipment or a facility for the electronic transmission of voice, data, text, image or video.

(17) "Transportation" means a system for movement of freight or passengers.

(18) "Utilities" means a solid waste disposal site or a water, sewage, storm water drainage, energy or telecommunications system.

(19) "Water system" means a facility for supplying, treating or protecting the quality of water and transmitting water to a point of sale or to any public or private agency for domestic, municipal, commercial or industrial use. [Formerly 285.700; 1999 c.509 §43; 2001 c.96 §5; 2001 c.633 §1; 2001 c.883 §27; 2003 c.773 §27; 2005 c.835 §2]

**285B.413 Legislative findings.** (1) The Legislative Assembly finds that:

(a) The improvement, expansion and new construction of the state's water and sewage systems, telecommunications systems, roads and public transportation provide the basic framework for continuing and expanding economic activity in this state, thereby providing jobs and economic opportunity for the people of Oregon.

(b) It is essential to maintain usable and developable industrial and commercial lands in Oregon.

(2) Because municipalities in this state often suffer from a lack of available financing and technical capacity for these projects, it is the purpose of ORS 285B.410 to 285B.482 to provide financial or other assistance to enable municipalities to construct, improve and repair those facilities that are essential for supporting continuing and expanded economic activity. It is the intent of the Legislative Assembly, by providing that assistance, to stimulate industrial growth and commercial enterprise and to promote employment opportunities in Oregon.

(3) Moneys in the Special Public Works Fund shall be used primarily to provide loans to municipalities for development and planning projects. Grants shall be given only when loans are not feasible due to the financial need of the municipality or special circumstances of the project. The Economic and Community Development Department is authorized to determine the level of grant or loan funding, if any, on a case-by-case basis. [Formerly 285.703; 2001 c.883 §27a; 2003 c.773 §28; 2005 c.835 §3]

**285B.416** [Formerly 285.705; 2001 c.883 §28; 2003 c.773 §29; repealed by 2005 c.835 §37]

**285B.419 Administration of Special Public Works Fund; rules and policies.** (1) The Economic and Community Development Department shall adopt rules and policies for the administration of the Special Public Works Fund. All forms of assistance are subject to the rules and policies of the department.

(2) The department shall manage the Special Public Works Fund and any expenditures from its accounts and transfers between its accounts so that the fund provides a continuing source of financing for development or planning projects consistent with ORS 285B.413.

(3) The department may commit moneys in the Special Public Works Fund or reserve future income to the fund for disbursal in future years under ORS 285B.440. The department shall commit or reserve moneys under this subsection only after:

(a) Allowing for contingencies;

(b) Finding that there will be sufficient unobligated net income to the fund to make the future payments, consistent with the financial requirements of subsections (2) and (3) of this section; and

(c) Providing in any contract for the commitment that the liability of the state to make the annual payments shall be contingent on the availability of moneys in the Special Public Works Fund.

(4) In assisting municipalities with projects, the department shall cooperate to the maximum extent possible with other state and federal agencies. [Formerly 285.707; 1999 c.509 §22; 2001 c.633 §2; 2001 c.883 §29; 2003 c.773 §30; 2005 c.835 §5]

**(Community Facilities Projects)**

**285B.422 Funding of community facilities projects; criteria for project funding.** (1) The Economic and Community Development Department may provide financial or other assistance to a municipality for a de-

velopment project as defined in ORS 285B.410.

(2) The project must be municipally owned and operated either by the municipality or under a management contract or an operating agreement with the municipality. If the project consists:

(a) Solely of the purchase or acquisition of land by the municipality, the land must be identified in the applicable land use or capital plan as necessary for a potential development project or be zoned solely for commercial or industrial use.

(b) Of a privately owned railroad, the railroad must be designated by the owner and operator as subject to abandonment within three years, pursuant to federal law governing abandonment of common carrier railroad lines.

(c) Of a telecommunications system, the governing body of the municipality shall adopt a resolution, after a public hearing, finding that the proposed telecommunications system project is necessary and would not otherwise be provided by a for-profit entity within a reasonable time and for a reasonable cost.

(3) If the project is an energy system, the municipality and the serving utility must execute an ownership and operating agreement for the proposed energy system. This subsection does not apply when the energy system will be located within the recognized service territory of the municipality.

(4) The department may not use funds to provide assistance for:

(a) Projects that primarily focus on relocating business or economic activity from one part of the state to another, except in cases where the business or economic activity would otherwise locate outside of Oregon; or

(b) Ongoing operations or maintenance expenses. [1997 c.800 §12; 1999 c.509 §44; 2001 c.883 §30; 2003 c.773 §31; 2005 c.835 §6]

**Note:** 285B.422 was added to and made a part of 285B.410 to 285B.482 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**285B.425** [1997 c.800 §13; 2001 c.883 §30a; repealed by 2005 c.835 §37]

**Note:** Section 32, chapter 773, Oregon Laws 2003, provides:

**Sec. 32.** On the effective date of this 2003 Act [January 1, 2004], moneys in the Community Facilities Account shall be transferred to other accounts within the Special Public Works Fund as designated by the Director of the Economic and Community Development Department. On and after the effective date of this 2003 Act, all repayments of financial assistance provided from the Community Facilities Account shall be credited to the accounts within the Special Public Works Fund designated by the director. [2003 c.773 §32]

**(Financial Assistance for Projects)**

**285B.428 Application for funds.** Any municipality may apply for financial or other assistance from the Special Public Works Fund by submitting a completed application and related information as required by the Economic and Community Development Department by rule. The application shall be filed, reviewed and approved or rejected in accordance with rules adopted by the department. [Formerly 285.710; 2001 c.883 §30b; 2003 c.773 §33; 2005 c.835 §11]

**285B.431** [Formerly 285.713; 2003 c.773 §34; repealed by 2005 c.835 §37]

**285B.434** [Formerly 285.715; 2001 c.883 §30c; repealed by 2005 c.835 §37]

**285B.437 Contract with municipality.** (1) If the Economic and Community Development Department approves assistance from the Special Public Works Fund for a project, the department, on behalf of the state, and the municipality may enter into a contract to implement the assistance. The contract shall include:

(a) A provision that the liability of the state under the contract is contingent upon the availability of moneys in the Special Public Works Fund for use in the project;

(b) If any portion of the assistance is in the form of a loan or the purchase of a bond of a municipality, a provision granting the department a lien on or a security interest in the collateral as determined by the department to be necessary to secure repayment of the loan or bond; and

(c) Other provisions as the department considers necessary or appropriate to implement the assistance.

(2) When the department approves financial assistance under ORS 285B.410 to 285B.482 for a project, the department shall pay moneys for the project from the Special Public Works Fund in accordance with the terms of the contract.

(3) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a municipality may borrow from the Special Public Works Fund by entering into a contract with the department. The contract may be repaid from:

(a) The revenues of the project, including special assessment revenues;

(b) Amounts withheld under ORS 285B.449 (1);

(c) The general fund of the municipality; or

(d) Any other source.

(4) A loan contract authorized under subsection (3) of this section shall be authorized by an ordinance, order or resolution adopted by the governing body of the munic-

ipality. [Formerly 285.717; 2001 c.883 §30d; 2003 c.773 §35; 2005 c.835 §12]

**285B.438** [2001 c.633 §4; 2003 c.773 §36; repealed by 2005 c.835 §37]

**285B.440 Maximum amounts of grants; standards.** (1)(a) The moneys in the Special Public Works Fund shall be used primarily to provide loans to municipalities for projects as defined in ORS 285B.410 to 295B.482. The Economic and Community Development Department may determine the level of grant or loan funding, if any, on a case-by-case basis.

(b) If the department approves funding, the department shall determine a maximum amount of the loan based upon a reasonable and prudent expectation of the ability of the municipality to repay the loan.

(c) The loan term may not exceed the usable life of the project or 25 years from the year of project completion, whichever is less.

(d) Assistance from the fund for a marine facility project otherwise funded under ORS 777.267 shall be limited to a loan. The loan may not exceed the amount of the required local matching funds.

(2) The department shall by rule adopt standards for awarding grants from the Special Public Works Fund. The standards may include the award of grants as a financial incentive to accomplish the goals of the Special Public Works Fund, to address special circumstances of a project or to address the financial need of the applicant.

(3) The department may make grants to a municipality not to exceed $1 million per project or 85 percent of the allowable project costs, whichever is less. For purposes of this subsection, allowable project costs do not include capitalized interest, if any.

(4) The department may not expend more than one percent of the value of the Special Public Works Fund in any biennium for grants or direct assistance, if any, for planning projects to municipalities.

(5) The department may not expend more than $2.5 million in any biennium for emergency project grants. For purposes of this subsection, emergency project grants include grants for essential community facilities, as defined by the department by rule after consultation with the League of Oregon Cities, the Association of Oregon Counties, the Oregon Ports Representation Group and the Special Districts Association of Oregon.

(6) Except as otherwise limited by this section, not more than 100 percent of the total cost of a project, including capitalized interest, shall be financed from the Special Public Works Fund. [Formerly 285.720; 2001 c.883 §31a; 2003 c.773 §37; 2005 c.835 §13]

**285B.443** [Formerly 285.723; 2001 c.883 §31; 2003 c.773 §38; repealed by 2005 c.835 §37]

**285B.446** [Formerly 285.725; 2003 c.773 §39; repealed by 2005 c.835 §37]

**285B.449 Effect of failure to comply or default.** (1) If a municipality fails to comply with a contract entered into under ORS 285B.410 to 285B.482, the Economic and Community Development Department may seek appropriate legal remedies to secure any repayment due the Special Public Works Fund. If any municipality defaults on payments due to the Special Public Works Fund under ORS 285B.410 to 285B.482, the State of Oregon may withhold any amounts otherwise due to the municipality to apply to the indebtedness. The department may waive this right to withhold.

(2) Moneys withheld under subsection (1) of this section shall be deposited in the Special Public Works Fund and shall be used to repay any account in the fund from which funds were expended to pay obligations upon which the municipality defaulted. [Formerly 285.727]

**285B.452** [Formerly 285.730; 2001 c.883 §31b; 2003 c.773 §40; repealed by 2005 c.835 §37]

**285B.455 Special Public Works Fund; uses.** (1) There is created the Special Public Works Fund, separate and distinct from the General Fund. All moneys credited to the Special Public Works Fund are appropriated continuously to the Economic and Community Development Department.

(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 Economic and Community Development Commission;

(b) Earnings on the fund;

(c) Repayment of financial assistance, including interest;

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

(e) Bond proceeds as authorized under ORS 285B.410 to 285B.482 or other law; and

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

(3) Moneys in the Special Public Works Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820 and the earnings from the investments shall be credited to the account in the Special Public Works Fund designated by the department.

(4) The department shall administer the Special Public Works Fund.

(5) The department may establish other accounts within the Special Public Works

Fund for the payment of project costs, reserves, debt service payments, credit enhancement, administrative costs and operation expenses or any other purpose necessary to carry out ORS 285B.410 to 285B.482.

(6) The department may grant, expend or loan moneys in the fund to:

(a) Provide financial or other assistance to municipalities for projects determined by the department to be appropriate.

(b) Purchase goods or services related to a project on behalf of the municipality.

(c) Provide state funds as a match for federal funds available for the administration of the Community Development Block Grant program.

(d) Finance administrative costs of the department pursuant to ORS 285B.410 to 285B.482.

(e) Provide annual grants on behalf of a municipality in the form of partial repayment to bondholders of amounts owed.

(f) Cover contracts that are issued to guaranty any portion of the obligation of a municipality to finance a development project and that are not sold to the State of Oregon. Guaranty contracts under this paragraph shall be payable solely from moneys in the Special Public Works Fund, and shall not constitute a debt or obligation of the State of Oregon. The department may, on behalf of the state, establish a special account in the fund and commit to deposit into the account specified portions of existing and future allocations to the fund. The commitments shall be made by rule of the department and shall constitute covenants of the state for the benefit of the owners of obligations guaranteed by the state pursuant to this section.

(7) As used in this section, "administrative costs" includes the department's direct and indirect costs for investigating and processing an application, developing a contract, monitoring the use of funds by a municipality, investigating and resolving budget discrepancies, closing a project and providing financial or other assistance to a municipality. [Formerly 285.733; 2001 c.633 §5; 2001 c.883 §32; 2003 c.773 §41; 2003 c.800 §24; 2005 c.835 §4]

**285B.458 Funding of distressed area and rural area infrastructure projects.** Not less than 60 percent of the grants awarded from the Special Public Works Fund in any biennium shall be used to provide assistance to distressed or rural areas. [Formerly 285.735; 2001 c.883 §32a; 2003 c.773 §42; 2005 c.835 §14]

**285B.460 Funding and assistance for municipal planning projects.** (1) The Economic and Community Development Department may provide financial or other assistance to a municipality for a planning project as defined in ORS 285B.410.

(2) The planning project may be a standalone project.

(3) The planning project may include an environmental action on a brownfield. For purposes of this subsection:

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

(b) "Environmental action" has the meaning given that term in ORS 285A.188. [2005 c.835 §8]

**285B.461** [Formerly 285.737; 2001 c.883 §33; 2003 c.773 §43; repealed by 2005 c.835 §37]

**285B.462 Funding and assistance for municipal emergency projects.** (1) The Economic and Community Development Department may provide financial or other assistance to a municipality for an emergency project as defined in ORS 285B.410.

(2) The department may award grant funding to an emergency project only if federal disaster relief assistance has been committed for the emergency project.

(3) Assistance from the Special Public Works Fund for an emergency project may not exceed the total local matching funds requirement for the federal disaster relief assistance committed to the project. [2005 c.835 §9]

**285B.464** [Formerly 285.753; 2003 c.773 §44; repealed by 2005 c.835 §37]

**285B.465 Allowable costs of projects.** For purposes of ORS 285B.410 to 285B.482, the allowable costs of a project include:

(1) Financing costs, including capitalized interest;

(2) Direct project management costs;

(3) Costs of consultant services and expenses;

(4) Construction costs and expenses;

(5) Costs of property acquisition, including any easement or right of way directly related to and necessary for the project;

(6) Costs of acquiring off-site property for purposes directly related to the project, such as wetland mitigation; and

(7) Other costs that the Economic and Community Development Department determines to be necessary or useful. [2005 c.835 §10]

**(Revenue Bond Financing)**

**285B.467 Standards for eligibility for revenue bond financing; rules.** (1) The Economic and Community Development Department shall by rule adopt standards to determine eligibility for revenue bond financing under ORS 285B.467 to 285B.479 of

development projects that have qualified under ORS 285B.419 to 285B.437 and 285B.449.

(2) Upon determining that a development project is eligible for revenue bond financing under ORS 285B.467 to 285B.479, the department shall forward a request for the issuance of revenue bonds to the State Treasurer, who shall determine whether to issue revenue bonds.

(3) When a project is determined to be eligible for revenue bond financing under ORS 285B.467 to 285B.479, allowable costs as described in ORS 285B.465 may be paid from bond proceeds.

(4) Administrative expenses of the department in processing applications and investigating proposed projects and bond sales may not be derived from bond proceeds.

(5) The department may pledge all or any portion of the existing or future assets and receipts of the Special Public Works Fund to pay debt service on bonds issued pursuant to ORS 285B.410 to 285B.482. The pledge shall take effect immediately, without delivery of the pledged funds to third parties, and the lien of the pledge shall be superior to all other liens of any nature.

(6) The department is authorized to establish separate accounts within the fund for separate bond issues. [Formerly 285.740; 2001 c.883 §34; 2003 c.773 §45; 2005 c.835 §15]

**285B.470 Powers of department over revenue bond financing.** In addition to any other powers granted by law in relation to a development project, the Economic and Community Development Department, acting through the State Treasurer or designee may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform contracts and agreements with municipalities as the department may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Special Public Works Fund. [Formerly 285.743; 2003 c.773 §46; 2005 c.835 §16]

**285B.473 Issuance of revenue bonds.** If the State Treasurer determines that revenue bonds should be issued:

(1) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by moneys paid to the Special Public Works Fund pledged therefor to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of development projects. The bonds shall be issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance the revenue bonds.

(2) The State Treasurer shall designate the underwriter and enter into appropriate agreements with the underwriter to carry out the provisions of ORS 285B.467 to 285B.479. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.467 to 285B.479. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this subsection unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279A.140 does not apply to any appointment or agreement described in this subsection. [Formerly 285.745; 2001 c.536 §2; 2003 c.773 §47; 2003 c.794 §241; 2005 c.835 §17]

**285B.476 Application of law to revenue bonds; proceeds; maximum duration of loans.** (1) ORS 285B.350 to 285B.362 and 285B.368 apply to revenue bonds issued under ORS 285B.467 to 285B.479.

(2) The proceeds of revenue bonds issued and sold under ORS 285B.467 to 285B.479 shall be deposited in the Special Public Works Fund and used for the payment of a loan to a municipality for a development project and costs of issuing the revenue bonds.

(3) A loan made with money derived from the sale of revenue bonds under this section shall be made as other loans under ORS 285B.419 to 285B.437 and 285B.449 are made, except that the loan contract shall set forth a schedule of payments that may not exceed the usable life of the contracted project. [Formerly 285.747; 2003 c.773 §48; 2005 c.835 §18]

**285B.479 Terms of revenue bonds.** (1) Revenue bonds issued under ORS 285B.467 to 285B.479:

(a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing

power of the state to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the state except those moneys pledged therefor in the Special Public Works Fund, under the provisions of ORS 285B.467 to 285B.479.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys paid to the Special Public Works Fund.

(2) A bond shall 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. [Formerly 285.750; 2001 c.883 §35]

**285B.482 Revenue bonds as parity bonds; consolidation of bond proceeds; loans and consolidated funds as security for infrastructure, community facility and water bonds; limitation on use of moneys in specified funds.** (1) Notwithstanding any other law relating to revenue bonds issued and sold under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578, revenue bonds may be issued and sold as parity bonds.

(2) Proceeds of revenue bonds issued and sold under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578, together with the investment earnings thereon, may be consolidated into one or more funds or accounts and may be pledged to the holders of revenue bonds issued to finance water projects, as defined in ORS 285B.560, or development projects.

(3) Any loan to a municipality made pursuant to ORS 285B.467 to 285B.479, 285B.560 to 285B.569 or 285B.572 to 285B.599, including loans funded in whole or in part with the proceeds of revenue bonds and loans funded with moneys in the Water Fund or the Special Public Works Fund, may be pledged to the holders of revenue bonds issued to finance water projects or development projects.

(4) Funds or accounts established by the Economic and Community Development Department or the State Treasurer in connection with the issuance of revenue bonds under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578 and moneys held in the funds and accounts, together with the investment earnings thereon, may be consolidated into one or more funds or accounts and may be pledged to the holders of revenue bonds issued to finance water projects or development projects.

(5) Notwithstanding subsections (1) to (4) of this section, moneys held in the Water Fund may not be used to finance or refinance the cost of a development project unless the development project also qualifies as a water project, and moneys held in the Special Public Works Fund may not be used to finance or refinance the cost of a water project unless the water project also qualifies as a development project. [1997 c.800 §14; 2003 c.773 §49; 2005 c.835 §19]

**285B.486** [2001 c.957 §10; renumbered 285C.530 in 2003]

**285B.488** [2001 c.957 §11; renumbered 285C.533 in 2003]

## INFRASTRUCTURE PROJECTS FOR SOUTHERN OREGON

**285B.500 Policy; legislative findings.** (1) The Legislative Assembly finds that:

(a) It is a matter of statewide importance to increase the infrastructure capacity of Coos, Jackson and Josephine Counties and the rest of southern Oregon.

(b) The absence of such infrastructure capacity, the lack of inexpensive industrial fuel and inadequate transportation facilities restrict national and international trade and otherwise hinder the economic development of the region.

(c) State financial assistance to specified local projects in southern Oregon will sustain and increase jobs, foster national and international trade, allow industrial and commercial expansion and eliminate other negative effects caused by infrastructure that is inadequate to support a vibrant and expanding economy.

(d) It is desirable to make a present commitment of lottery revenues that are expected to be received in the 1999-2001 and 2001-2003 biennia. A clear and prompt financial commitment from the State of Oregon will allow the project sponsors, in reliance on that commitment, to make prompt commitments to pay their share. Prompt commitment by the project sponsors will enhance the likelihood that other private or federal funds will be received for the projects.

(2) The Legislative Assembly declares that the purpose of ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, is to obligate the State of Oregon to pay the amounts specified in ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, from future lottery revenues. The obligation of the state to pay the amounts specified in section 9, chapter 644, Oregon Laws, 1997, and in grant agreements authorized by ORS 285B.506 is limited to, and conditioned solely on, the availability of unobligated net lottery proceeds and any other moneys lawfully credited to the Oregon Unified International Trade Fund. Neither the faith and credit nor any of the taxing power of the State of Oregon are pledged or otherwise committed by ORS 285B.500 to 285B.515 and 777.277 to 777.287 and section

9, chapter 644, Oregon Laws 1997, and the commitments of the State of Oregon under ORS 285B.500 to 285B.515 and 777.277 to 777.287 and section 9, chapter 644, Oregon Laws 1997, and any grant agreement shall not constitute a debt or liability of the state within the meaning of section 7, Article XI of the Oregon Constitution. [1997 c.644 §7]

**Note:** 285B.500 to 285B.515 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285B.503 Oregon Unified International Trade Fund; purposes; sources.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Unified International Trade Fund. The moneys in the fund are continuously appropriated to the Economic and Community Development Department for:

(a) Paying all or a portion of the costs of:

(A) A project for the extension and improvement of Jackson County Airport runway.

(B) A project for the extension of a natural gas pipeline to the Coos Bay and North Bend area from a location near Roseburg.

(C) A project for improvements to the Klamath Falls International Airport maintained by the City of Klamath Falls.

(b) Transfer to the Oregon Port Revolving Fund created by ORS 285A.708.

(2) A separate account within the Oregon Unified International Trade Fund shall be established for each project listed in subsection (1) of this section.

(3) The Oregon Unified International Trade Fund shall consist of moneys allocated to the fund under section 9, chapter 644, Oregon Laws 1997, and such other moneys as may be appropriated to the fund by the Legislative Assembly, including interest on such moneys. [1997 c.644 §8]

**Note:** See note under 285B.500.

**285B.506 Grant agreements; maximum grant amount; terms of agreement; assignment of right to receive grant moneys; agreement not to constitute state debt.** (1) After July 25, 1997, the Director of the Economic and Community Development Department shall enter into a grant agreement with the primary sponsor of a project listed in ORS 285B.503 that commits the State of Oregon to make the deposits specified in section 9, chapter 644, Oregon Laws 1997, and commits the Economic and Community Development Department to pay those deposits, plus earnings, to the primary sponsor as soon as funds are available in the appropriate account of the Oregon Unified International Trade Fund and are required by the primary sponsor for payment of project costs. Notwithstanding any other law, the commitment of the State of Oregon and the department under this section shall be conditioned solely on receipt by this state of unobligated net lottery proceeds sufficient to make the deposits specified in section 9, chapter 644, Oregon Laws 1997.

(2) The total amount paid to the primary sponsor under the grant agreement shall not exceed the amount deposited in the appropriate account for the sponsor's project in the Oregon Unified International Trade Fund, plus any interest earnings on the amounts in the account. The grant agreement shall:

(a) Pledge the unobligated net lottery proceeds to pay the amounts due to the primary sponsor under the grant agreement;

(b) Specify the administrative procedures for making payments to the primary sponsor;

(c) Provide for notification to the director if the primary sponsor determines that it is unable to undertake the project;

(d) Allow assignment of the right to receive amounts payable under the grant agreement to third parties;

(e) Obligate the primary sponsor to remit any unexpended grant funds and any earnings thereon to the State of Oregon after the sponsor's project is complete and all its costs have been paid; and

(f) Contain other terms and conditions that are necessary or appropriate, as determined by the Director of the Economic and Community Development Department, to implement ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, to protect the interests and investments of the State of Oregon in the projects specified in ORS 285B.503.

(3) The grant agreement, when executed by the director and accepted by the primary sponsor shall be a valid, binding and irrevocable contractual obligation of the State of Oregon in accordance with its terms. However, amounts due under the grant agreement shall be payable solely from the unobligated net lottery proceeds required by section 9, chapter 644, Oregon Laws 1997, to be deposited in the appropriate account in the Oregon Unified International Trade Fund.

(4) The primary sponsor may pledge or assign its right to receive amounts due under the grant agreement as security for any contractual obligation the primary sponsor undertakes to pay or finance costs of the project. Any pledge or assignment authorized by ORS 285B.500 to 285B.515 and 777.277 to 777.287 and section 9, chapter 644, Oregon

Laws 1997, shall be valid and binding upon the primary sponsor, the Economic and Community Development Department, the State of Oregon and all other persons from the date it is made. The unobligated net lottery proceeds so pledged shall be immediately subject to the lien of the pledge without physical delivery, filing or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever. Upon notice from the primary sponsor that it has pledged the unobligated net lottery proceeds or assigned the right to receive amounts due under the grant agreement, the department shall fully cooperate with the primary sponsor and the pledgee or assignee to give effect to the pledge or assignment, including but not limited to acknowledging in writing to the primary sponsor and the pledgee or assignee the existence and validity of the pledge or assignment and agreeing that amounts due under the grant agreement shall be paid to the pledgee or assignee or into the custodial accounts established for the benefit of the pledgee or assignee.

(5) The grant agreement shall not contain provisions or be construed or enforced in any manner that may cause the grant agreement to constitute a debt or liability of the state that violates section 7, Article XI of the Oregon Constitution. [1997 c.644 §10]

**Note:** See note under 285B.500.

**285B.509 Agreements between primary sponsor and United States.** The primary sponsors of projects listed in ORS 285B.503 are authorized to enter into agreements with agencies of the United States for the project and, notwithstanding any other provision of law, may each agree to be bound by any requirement imposed by an Act of the United States Congress as a condition of federal participation in the project. [1997 c.644 §11]

**Note:** See note under 285B.500.

**285B.512 End of lottery allocations upon certification by Director of Economic and Community Development Department.** (1) The deposit of unobligated net lottery proceeds to an account in the Oregon Unified International Trade Fund shall cease if and when the Director of the Economic and Community Development Department certifies in writing that deposits are no longer required because:

(a) Sufficient funds are on hand in the account to pay all amounts required to be paid under the grant agreement;

(b) All amounts required to be paid under the grant agreement have been paid; or

(c) The primary sponsor has notified the director pursuant to the grant agreement that the primary sponsor is unable to undertake the project.

(2) Upon receipt of the director's written certification pursuant to subsection (1) of this section, the State Treasurer shall thereafter credit any amounts remaining in the account that are not required to pay amounts due under the grant agreement, and any lottery revenues that otherwise would have been deposited in the account under section 9, chapter 644, Oregon Laws 1997, to the Administrative Services Economic Development Fund. In addition, any unexpended grant funds and earnings which are remitted to the State of Oregon pursuant to the grant agreement shall be credited to the Administrative Services Economic Development Fund. [1997 c.644 §12]

**Note:** See note under 285B.500.

**285B.515 "Primary sponsor" defined for ORS 285B.500 to 285B.512.** As used in ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, "primary sponsor" or "project sponsor" means a city, county, agency or person who acts as a financial contributor to a project listed in ORS 285B.503, as determined by the Economic and Community Development Department in a grant agreement under ORS 285B.506. [1997 c.644 §13]

**Note:** See note under 285B.500.

## LOTTERY BONDS FOR INFRASTRUCTURE PROJECTS

**285B.530 Definitions for ORS 285B.530 to 285B.548.** As used in ORS 285B.530 to 285B.548, unless the context requires otherwise:

(1) "Infrastructure lottery bonds" means the bonds authorized to be issued under ORS 285B.533 for the purpose of financing infrastructure projects.

(2) "Infrastructure projects" includes:

(a) A water project defined in ORS 285B.560; and

(b) Payment of any state financial obligations to the federal government under the Safe Drinking Water Act. [1997 c.800 §16; 1999 c.44 §24]

**Note:** 285B.530 to 285B.548 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285B.533 Issuance of infrastructure lottery bonds; amount; use of bond proceeds.** (1) Infrastructure lottery bonds shall be issued under ORS 286.560 to 286.580 and 348.716 only at the request of the Director of the Economic and Community Development Department. Infrastructure lottery bonds may be issued in an amount sufficient to provide no more than $6 million of net proceeds to pay costs of infrastructure proj-

ects, plus the amounts required to pay bond-related costs.

(2) The net proceeds from the sale of the infrastructure lottery bonds shall be allocated to the Economic and Community Development Department for the State of Oregon's match of federal moneys under the Safe Drinking Water Act.

(3) The net proceeds from the sale of the infrastructure lottery bonds that are available to pay costs of infrastructure projects shall be credited to the Water Fund created by ORS 285B.563. All such net proceeds are appropriated continuously to the Economic and Community Development Department only for payment of costs of infrastructure projects described in subsection (2) of this section and for payment of bond-related costs that are allocable to infrastructure lottery bonds.

(4) The Economic and Community Development Department and any municipality receiving proceeds of infrastructure lottery bonds shall, if so directed by the Oregon Department of Administrative Services, take any action specified by the Oregon Department of Administrative Services that is necessary to maintain the excludability of lottery bond interest from gross income under the United States Internal Revenue Code. [1997 c.800 §17; 1999 c.44 §25]

**Note:** See note under 285B.530.

**285B.536** [1997 c.800 §18; repealed by 1999 c.44 §29]

**285B.539** [1997 c.800 §19; repealed by 1999 c.44 §29]

**285B.542** [1997 c.800 §20; repealed by 1999 c.44 §29]

**285B.545** [1997 c.800 §21; repealed by 1999 c.44 §29]

**285B.548 Amount of infrastructure lottery bonds.** (1) Notwithstanding ORS 286.505 to 286.545, infrastructure lottery bonds may be issued during the 1997-1999 biennium in an aggregate principal amount that produces net proceeds for infrastructure projects that shall not exceed $6 million, plus an amount that the State Treasurer estimates will be required to pay bond-related costs.

(2) In future biennial periods, the amount of infrastructure lottery bonds that may be issued shall be authorized under ORS 286.505 to 286.545. [1997 c.800 §22]

**Note:** See note under 285B.530.

**285B.551 Issuance of additional lottery bonds; amount; use of bond proceeds; Economic Infrastructure Project Fund.** (1) Pursuant to ORS 286.560 to 286.580, lottery bonds may be issued:

(a) To provide financial and other assistance, including but not limited to loans and grants, to municipalities, ports and other persons and entities in accordance with the laws governing use of moneys in the Special Public Works Fund created by ORS 285B.455, the Water Fund created by ORS 285B.563, the Safe Drinking Water Revolving Loan Fund created by ORS 285A.213, the Oregon Port Revolving Fund created by ORS 285A.708, the Brownfields Redevelopment Fund created by ORS 285A.188, the Oregon Business Development Fund created by ORS 285B.092 and the Marine Navigation Improvement Fund created by ORS 777.267.

(b) To fund Oregon's share of the costs of the Columbia River channel deepening project.

(c) To fund Oregon's share of the costs of studies and ecosystem restoration projects in the lower Columbia River estuary designed to improve habitat for listed endangered or threatened species of Columbia River anadromous salmonids.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The financial and other assistance to municipalities, ports and other persons and entities will assist in the establishment and expansion of businesses in Oregon and in the construction, improvement and expansion of infrastructure, community and port facilities and other facilities that comprise the physical foundation for industrial and commercial activity and provide the basic framework for continued and expanded economic opportunities and quality communities throughout Oregon.

(b) The Columbia River channel deepening project is necessary to allow newer, larger steamships access to Oregon and Washington deep draft ports. A deeper shipping channel will allow the Columbia River to continue as a world leader in agricultural exports and as a key trade corridor for farms and businesses throughout Oregon and the region.

(c) Such financial and other assistance to municipalities, ports and other persons and entities and the deepening of the Columbia River channel will therefore promote economic development within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to provide such financial and other assistance to municipalities, ports and other persons and entities and to pay a portion of the costs of deepening the Columbia River channel is an authorized use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(d) The current lower Columbia River estuary habitat for listed endangered or threatened species of Columbia River anadromous salmonids could be improved through ecosystem restoration projects. The

use of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to pay for studying how the estuary could be improved and to pay for ecosystem restoration projects are authorized uses of state lottery funds.

(3) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(a) of this section for financial and other assistance to municipalities, ports and other persons and entities may not exceed the sum of $227.27 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(b) of this section for the Columbia River channel deepening project may not exceed the sum of $17.7 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. Lottery bonds issued pursuant to this section may be issued only at the request of the Director of the Economic and Community Development Department. The director may not request the issuance of lottery bonds pursuant to subsection (1)(b) of this section until a final environmental impact statement has been issued and a record of decisions has been submitted to Congress by the United States Army Corps of Engineers, Congress has authorized the Columbia River channel deepening project, and the Washington sponsors' shares of the costs of the Columbia River channel deepening project have been committed.

(4) The net proceeds of lottery bonds issued pursuant to subsection (1)(a) and (b) of this section shall be deposited in the Economic Infrastructure Project Fund, which is hereby established in the State Treasury separate and distinct from the General Fund. All moneys in the Economic Infrastructure Project Fund are continuously appropriated to the Economic and Community Development Department for any purpose for which moneys in the Special Public Works Fund created by ORS 285B.455 may be used, any purpose for which moneys in the Water Fund created by ORS 285B.563 may be used, any purpose for which moneys in the Safe Drinking Water Revolving Loan Fund created by ORS 285A.213 may be used, any purpose for which moneys in the Oregon Port Revolving Fund created by ORS 285A.708 may be used, any purpose for which moneys in the Brownfields Redevelopment Fund created by ORS 285A.188 may be used, any purpose for which moneys in the Oregon Business Development Fund created by ORS 285B.092 may be used and any purpose for which moneys in the Marine Navigation Improvement Fund created by ORS 777.267 may be used. The Director of the Economic and Community Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purposes described in this subsection in accordance with the policies developed by the Oregon Economic and Community Development Commission in accordance with ORS 285A.045. However, the director shall transfer from the Economic Infrastructure Project Fund and deposit into the Channel Deepening Account of the Marine Navigation Improvement Fund the proceeds of any lottery bonds sold to finance a portion of the costs of the Columbia River channel deepening project. Upon determining the relative allocation of moneys deposited in the Economic Infrastructure Project Fund among the purposes described in this subsection, the director shall transfer from the Economic Infrastructure Project Fund, and deposit into each of the other funds described in this subsection, the amounts so allocated. Notwithstanding any other provision of law governing the funds described in this subsection, the funds described in this subsection may be credited with moneys transferred from the Economic Infrastructure Project Fund by the director in accordance with this subsection.

(5) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(c) of this section for the costs of studies and ecosystem restoration projects in the lower Columbia River estuary may not exceed the sum of $750,000 and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. The net proceeds of lottery bonds issued pursuant to subsection (1)(c) of this section shall be deposited in the Oregon Community Development Fund created by ORS 285A.227 and may be used only for the Oregon nonfederal share of United States Army Corps of Engineers Columbia River estuary projects authorized by Congress prior to August 9, 2001. The director may not request the issuance of lottery bonds pursuant to subsection (1)(c) of this section until Congress and Washington have authorized their respective shares of the costs of the studies and ecosystem restoration projects in the lower Columbia River estuary.

(6) The proceeds of lottery bonds issued pursuant to this section may be used only for the purposes set forth in this section and for bond-related costs. [1999 c.702 §1; 2001 c.96 §6; 2001 c.942 §1; 2003 c.741 §4; 2005 c.788 §1]

**Note:** 285B.551 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Sections 1 to 4, chapter 756, Oregon Laws 2005, provide:

**Sec. 1.** (1) The Legislative Assembly finds that issuing lottery bonds to provide grants to the Coos County Airport District to assist in the funding of the

construction of a new passenger terminal at the North Bend Airport is essential to promoting economic development in southern Oregon.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The economy of Coos County has been depressed in recent years as a result of unfavorable developments in the timber and fishing industries.

(b) The economy of Coos County will benefit from the construction of a new passenger terminal at the North Bend Airport because it will increase the capability of the airport to meet air travel needs for Coos County and provide for continued and expanded economic opportunities for tourism in southwestern Oregon.

(c) Increased capacity for air transport at the North Bend Airport will increase the opportunity to attract new industries to areas served by the airport and increase opportunities for employment in those areas.

(d) The construction of a new passenger terminal at the North Bend Airport will promote economic development in this state, and the use of net proceeds from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to finance a portion of the costs of a new passenger terminal at the North Bend Airport is an authorized use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510. [2005 c.756 §1]

**Sec. 2.** The aggregate principal amount of lottery bonds issued pursuant to section 4 of this 2005 Act to assist in the funding of the construction of a new passenger terminal at the North Bend Airport may not exceed the sum of $10 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. Lottery bonds issued pursuant to section 4 of this 2005 Act shall be issued only at the request of the Director of the Economic and Community Development Department. The director may not request the issuance of lottery bonds pursuant to section 4 of this 2005 Act until the executive director of the Coos County Airport District certifies in writing that all necessary permits for the proposed construction have been obtained by the airport district and has provided documentation to the Director of the Economic and Community Development Department that verifies that the district will have sufficient funding to complete the project. [2005 c.756 §2]

**Sec. 3.** (1) The North Bend Airport Improvement Fund is established in the State Treasury, separate and distinct from the General Fund. The net proceeds of lottery bonds issued pursuant to section 4 of this 2005 Act shall be deposited in the fund. All moneys in the North Bend Airport Improvement Fund are continuously appropriated to the Economic and Community Development Department for the purpose of providing grants to the Coos County Airport District to assist in the funding of the construction of a new passenger terminal at the North Bend Airport. Interest earned on moneys in the fund shall be credited to the fund.

(2) Subject to subsection (3) of this section, moneys in the fund shall be made available for distribution to the Coos County Airport District in the form of grants for the purpose specified in section 1 of this 2005 Act.

(3) The Director of the Economic and Community Development Department shall enter into a grant agreement with the Coos County Airport District that requires the department to disburse the aggregate amount of $10 million from the fund to the district when:

(a) Moneys are available; and

(b) The executive director of the Coos County Airport District has provided the documentation required under section 2 of this 2005 Act. [2005 c.756 §3]

**Sec. 4.** (1)(a) For the biennium beginning July 1, 2005, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286.560 to 286.580 and 348.716 in the amount of $6 million for payment of grants to the Coos County Airport District related to the construction of a passenger terminal facility at the North Bend Airport, plus an additional amount estimated by the State Treasurer for payment of bond-related costs of the Economic and Community Development Department and the State Treasurer.

(b) For the biennium beginning July 1, 2007, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286.560 to 286.580 and 348.716 in the amount of $4 million for payment of grants to the Coos County Airport District related to the construction of a passenger terminal facility at the North Bend Airport, plus an additional amount estimated by the State Treasurer for payment of bond-related costs of the Economic and Community Development Department and the State Treasurer.

(2)(a) Net proceeds of lottery bonds issued under subsection (1)(a) of this section, in the amount of $6 million, shall be deposited in the North Bend Airport Improvement Fund established by section 3 of this 2005 Act not later than December 15, 2005.

(b) Net proceeds of lottery bonds issued under subsection (1)(b) of this section, in the amount of $4 million, shall be deposited in the North Bend Airport Improvement Fund established by section 3 of this 2005 Act not later than December 15, 2007. [2005 c.756 §4]

## SAFE DRINKING WATER PROJECTS

### (Generally)

**285B.560 Definitions for ORS 285B.560 to 285B.599.** As used in ORS 285B.560 to 285B.599:

(1) "Department" means the Economic and Community Development Department.

(2) "Direct project management costs" means new expenses incurred by a municipality solely to support, plan for and manage an infrastructure project, funded in whole or in part through financial assistance under ORS 285B.560 to 285B.599, during the planning and construction phases of the project.

(3) "Fund" means the Water Fund.

(4) "Municipality" has the meaning given that term in ORS 285B.410.

(5) "Safe drinking water project" means a project for constructing or improving a drinking water system or a water development project, as defined in ORS 541.700 (6)(a), (b) and (d) to (f), that is owned and operated by a municipality.

(6) "Waste water system improvement project" means a project for constructing or improving a system for waste water collection or treatment, including storm drainage systems.

(7) "Water project" means a safe drinking water project or a waste water system improvement project. [Formerly 285.755; 2001 c.883 §36]

**285B.563 Water Fund; uses; sources; maintenance of fund value; rules; coordination with other agencies on safe drinking water projects.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Water Fund. All moneys in the Water Fund are continuously appropriated to the Economic and Community Development Department for the purposes described in ORS 285B.560 to 285B.599, including the direct project management costs and for the purpose specified in ORS 285A.075 (9).

(2)(a) Moneys in the Water Fund may be obligated to water projects.

(b) Moneys shall be used primarily to make loans to municipalities. The department may make a loan only if:

(A) The municipality applying for the loan certifies to the department that adequate funds will be available to repay the loan; and

(B) The department determines that the amount of the loan applied for is based on a reasonable and prudent expectation of the municipality's ability to repay the loan.

(c) The department may award a grant only if a loan is not feasible due to:

(A) Financial hardship to the municipality, as determined by the department, based on consideration of anticipated water service charges or anticipated waste water service charges that exceed the statewide average for the charges, the per capita income of the municipality and any other factors as the department by rule may establish; and

(B) Special circumstances of the water project.

(d) The department may determine the amount of grant or loan funding on a case-by-case basis.

(3) The moneys in the fund may also be used to assist the department in selling revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to 285B.599.

(4) With the approval of the State Treasurer, moneys in the Water Fund may be invested as provided by ORS 293.701 to 293.820. The earnings from the investments and other program income shall be credited to the Water Fund.

(5) The Water Fund shall consist of:

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

(b) Moneys transferred to the fund by the Economic and Community Development Department from the Special Public Works Fund created by ORS 285B.455.

(c) Moneys transferred to the Water Fund by the Water Resources Commission from the Water Development Fund created by Article XI-I(1) of the Oregon Constitution.

(d) Moneys from any federal, state or other grants.

(e) Proceeds of revenue bonds issued under ORS 285B.575.

(f) Earnings on the Water Fund.

(6) The department shall administer the fund.

(7) The department shall adopt rules and policies for the administration of the fund. The department shall coordinate its rulemaking regarding safe drinking water projects with the Water Resources Department and the Department of Human Services. The rules adopted under this subsection for safe drinking water projects shall:

(a) Require the installation of meters on all new active service connections from any distribution lines funded with moneys from the fund or from the proceeds of revenue bonds issued under ORS 285B.572 to 285B.578.

(b) Require a plan, to be adopted by a municipality receiving financial assistance from the fund, for installation of meters on all service connections throughout the drinking water system not later than two years after the completion of a safe drinking water project.

(8)(a) The Economic and Community Development Department shall manage the Water Fund and any expenditures from accounts in the fund and transfers between accounts so that the fund provides a continuing source of financing consistent with ORS 285B.413.

(b) If necessary to ensure repayment of bonds issued under ORS 285B.560 to 285B.599, the department may reduce the value of the fund when the department:

(A) Finds that without a reduction in fund value, bonds secured by the fund are likely to be in default; and

(B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection are satisfied.

(9)(a) The department may charge administrative costs to the fund, but not to moneys segregated in the account created by subsection (11) of this section, to pay for administrative costs incurred by the department.

(b) To the extent permitted by federal law, administrative costs of the department may be paid from bond proceeds.

(10) The department may establish other accounts within the Water Fund for the payment of water projects costs, reserves, debt service payments, credit enhancements, costs

of issuing revenue bonds, administrative costs and operating expenses or any other purpose necessary to carry out ORS 285B.560 to 285B.599.

(11) There is created within the Water Fund a separate and distinct account for the proceeds from the sale of water development general obligation bonds issued for safe drinking water projects and credited to the special account under this section. Any investment earnings thereon shall be segregated in and continuously appropriated to a special, separately accounted for subaccount of this account. Moneys credited to this account shall be maintained separate and distinct from moneys credited to subaccounts created under subsection (10) of this section. Notwithstanding ORS 285B.566 or subsection (4) of this section, all repayments of moneys loaned from the account created by this subsection, including interest on the moneys, shall be credited to the Water Development Administration and Bond Sinking Fund created by ORS 541.830.

(12) As used in this section, "administrative costs" include the department's direct and indirect costs for investigating and processing an application, developing a contract, monitoring the use of funds by a municipality, investigating and resolving a budget discrepancy, closing a project and providing financial and other assistance to a municipality. [Formerly 285.757; 1999 c.509 §45; 2001 c.883 §37; 2003 c.773 §50; 2005 c.835 §23]

**285B.566 Use of receipts from projects.** All payments, receipts and interest from financial awards made for water projects shall be retained and accumulated in the Water Fund and used to finance water projects including payments to holders of revenue bonds issued under ORS 285B.575. [Formerly 285.760]

**285B.569 When constitutional restrictions apply to use of certain funds.** If moneys are transferred to the Water Fund from the sources described in ORS 285B.563 (5)(b) to (e), all constitutional restrictions, statutes and rules regulating the use of the moneys transferred from these funds shall apply to the use of those moneys in the Water Fund. [Formerly 285.763]

**(Revenue Bond Financing of Safe Drinking Water Projects)**

**285B.572 Standards for eligibility of water projects; determination to issue bonds; rules.** (1) The Economic and Community Development Department shall adopt by rule standards to determine the eligibility of a water project for revenue bond financing under ORS 285B.560 to 285B.599.

(2) Upon determining that a water project is eligible for revenue bond financing, the department shall forward a description of the project to the State Treasurer. The State Treasurer shall determine whether to issue revenue bonds. [Formerly 285.950]

**285B.575 Issuance of revenue bonds.** If the State Treasurer determines that revenue bonds shall be issued:

(1) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by moneys paid to the Water Fund and pledged to finance or refinance in whole or in part the cost of a water project. The revenue bonds issued under this section shall be issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance the revenue bonds.

(2) The State Treasurer shall designate and enter into agreements with the underwriter to carry out the provisions of ORS 285B.560 to 285B.599. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.560 to 285B.599. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this subsection unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279A.140 does not apply to any appointment or agreement described in this subsection. [Formerly 285.952; 2001 c.536 §3; 2003 c.794 §242]

**285B.578 Nature of revenue bonds.** (1) Revenue bonds issued under ORS 285B.575:

(a) Shall not be payable from nor charged upon any fund other than the revenue pledged to the payment of the revenue bonds, except as provided in this section, nor shall the state be subject to any liability on the bonds. No holder of revenue bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest on the bonds, nor to enforce payment of the bonds against any property of the state except those moneys pledged in the Water Fund, under the provisions of ORS 285B.560 to 285B.599.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys paid to the Water Fund.

(2) A revenue bond issued under ORS 285B.575 shall 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. [Formerly 285.954; 2001 c.883 §38]

**285B.581 Repayment plans for loan; authority of municipalities.** (1) Any loan of moneys to a municipality by the state shall include a plan for repayment by the municipality of moneys borrowed from the Water Fund for a water project and interest on those moneys at a rate expressly specified. The repayment plan:

(a) Shall provide for evidence of debt assurance of, and security for, repayment by the municipality as is considered necessary by the Economic and Community Development Department.

(b) May set forth the allocation of special assessments or contractual responsibilities among the owners of benefited properties for repayment to the municipality of the amount of the loan.

(c) May not exceed the usable life of the contracted project or 25 years from the year of project completion, whichever is less.

(2) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a municipality may borrow from the fund by entering into a loan contract with the Economic and Community Development Department. The contract may be repaid from:

(a) The revenues of any water project, including special assessment revenues;

(b) Amounts withheld under ORS 285B.599;

(c) The general fund of the municipality; or

(d) Any other source.

(3) A loan contract authorized under subsection (2) of this section may provide that a portion of the proceeds of the loan be applied to fund a reserve fund to secure the repayment of the loan or secure the repayment of revenue bonds issued to fund the loan.

(4) A loan contract authorized under subsection (2) of this section shall be authorized by an ordinance, order or resolution adopted by the governing body of the municipality. [Formerly 285.956; 2001 c.883 §39; 2005 c.835 §22]

**285B.584 Authority of department.** In addition to any other powers granted by law in relation to a water project, the Economic and Community Development Department, acting through the State Treasurer or the State Treasurer's designee, may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient for the exercise of the powers granted by this section, or for the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform such contracts and agreements with municipalities as the department may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of water projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Water Fund. [Formerly 285.958]

**285B.587 Deposit and use of bond proceeds.** (1) Proceeds of revenue bonds issued and sold under ORS 285B.572 to 285B.578 that are to be used to fund loans to municipalities for water projects shall be deposited in the Water Fund.

(2) Proceeds of revenue bonds issued and sold under ORS 285B.572 to 285B.578 that are to be used to pay the costs of issuing the revenue bonds or that are to be applied to fund a reserve fund for the revenue bonds shall be deposited either in the Water Fund or in a trust account or fund held by any trustee for the revenue bonds. Moneys on deposit in the Water Fund may be transferred to any trustee for the revenue bonds to be applied to the payment of the costs of issuing the revenue bonds or to be applied to fund a reserve fund for the revenue bonds. [Formerly 285.960]

**285B.590 Other forms of financial assistance.** In addition to making loans to municipalities for water projects, the Economic and Community Development Department may provide any other form of financial or other assistance that the department may consider appropriate to assist municipalities with water projects, including direct purchase by the department of goods and services related to a water project. [Formerly 285.962; 2001 c.883 §39a]

**285B.593 Technical assistance grants and loans; purposes; rules.** Out of the moneys in the Water Fund, the Economic and Community Development Department may make technical assistance grants and loans to municipalities as specified by the department by rule. Technical assistance grants and loans shall be for the purpose of completing preliminary planning, legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of water projects. [Formerly 285.964; 2003 c.773 §51]

**285B.596 Funding of distressed area or nonurban water projects.** Not less than 60 percent of the grants awarded from the Water Fund shall be used to provide assistance to distressed area or nonurban water projects. [Formerly 285.966; 2001 c.883 §39b; 2003 c.773 §52]

**285B.599 Repayment to Water Fund.** (1) If a municipality fails to comply with a contract entered into under ORS 285B.581, the Economic and Community Development Department may seek appropriate legal remedies to secure any repayment due the Water Fund. If any municipality defaults on payments due the fund, the State of Oregon may withhold any amounts otherwise due the municipality to apply to the indebtedness. The department may waive the right to withhold moneys under this subsection.

(2) Moneys withheld under subsection (1) of this section shall be deposited in the fund and shall be used to repay any account in the fund from which funds were expended to pay obligations upon which the municipality defaulted. [Formerly 285.968]

**285B.650** [Formerly 285.560; 1999 c.460 §1; 2001 c.684 §20; 2001 c.957 §1; 2003 c.662 §14; renumbered 285C.050 in 2003]

**285B.653** [Formerly 285.562; 1999 c.460 §2; 2003 c.662 §18; renumbered 285C.080 in 2003]

**285B.656** [Formerly 285.563; 2003 c.662 §16; renumbered 285C.065 in 2003]

**285B.659** [Formerly 285.564; renumbered 285C.075 in 2003]

**285B.662** [Formerly 285.565; 2003 c.662 §20; renumbered 285C.090 in 2003]

**285B.665** [Formerly 285.573; 1999 c.460 §6; renumbered 285C.055 in 2003]

**285B.668** [Formerly 285.575; 2003 c.662 §15; renumbered 285C.060 in 2003]

**285B.671** [Formerly 285.577; 2003 c.662 §21; renumbered 285C.105 in 2003]

**285B.672** [2001 c.957 §2; 2003 c.662 §23; renumbered 285C.095 in 2003]

**285B.673** [2001 c.957 §2b; 2003 c.662 §24; renumbered 285C.100 in 2003]

**285B.674** [Formerly 285.580; 2003 c.662 §22; renumbered 285C.110 in 2003]

**285B.675** [2001 c.957 §5; repealed by 2003 c.662 §55]

**285B.677** [Formerly 285.583; 1999 c.460 §7; 2003 c.662 §19; renumbered 285C.085 in 2003]

**285B.680** [Formerly 285.585; 2003 c.662 §25; renumbered 285C.115 in 2003]

**285B.683** [1997 c.835 §2; 2003 c.662 §26; renumbered 285C.120 in 2003]

**285B.686** [Formerly 285.587; 2003 c.662 §47; renumbered 285C.245 in 2003]

**285B.689** [Formerly 285.588; 2003 c.662 §48; renumbered 285C.250 in 2003]

**285B.692** [Formerly 285.593; 2003 c.662 §27; renumbered 285C.125 in 2003]

**285B.695** [Formerly 285.595; 2003 c.662 §28; renumbered 285C.130 in 2003]

**285B.698** [Formerly 285.597; 2003 c.662 §35; renumbered 285C.175 in 2003]

**285B.701** [Formerly 285.598; 1999 c.1104 §3; 2003 c.662 §31; renumbered 285C.145 in 2003]

**285B.704** [Formerly 285.600; 1999 c.1104 §3a; 2003 c.662 §39; renumbered 285C.200 in 2003]

**285B.705** [1999 c.1104 §4b; repealed by 2003 c.662 §55]

**285B.707** [Formerly 285.603; 1999 c.1104 §5; 2001 c.957 §3; 2003 c.662 §29; renumbered 285C.135 in 2003]

**285B.710** [Formerly 285.605; 2003 c.662 §41; renumbered 285C.215 in 2003]

**285B.713** [Formerly 285.607; 2001 c.957 §4; 2003 c.662 §36; renumbered 285C.180 in 2003]

**285B.714** [2001 c.883 §39d; 2003 c.662 §38; renumbered 285C.190 in 2003]

**285B.716** [Formerly 285.610; repealed by 2003 c.662 §55]

**285B.719** [Formerly 285.613; 2003 c.662 §30; renumbered 285C.140 in 2003]

**285B.722** [Formerly 285.615; 2003 c.662 §42; renumbered 285C.220 in 2003]

**285B.723** [1999 c.1104 §2; repealed by 2003 c.662 §55]

**285B.725** [Formerly 285.616; 1999 c.1104 §7; repealed by 2003 c.662 §55]

**285B.726** [1997 c.835 §44; 1999 c.1104 §19; repealed by 2003 c.662 §55]

**285B.728** [Formerly 285.617; 1999 c.1104 §8; 2003 c.662 §46; renumbered 285C.240 in 2003]

**285B.731** [Formerly 285.620; 2003 c.662 §50; renumbered 285C.260 in 2003]

## ENTREPRENEURIAL DEVELOPMENT

**285B.740 Policy.** It is the intent of the Legislative Assembly that in the administration of ORS 285B.740 to 285B.758, the Economic and Community Development Department work closely with regional economic development organizations, community development corporations, small business development centers and organizations that promote and assist small businesses owned and operated by women and minorities, as defined by ORS 285B.050 (9). The Economic and Community Development Department, to the maximum extent feasible and consistent with prudent financial controls, may delegate the administration and operation of the loan program created by ORS 285B.740 to 285B.758 to local and community-based entities. To carry out the policy described in this section:

(1) The Economic and Community Development Department may contract with any nonprofit corporation or agency with experience and expertise in business finance to administer all or any part of the loan program created by ORS 285B.740 to 285B.758.

(2) When entering into an agreement for the administration of the loan program by any nonprofit corporation or agency, the Economic and Community Development Department may agree to waive any claims it may have against such corporation or agency for losses arising out of the normal course of business, so long as the corporation or

agency does not act negligently or fraudulently in providing loans under ORS 285B.740 to 285B.758.

(3) When entering into an agreement to have a nonprofit corporation or agency administer the loan program created by ORS 285B.740 to 285B.758, the Economic and Community Development Department may pay loan origination and loan servicing fees to the corporation or agency. The amount of such fees may be determined in the agreement between the department and the administering corporation or agency. [1991 c.688 §12]

**285B.743 Application for entrepreneurial development loan; eligibility.** (1) Any individual or business firm may file with the Economic and Community Development Department an application to borrow money from the Oregon Entrepreneurial Development Loan Fund as provided in ORS 285B.740 to 285B.758. The application shall be filed in such a manner and contain or be accompanied by such information as the department may require.

(2) Upon receipt of an application under this section, the Economic and Community Development Department shall determine whether the applicant is eligible to receive a loan under ORS 285B.139 and 285B.740 to 285B.758. If the department determines that an applicant is not eligible to receive a loan, the department shall:

(a) Reject the application with a written statement of the reason for that rejection; or

(b) Require the applicant to submit additional information concerning the application as may be necessary. [1991 c.688 §7; 2001 c.684 §21]

**285B.746 Conditions required for loan approval.** (1) The Economic and Community Development Department may approve a loan requested in an application filed under ORS 285B.743 if, after investigation, it finds that:

(a) The applicant is enrolled in a small business management program with a small business development center;

(b) The applicant has prepared a business plan for the business, which has been reviewed by a small business development center or other entity certified by the Economic and Community Development Department to review business plans;

(c) The applicant has developed an expenditure plan for the use of the moneys received as a loan for the project under ORS 285B.740 to 285B.758; and

(d) The applicant is not effectively owned or controlled by another business entity or other person that, either by itself or when combined with the applicant, is not eligible for a loan under ORS 285B.740 to 285B.758.

(2) In addition to the requirements for loan approval described in subsection (1) of this section, in order to obtain a loan under ORS 285B.740 to 285B.758, an applicant must also satisfy two of the following conditions:

(a) The business or proposed business, at the time of application, must not have been operating for more than 24 months.

(b) The business must have annual revenues of less than $100,000 in the 12-month period immediately preceding the date of application.

(c) The business or proposed business is owned in whole or in part by a person certified as being severely disabled by the Department of Human Services or the Commission for the Blind. [1991 c.688 §8; 1997 c.147 §5]

**285B.749 Additional conditions for loan approval; maximum term and amount of loan; deferral of repayment.** (1) The Economic and Community Development Department may approve an entrepreneurial development loan under ORS 285B.740 to 285B.758 if, after investigation, it finds that:

(a) The loan has a reasonable prospect of repayment;

(b) The applicant provides funds for the project in the form of cash, property or business equity in an amount equal to 20 percent of the amount of the loan; and

(c) The applicant can provide such evidence of assurance for repayment as the department considers appropriate to the circumstances of the particular applicant. However, loans need not be secured with real property.

(2) The Economic and Community Development Department may make an entrepreneurial development loan to any single applicant in an amount not exceeding $25,000.

(3) Entrepreneurial development loans shall be made for a period not exceeding five years at a rate of interest that does not exceed 18 percent per annum.

(4) The Economic and Community Development Department may defer repayment of a loan by an applicant for a period not exceeding six months. However, interest shall continue to accrue on the unpaid principal amount of the loan during such period of deferred repayment. [1991 c.688 §9; 1997 c.147 §6]

**285B.752 Additional loans; maximum aggregate amount.** An applicant who receives an entrepreneurial development loan under ORS 285B.740 to 285B.758 may apply for another such loan. Notwithstanding the limit set forth in ORS 285B.749 (2), the maximum aggregate amount that may be loaned

to a single applicant under ORS 285B.139 and 285B.740 to 285B.758 is $40,000. [1991 c.688 §10; 1997 c.147 §7; 2001 c.684 §22]

**285B.755 Oregon Entrepreneurial Development Loan Fund Advisory Committee.** (1) The Economic and Community Development Department shall appoint an Oregon Entrepreneurial Development Loan Fund Advisory Committee of not less than five members to advise the department on the operation of the loan program created by ORS 285B.740 to 285B.758. The individuals appointed to the advisory committee shall be representatives of the private sector financial community, public sector business finance groups, small business support organizations and owners and operators of small businesses. The advisory committee shall include at least one owner or operator of a small business who is a woman or a member of a minority group. The advisory committee shall also include at least one person who is a representative of disabled Oregonians.

(2) The Oregon Entrepreneurial Development Loan Fund Advisory Committee shall review all loan forms, contracts and other administrative materials to assure that the loan program created by ORS 285B.740 to 285B.758 operates with administrative simplicity and efficiency to the greatest extent possible. [1991 c.688 §11]

**285B.758 Oregon Entrepreneurial Development Loan Fund.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Entrepreneurial Development Loan Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the following purposes:

(a) Administrative costs of the department incurred in processing loan applications, investigating the eligibility of loan applicants and servicing outstanding loans;

(b) Paying for loan origination and loan servicing by contractors under ORS 285B.740 to 285B.758; and

(c) Payment of loans to applicants under ORS 285B.740 to 285B.758.

(2) The Oregon Entrepreneurial Development Loan Fund shall consist of:

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

(b) Interest earned on moneys in the fund; and

(c) Moneys received as repayment of principal and interest on loans made from the fund under ORS 285B.740 to 285B.758. [1991 c.688 §13]

**285B.765** [1991 c.688 §6; 1997 c.61 §12; repealed by 2001 c.684 §38]

**285B.766** [2001 c.932 §5; renumbered 285C.300 in 2003]

**285B.767** [2001 c.932 §6; renumbered 285C.303 in 2003]

**285B.770** [2001 c.932 §7; renumbered 285C.306 in 2003]

**285B.773** [2001 c.932 §8; renumbered 285C.309 in 2003]

**285B.776** [2001 c.932 §9; renumbered 285C.320 in 2003]

**285B.781** [1997 c.835 §36; 1999 c.1104 §10; 2001 c.292 §1; 2003 c.239 §1; renumbered 285C.400 in 2003]

**285B.783** [1997 c.835 §37; 1999 c.1104 §11; 2001 c.292 §2; renumbered 285C.403 in 2003]

**285B.786** [1997 c.835 §38; 1999 c.1104 §12; 2001 c.292 §5; 2003 c.662 §56a; renumbered 285C.409 in 2003]

**285B.789** [2001 c.292 §3; 2003 c.558 §1; 2003 c.662 §57; renumbered 285C.412 in 2003]

**285B.790** [2001 c.292 §4; renumbered 285C.415 in 2003]

**285B.793** [1997 c.835 §39; 1999 c.1104 §13; 2001 c.292 §6; renumbered 285C.420 in 2003]

**285B.796** [2001 c.292 §7; 2003 c.662 §59; renumbered 285C.406 in 2003]

**285B.825** [2001 c.888 §2; renumbered 285C.450 in 2003]

**285B.827** [2001 c.888 §3; renumbered 285C.453 in 2003]

**285B.830** [2001 c.888 §4; renumbered 285C.456 in 2003]

**285B.833** [2001 c.888 §5; renumbered 285C.459 in 2003]

**285B.836** [2001 c.888 §6; renumbered 285C.480 in 2003]

**285B.839** [2001 c.888 §7; 2003 c.773 §53; renumbered 285C.465 in 2003]

**285B.842** [2001 c.888 §8; renumbered 285C.468 in 2003]

**285B.845** [2001 c.888 §9; renumbered 285C.471 in 2003]

**285B.848** [2001 c.888 §10; renumbered 285C.462 in 2003]