

# Chapter 285C

2015 EDITION

## Economic Development III

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**Note:** 285A.010 contains definitions for ORS chapter 285C.

## ENTERPRISE ZONES

### (Generally)

**285C.045 Short title.** ORS 285C.050 to 285C.250 shall be known and may be cited as the Oregon Enterprise Zone Act. [Formerly 285C.260]

**285C.050 Definitions for ORS 285C.050 to 285C.250.** As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

(1) "Assessment date" and "assessment year" have the meanings given those terms in ORS 308.007.

(2) "Authorized business firm" means an eligible business firm that has been authorized under ORS 285C.140.

(3) "Business firm" means a person operating or conducting one or more trades or businesses, a people's utility district organized under ORS chapter 261 or a joint operating agency formed under ORS chapter 262, but does not include any other governmental agency, municipal corporation or nonprofit corporation.

(4) "County average annual wage" means:

(a) The most recently available average annual covered payroll for the county in which the enterprise zone is located, as determined by the Employment Department; or

(b) If the enterprise zone is located in more than one county, the highest county average annual wage as determined under paragraph (a) of this subsection.

(5) "Electronic commerce" means engaging in commercial or retail transactions predominantly over the Internet or a computer network, utilizing the Internet as a platform for transacting business, or facilitating the use of the Internet by other persons for business transactions, and may be further defined by the Oregon Business Development Department by rule.

(6) "Eligible business firm" means a firm engaged in an activity described under ORS 285C.135 that may file an application for authorization under ORS 285C.140.

(7) "Employee" means a person who works more than 32 hours per week, but does not include a person with a temporary or seasonal job or a person hired solely to construct qualified property.

(8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the areas designated by the Director of the Oregon Business Development

Department under ORS 285C.080 before October 5, 2015, an area designated under ORS 285C.065, a federal enterprise zone area designated under ORS 285C.085, an area designated under ORS 285C.250 or a reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306.

(9) "Federal enterprise zone" means any discrete area wholly or partially within this state that is designated as an empowerment zone, an enterprise community, a renewal community or some similar designation for purposes of improving the economic and community development of the area.

(10) "First-source hiring agreement" means an agreement between an authorized business firm and a publicly funded job training provider whereby the provider refers qualified candidates to the firm for new jobs and job openings in the firm.

(11) "In service" means being used or occupied or fully ready for use or occupancy for commercial purposes consistent with the intended operations of the business firm as described in the application for authorization.

(12) "Modification" means modernization, renovation or remodeling of an existing building, structure or real property machinery or equipment.

(13) "New employees hired by the firm":

(a) Includes only those employees of an authorized business firm engaged for a majority of their time in eligible operations.

(b) Does not include individuals employed in a job or position that:

(A) Is created and first filled after December 31 of the first tax year in which qualified property of the firm is exempt under ORS 285C.175;

(B) Existed prior to the submission of the relevant application for authorization; or

(C) Is performed primarily at a location outside of the enterprise zone.

(14) "Publicly funded job training provider" includes but is not limited to a community college, a service provider under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), or a similar program.

(15) "Qualified business firm" means a business firm described in ORS 285C.200, the qualified property of which is exempt from property tax under ORS 285C.175.

(16) "Qualified property" means property described under ORS 285C.180.

(17) "Rural enterprise zone" means:

(a) An enterprise zone located in an area of this state in which an urban enterprise zone could not be located; or

(b) A reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306.

(18) "Sparsely populated county" means a county with a density of 100 or fewer persons per square mile, based on the most recently available population figure for the county from the Portland State University Population Research Center.

(19) "Sponsor" means:

(a) The city, county or port, or any combination of cities, counties or ports, that received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS 285C.080 before October 5, 2015, or under ORS 285C.085 or 285C.250 or that designated an enterprise zone under ORS 285C.065 or 285C.250;

(b) The tribal government, in the case of a reservation enterprise zone;

(c) The tribal government and the cosponsoring city, county or port, in the case of a reservation partnership zone; or

(d) A city, county or port that joined the enterprise zone through a boundary change under ORS 285C.115 (6) or a port that joined the enterprise zone under ORS 285C.068.

(20) "Tax year" has the meaning given that term in ORS 308.007.

(21) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area, as defined by the most recent federal decennial census, that is located inside a regional or metropolitan urban growth boundary.

(22) "Year" has the meaning given that term in ORS 308.007. [Formerly 285B.650; 2005 c.94 §2; 2005 c.704 §1; 2007 c.71 §84; 2007 c.895 §16; 2010 c.76 §18; 2015 c.648 §1]

**285C.055 Legislative purpose.** The Legislative Assembly finds and declares that the health, safety and welfare of the people of this state are dependent upon the continued encouragement, development, growth and expansion of employment, business, industry and commerce throughout all regions of the state, but especially in those communities at the center of or outside major metropolitan areas for which geography may act as an economic hindrance. The Legislative Assembly further declares that there are areas in the state that need the particular attention of government to help attract private business investment into these areas and to help resident businesses to reinvest and grow and that many local governments wish to have tax incentives and other assistance available to stimulate sound business investments that support and improve the quality of life. Therefore, it is declared to be the purpose of ORS 285C.050 to 285C.250 to stimulate and protect economic success in such areas of

the state by providing tax incentives for employment, business, industry and commerce and by providing adequate levels of complementary assistance to community strategies for such interrelated goals as environmental protection, growth management and efficient infrastructure. [Formerly 285B.665]

**285C.060 Duties of Oregon Business Development Department; rules.** In addition to any other powers granted by law, for the purpose of administering ORS 285C.050 to 285C.250, the Oregon Business Development Department shall:

(1) Adopt any rules the department considers necessary to administer ORS 285C.050 to 285C.250.

(2) Assist a sponsor of an enterprise zone in its efforts to retain, expand, start or recruit eligible business firms.

(3) Assist an eligible business firm doing business within an enterprise zone to obtain the benefits of applicable incentive or inducement programs authorized by Oregon law.

(4) Take action necessary to participate in the federal enterprise zone program pursuant to ORS 285C.085.

(5) Take action necessary to ensure that zones designated by sponsors comply with statutory requirements.

(6) Assist in implementing first-source hiring agreements by publicly funded job training providers with authorized business firms and in ensuring compliance with business firm eligibility requirements and with provisions addressing the avoidance of job losses outside of enterprise zones. [Formerly 285B.668; 2015 c.648 §2]

#### (Designation of Enterprise Zone)

**285C.065 Designation of enterprise zone; consent of governing body; positive determination by department required.**

(1) Any city, county or port may designate an area within the city, county or port as an enterprise zone. A port shall obtain the consent of the governing body of the county prior to designating an area as an enterprise zone. With the prior consent of the governing body of the city or port, a county may, on behalf of a city or port, designate any area within the city or port as an enterprise zone. With the prior consent of the governing body of a city, a port may, on behalf of a city, designate any area that is wholly or partially shared territory of both the port and city as an enterprise zone. With the prior consent of the governing body of a port, a city may, on behalf of a port, designate any area that is wholly or partially shared territory of both the city and port as an enterprise zone.

(2) One or more cities, counties and ports may designate an area situated partly within each city and partly in unincorporated territory within the counties or ports as an enterprise zone.

(3) Designation of an enterprise zone under this section shall be made by resolution of the governing body of the city, county or port and is not final until a positive determination in favor of the zone has been made by the Oregon Business Development Department under ORS 285C.074. [Formerly 285B.656; 2005 c.704 §4; 2015 c.648 §3]

**285C.066 Department may adopt certain rules.** The Oregon Business Development Department may adopt rules related to:

(1) The consent required by resolution of the governing body of a city, county or port under ORS 285C.065 (1) in order for a city, county or port to designate an enterprise zone.

(2) The number of enterprise zones that may be designated within a city or other jurisdiction. [2005 c.704 §5; 2015 c.648 §4]

**285C.067 Consultation with local taxing districts; rules.** (1) A city, county or port that seeks to designate an enterprise zone under ORS 285C.065 or 285C.250 shall consult with all local taxing districts with territory in the zone prior to designating the zone.

(2) The Oregon Business Development Department may adopt rules on the consultations required under subsection (1) of this section and procedures related to the consultations. [2005 c.704 §6; 2015 c.648 §5]

**285C.068 Port cosponsorship of zones.**

(1) A port located in whole or in part within an existing enterprise zone may be added as a cosponsor of the enterprise zone by resolution of the governing body of the port, subject to the consent of the existing zone sponsor and with notice to the Oregon Business Development Department.

(2) The addition of a port as a cosponsor of an existing enterprise zone under this section does not change the termination date of the enterprise zone under ORS 285C.245 (2). [2005 c.704 §14; 2015 c.648 §6]

**285C.070 Election to permit hotels, motels or destination resorts as eligible business firms; procedures; election revocation.** (1) The governing body of a city or county that is designating an enterprise zone under ORS 285C.065 or 285C.250 may elect to permit a business firm operating a hotel, motel or destination resort to be an eligible business firm with respect to those operations.

(2) The election must be made at the time the zone is designated or any time thereafter

and before the expiration of six months following the date the zone is designated.

(3) The election shall be made by a resolution adopted by the city or county governing body. In order for the election to be effective, the resolution must be submitted to the Oregon Business Development Department and acknowledged by the department.

(4)(a) If more than one city or county is to be the sponsor, the resolution making the election may restrict the area in which a hotel, motel or destination resort may be located in order for the firm to be an eligible business firm with respect to those operations.

(b) The resolution making the restriction described in paragraph (a) of this subsection may only restrict the area of the zone in which a hotel, motel or destination resort may be located to that area of the zone that is located:

(A) Within the boundaries of one or more cities in favor of hotel, motel and destination resort exemption, if the county is not in favor of hotel, motel and destination resort exemption;

(B) Within the unincorporated territory of a county in favor of hotel, motel and destination resort exemption, if one or more cities are not in favor of hotel, motel and destination resort exemption; or

(C) Within the shared territory of a city and county in favor of hotel, motel and destination resort exemption and the unincorporated territory of the county, if one or more other cities are not in favor of hotel, motel and destination resort exemption.

(c) If a restriction is made under this subsection, the restriction may be modified at any time within six months of the date the zone is designated, but may not be modified at any time thereafter.

(5) The sponsor may by resolution revoke an election made under this section. If an election is revoked, the sponsor may not make another election under this section. [2003 c.662 §17; 2015 c.648 §7]

**285C.074 Documentation for zone designation or redesignation to be submitted to department; requirements for positive determination.** (1)(a) No sooner than the 45th day following compliance with ORS 285C.078 (1), a zone sponsor shall submit to the Oregon Business Development Department documentation of the sponsor's designation of an enterprise zone under ORS 285C.065 or 285C.250.

(b) For purposes of this subsection, the documentation submitted to the department must include:

(A) A map clearly indicating the designated zone boundary;

(B) A description and geographic information system data for the area inside the zone; and

(C) Any other information required by the department for the purposes of making a determination under this section.

(2) As soon as practicable after receipt of the documentation required under subsection (1) of this section, the department shall notify the zone sponsor of the department's determination.

(3)(a) The department's determination shall be positive and final if the requirements of this section and ORS 285C.065, 285C.067 and 285C.090 are met.

(b) The designation shall take effect on the date on which the latest resolution of the sponsoring or consenting city, county or port was adopted.

(4)(a) If the department's determination is negative, the notice required under subsection (2) of this section must state the reasons for the negative determination.

(b) The zone sponsor may resubmit documentation for a determination under this section and the sponsor and the department may discuss changes in the documentation necessary for a positive determination under this section.

(c) If the sponsor resubmits documentation and the department makes a positive determination, the designation shall take effect on the date on which the latest resolution of the sponsoring or consenting city, county or port was adopted, or the date on which any outstanding requirement for designation is satisfied, as stipulated in the department's determination. [2015 c.648 §10]

**285C.075** [Formerly 285B.659; 2005 c.704 §7; repealed by 2015 c.648 §25]

**285C.078 Notification to department of intent to make designation of enterprise zone or zone or city for electronic commerce; required consultation.** (1) Before submitting documentation, as required under ORS 285C.074 or 285C.102, as applicable, of the designation of an enterprise zone under ORS 285C.065 or 285C.250 or a zone or city for electronic commerce under ORS 285C.095 or 285C.100, respectively, the zone sponsor or the governing body of the city shall formally advise the Oregon Business Development Department of the zone sponsor's or the city's intent to make the designation.

(2)(a) As soon as practicable after receipt of a formal advisory required under subsection (1) of this section, the department shall

contact the zone sponsor or the governing body of the city to arrange a consultation about the designation.

(b) After the consultation required under this subsection, the zone sponsor or the governing body of the city may submit to the department documentation of the designation, at the time and in the manner required under ORS 285C.074 or 285C.102, as applicable.

(3) A formal advisory submitted pursuant to subsection (1) of this section does not obligate the zone sponsor or the governing body of the city to make the designation. [2015 c.648 §28]

**285C.080** [Formerly 285B.653; 2005 c.704 §§2,2a; 2012 c.71 §1; repealed by 2015 c.648 §25]

**285C.085 Federal enterprise zones.** (1) The Oregon Business Development Department shall be the lead agency for state participation in a federal enterprise zone program. The Director of the Oregon Business Development Department may take action necessary for such participation to the extent allowed by state law.

(2) Any area designated as a federal enterprise zone by an agency of the federal government may be designated as a state enterprise zone by the director at the request of a city, county or port within whose jurisdiction some or all of the federal enterprise zone is located, without regard to any limitation contained in ORS 285C.090.

(3) The boundary of an existing state enterprise zone may be amended by the director at the request of the sponsor to include the entire area of a federal enterprise zone without regard to ORS 285C.115 (2). A change in the boundary of an existing state enterprise zone under this subsection does not change the termination date of the enterprise zone under ORS 285C.245 (2).

(4) A request by a city, county or port under subsection (2) or (3) of this section shall be in such form and include such information as required by the department, but the request must:

(a) Include a resolution adopted by the governing body of the city, county or port; and

(b) Provide that all areas within both the federal enterprise zone and the city, county or port are included in a state enterprise zone.

(5) The termination under federal law of a federal enterprise zone does not affect the existence or dimensions of a state enterprise zone, except when, as determined by the director, the termination is for nonperformance or for violations of federal guidelines. [Formerly 285B.677; 2005 c.704 §8]

**285C.090 Requirements for area to be designated zone; exception.** (1) An enterprise zone must be located in a local area in which:

(a) Fifty percent or more of the households have incomes below 80 percent of the median income of this state, as defined by the most recent federal decennial census;

(b) The unemployment rate is at least 2.0 percentage points greater than the comparable unemployment rate for this entire state, as defined by the most recently available data published or officially provided and verified by the United States Government, the Employment Department, the Portland State University Population Research Center or special studies conducted under a contract with a regional academic institution; or

(c) The Oregon Business Development Department determines on a case-by-case basis using evidence provided by the cities, counties or ports designating the enterprise zone that there exists a level of economic hardship at least as severe as that described in paragraph (a) or (b) of this subsection. The evidence must be based on the most recently available data from official sources and may include a contemporary decline of the population in the enterprise zone, the percentage of persons in the enterprise zone below the poverty level relative to the percentage of the entire population of this state below the poverty level or the unemployment rate for the county or counties in which the enterprise zone is located.

(2)(a) An urban enterprise zone may consist of a total area of not more than 12 square miles in size.

(b) A rural enterprise zone may consist of a total area of not more than 15 square miles in size.

(c) For purposes of this subsection, the area of the zone must be calculated by excluding that portion of the zone that lies below the ordinary high water mark of a navigable body of water.

(3) Except as provided in subsection (4) of this section:

(a) An urban enterprise zone must have 12 miles or less, and a rural enterprise zone must have 15 miles or less, as the greatest distance between any two points within the zone; and

(b) Unconnected areas of an enterprise zone may not be more than five miles apart.

(4) Unconnected areas of a rural enterprise zone may not be more than 15 miles apart when an unconnected area is entirely within a sparsely populated county, and the zone:

(a) Must have 20 miles or less as the greatest distance between any two points within the zone, if only a portion of the zone is contained within a sparsely populated county; or

(b) Must have 25 miles or less as the greatest distance between any two points within the zone, if the zone is entirely contained within a sparsely populated county.

(5) This section does not apply to the designation or redesignation of a reservation enterprise zone or a reservation partnership zone. [Formerly 285B.662; 2005 c.94 §4; 2005 c.704 §9; 2007 c.71 §85; 2010 c.76 §19; 2012 c.71 §2; 2015 c.648 §8]

#### (Electronic Commerce)

**285C.095 Designation for electronic commerce; revocation; positive determination by department required.** (1) A sponsor of an existing enterprise zone may designate the zone for electronic commerce under this section by resolution of the governing body of the sponsor.

(2) There may be designated at any time no more than 15 zones for electronic commerce.

(3) The sponsor may by resolution revoke an electronic commerce designation made under this section. If an election is revoked, the sponsor may not subsequently seek reinstatement of electronic commerce designation.

(4) Designation of a zone for electronic commerce under this section is not final until a positive determination has been made in favor of the zone by the Oregon Business Development Department under ORS 285C.102. [Formerly 285B.672; 2005 c.667 §1; 2014 c.53 §1; 2015 c.648 §11]

**285C.100 Alternative designation of city for electronic commerce; positive determination by department required.**

(1) Notwithstanding ORS 285C.095, a city shall be designated for electronic commerce if the city:

(a) By resolution of the governing body of the city, declares itself a city designated for electronic commerce;

(b) As of January 1, 2002, has a population of more than 1,500 but less than 2,000;

(c) Is located less than 25 miles from a city with a population of more than 500,000; and

(d) Is located less than 10 miles from a city with a high concentration of high technology firms and with a population that, as of January 1, 2002, does not exceed 85,000.

(2) Only one city may be designated for electronic commerce under this section, and that designation shall be made without con-

sideration of the numeric limits imposed by ORS 285C.095.

(3)(a) A city does not need to sponsor an enterprise zone to be designated for electronic commerce under this section.

(b) The governing body of a city designated for electronic commerce under this section does not need to comply with the requirements of ORS 285C.067 or 285C.090, but the governing body must take all actions that are required of a sponsor of a rural enterprise zone under ORS 285C.050 to 285C.250 with respect to business firms seeking exemption under ORS 285C.175.

(c) A business firm that is engaged in electronic commerce at a location inside a city designated for electronic commerce under this section and that seeks an exemption under ORS 285C.175 must take all actions required of a qualified business firm under ORS 285C.050 to 285C.250, except that the business firm does not need to be located within an enterprise zone.

(d) A business firm described in paragraph (c) of this subsection:

(A) Shall be an eligible business firm, the qualified property of which is exempt from taxation under ORS 285C.175 as if the qualified property were located in an enterprise zone under ORS 285C.095; and

(B) May claim the tax credit under ORS 315.507.

(4) Designation of a city for electronic commerce under this section is not final until a positive determination in favor of the city has been made by the Oregon Business Development Department under ORS 285C.102.

(5) For the purpose of determining the boundaries of a city designated for electronic commerce, "city" includes:

(a) Territory that is annexed into the city, as of the date of the annexation;

(b) Land within the urban growth boundary of the city; and

(c) Territory that is added to the urban growth boundary described in paragraph (b) of this subsection, as of the date the urban growth boundary is extended to such territory. [Formerly 285B.673; 2005 c.94 §5; 2015 c.648 §12]

**285C.102 Documentation for designation of zone or city for electronic commerce to be submitted to department; requirements for positive determination.** (1) No sooner than the 31st day following compliance with ORS 285C.078 (1), the sponsor of an enterprise zone or the governing body of a city shall submit to the Oregon Business Development Department documentation of the sponsor's or city's designation of the zone or city for electronic

commerce under ORS 285C.095 or 285C.100, respectively, with sufficient information for the department to make a determination under this section.

(2)(a) As soon as practicable after receipt of the documentation required under subsection (1) of this section, the department shall notify the zone sponsor or governing body of the city of the department's determination.

(b) The department's determination shall be positive and final if the designation meets applicable requirements, including, but not limited to, any numeric limitation under ORS 285C.095 or 285C.100.

(c) If the department's determination is negative, the notice required under paragraph (a) of this subsection must state the reasons for the negative determination.

(d) A zone sponsor or the governing body of a city that receives a negative determination under this subsection may resubmit documentation of the sponsor's or city's designation of the zone or city for electronic commerce for a determination under this section.

(3)(a) For purposes of complying with the numeric limits of ORS 285C.095 or 285C.100, the department shall make determinations under this section in the order in which documentation submitted under subsection (1) of this section is received.

(b) For purposes of this subsection, documentation that is resubmitted after a negative determination shall be considered received on the date of the resubmission.

(c) The department shall adopt rules necessary to administer this subsection. [2015 c.648 §14]

### **(Management of Enterprise Zone)**

#### **285C.105 Duties of zone sponsor.** (1)

The sponsor of an enterprise zone shall:

(a) Appoint a local zone manager. Upon appointment of the local zone manager, the sponsor shall provide written notice thereof to the Oregon Business Development Department, the county assessor and the Department of Revenue.

(b) Provide, and assist all authorized or qualified business firms in using, enhanced local public services, local incentives and local regulatory flexibility that a sponsor has elected, by policy, to provide to any firm seeking authorization in that zone after adoption of the policy.

(c) Review and approve or deny applications for authorization under ORS 285C.140.

(d) Assist the county assessor in administering the property tax exemption and in performing other duties assigned to the assessor under ORS 285C.050 to 285C.250.



(e) Maintain, implement and periodically update a plan for marketing the enterprise zone including strategies for retention, expansion, start-up and recruitment of eligible business firms.

(f) Manage the enterprise zone in accordance with ORS 285C.050 to 285C.250.

(g) Identify property available for sale or lease to eligible business firms under ORS 285C.110.

(h) Prepare indices of street addresses, tax lot numbers or other information to facilitate the identification of land inside of an urban enterprise zone.

(i) Provide written notice to the county assessor, the Department of Revenue, the Oregon Business Development Department and any relevant publicly funded job training provider of the conditions and policies adopted or normally sought by the sponsor under ORS 285C.150, 285C.155, 285C.160 or 285C.203, and take the actions necessary to implement and enforce the conditions and policies and any other reasonable requirements imposed pursuant to ORS 285C.155, 285C.160 or 285C.203.

(j) Conduct, or assist in conducting, annual reporting of enterprise zone activity or effort, if requested by the county assessor or the Oregon Business Development Department.

(2) If more than one city, county or port sponsors an enterprise zone, the jurisdictions shall act jointly in performing the duties imposed on a sponsor under ORS 285C.050 to 285C.250. [Formerly 285B.671; 2005 c.704 §10; 2010 c.39 §4; 2015 c.648 §15]

**285C.110 Availability of public property.** Subject to the requirements of the Oregon Constitution or any other applicable law, the State of Oregon and municipal corporations that own any real property within an enterprise zone that is zoned for use by eligible businesses and that is not used or designated for some public purpose shall make that real property available for lease or purchase by authorized business firms. Real property shall be leased or sold under this section only upon the condition that the authorized business firm promptly develop the real property for a use that is consistent with the use described in the application for authorization under ORS 285C.140. [Formerly 285B.674]

**285C.115 Change of zone boundaries; positive determination by department required.** (1) The sponsor of an enterprise zone may change the boundary of the enterprise zone by resolution of the governing body of the sponsor.

(2) The amended enterprise zone shall:

(a) Add land zoned for use by eligible business firms that has or will have infrastructure facilities, road access, on-site water, on-site sewage disposal and necessary utility services;

(b) Continue to include any authorized business firms within the enterprise zone;

(c) Add residential areas or nonresidential areas that are adjacent to residential areas only if the level of economic hardship in the areas to be added is at least as severe as the conditions that existed at the time the original enterprise zone was designated or that currently exist in the original enterprise zone;

(d) Retain at least 50 percent of the lands in the original enterprise zone; and

(e) Meet the applicable total area and greatest distance requirements set forth in ORS 285C.090.

(3) If the enterprise zone is a reservation enterprise zone or a reservation partnership zone and the land to be added to the zone is not described in ORS 285C.306, the boundary change, and the resulting boundary of the zone, must fully satisfy the provisions of this section.

(4) A boundary change under subsection (1) of this section may:

(a) Remove only the land that is residential or not zoned or available for use by eligible business firms; or

(b) Change the name of the enterprise zone.

(5) The boundary of an urban enterprise zone may not be modified to include land located outside a regional or metropolitan urban growth boundary.

(6) An area that is under the jurisdiction of a city, county or port that is not a sponsor of the enterprise zone may be added to the enterprise zone under this section only if the governing body of the nonsponsoring city, county or port adopts a resolution requesting the change and requesting that the city, county or port become a cosponsor, or a resolution consenting to the change, as provided under ORS 285C.065 (1).

(7) The resolution of the governing body of a city, county or port to become a cosponsor under subsection (6) of this section may include a restriction described in ORS 285C.070 (4). A restriction made under this paragraph may be made without regard to the time limitation described in ORS 285C.070 (4)(c) and becomes final on the effective date of the boundary change.

(8) A boundary change under this section is not final until a positive determination has been made by the Oregon Business Development Department under ORS 285C.117.

(9) A change in the boundary of an enterprise zone under this section does not change the termination date of the enterprise zone under ORS 285C.245 (2). [Formerly 285B.680; 2005 c.94 §6; 2005 c.704 §11; 2010 c.76 §20; 2015 c.648 §16]

**285C.117 Documentation for zone boundary change to be submitted to department; requirements for positive determination.** (1)(a) The sponsor of an enterprise zone shall submit to the Oregon Business Development Department documentation of a boundary change under ORS 285C.115.

(b) For purposes of this subsection, the documentation submitted to the department must include:

(A) A map clearly indicating the changes made to the boundary;

(B) A new description and geographic information system data for the area inside the zone; and

(C) Any other information required by the department for the purposes of making a determination under this section.

(2) As soon as practicable after receipt of the documentation required under subsection (1) of this section, the department shall notify the zone sponsor of the department's determination.

(3)(a) The department's determination shall be positive and final if the requirements of this section and ORS 285C.115 are met.

(b) The boundary change shall take effect on the date on which the latest resolution of the sponsoring city, county or port was adopted.

(4)(a) If the department's determination is negative, the notice required under subsection (2) of this section must state the reasons for the negative determination.

(b) The zone sponsor may resubmit documentation for a determination under this section and the sponsor and the department may discuss changes in the documentation necessary for a positive determination under this section.

(c) If the sponsor resubmits documentation and the department makes a positive determination, the boundary change shall take effect on the date on which the latest resolution of the sponsoring city, county or port was adopted, or the date on which any outstanding requirement for the boundary change is satisfied, as stipulated in the department's determination. [2015 c.648 §18]

**285C.120 Zone boundary change restrictions when county ceases to be sparsely populated; waiver of distance limitations.** (1) If the population density of

a county increases to more than 100 persons per square mile, so that the county is no longer a sparsely populated county, any existing rural enterprise zone located wholly or partly within that county shall continue to exist with that zone boundary until terminated. A boundary change under ORS 285C.115 that is subsequent to the date on which the county ceases to be a sparsely populated county may not add an area to the zone that:

(a) Is a separate area farther than five miles from the nearest point on the existing boundary;

(b) Increases the distance between the two points in the zone that are the farthest apart; or

(c) Creates a new line of distance to the farthestmost opposite point in the zone that is longer than the greatest distance between any two existing points in the zone.

(2) In designating or changing the boundary of a rural enterprise zone under ORS 285C.065, 285C.115 or 285C.250 in a sparsely populated county, a zone sponsor may seek a waiver of the distance limitations under ORS 285C.090 (4) by providing the necessary documentation under ORS 285C.074 or 285C.117. The Director of the Oregon Business Development Department shall grant the waiver if the director determines that:

(a) The designation or the boundary change satisfies all other applicable requirements; and

(b) Consistent with rules adopted by the Oregon Business Development Department, designation of a separate enterprise zone is not a practical option under the particular circumstances, that the overall distances involved can be effectively administered and that the waiver will further the goals and purposes of ORS 285C.050 to 285C.250. [Formerly 285B.683; 2005 c.94 §7; 2015 c.648 §19]

#### **(Duties of Property Tax Administrators)**

**285C.125 Duties of Department of Revenue; rules.** For the purposes of ORS 285C.050 to 285C.250, the Department of Revenue shall:

(1) Adopt any rules the Department of Revenue considers necessary to implement ORS 285C.125, 285C.130, 285C.140, 285C.145, 285C.165, 285C.175, 285C.180, 285C.185, 285C.190, 285C.220, 285C.225, 285C.230, 285C.235 and 285C.240.

(2) Assist the Oregon Business Development Department, county assessors and the sponsors of enterprise zones in their efforts to authorize or qualify eligible business firms.

(3) Assist an eligible business firm proposing to do business within an enterprise zone or doing business within an enterprise zone to obtain the benefits of applicable tax incentive or inducement programs administered or supervised by the Department of Revenue.

(4) Issue and print forms and worksheets to be used by business firms to make authorization applications or exemption claims. [Formerly 285B.692; 2005 c.94 §8]

**285C.130 Duties of county assessor.** The assessor of a county within which an enterprise zone is located shall:

(1) Assist the sponsor, the local zone manager appointed by the sponsor and business firms in determining whether property will qualify for a property tax exemption under ORS 285C.175.

(2) Review and approve or deny applications from eligible business firms for authorization under ORS 285C.140.

(3) Process claims for property tax exemptions filed under ORS 285C.220 and exempt the qualified property of authorized business firms from ad valorem property taxation in accordance with ORS 285C.050 to 285C.250.

(4) Take action necessary under ORS 285C.240.

(5) Submit a written report to the Department of Revenue on or before July 1 of each assessment year. The report for each enterprise zone, or portion of a zone that is located in the county, shall include the following information, organized by business firm:

(a) The assessor's estimate of the assessed value of qualified property that was exempt under ORS 285C.175 for the previous tax year and the taxes that would have been imposed on the qualified property, as entered on the assessment and tax roll under ORS 285C.175 (7).

(b) The annual average number of employees of the firm within the enterprise zone during the previous assessment year, as reported on the exemption claim filed under ORS 285C.220.

(c) The annual average compensation for the previous assessment year of new employees hired by the firm within the enterprise zone, if the firm is subject to the annual compensation requirements of ORS 285C.160 (3), as reported on the exemption claim filed under ORS 285C.220.

(d) The assessor's estimate of the assessed value, for the current tax year, of qualified property that was exempt under ORS 285C.175 for the previous tax year and

that is not exempt under ORS 285C.175 for the current tax year.

(e) The total investment cost of qualified property first reported on the exemption claim filed under ORS 285C.220 that includes a property schedule submitted by the business firm pursuant to ORS 285C.225 for the current tax year.

(f) The current number of employees of the firm, as reported on the exemption claim filed under ORS 285C.220 and described in paragraph (e) of this subsection.

(g) Any other information the assessor or the Department of Revenue considers appropriate.

(6) Send a copy of a report prepared under subsection (5) of this section to the sponsor of the enterprise zone and to the Oregon Business Development Department. [Formerly 285B.695]

#### **(Eligible Business Firms)**

##### **285C.135 Requirements for eligibility.**

(1) To be an eligible business firm, a business firm must be engaged, or proposing to engage, within the enterprise zone, in the business of providing goods, products or services to businesses or other organizations through activities including, but not limited to, manufacturing, assembly, fabrication, processing, shipping or storage.

(2) A business firm is not an eligible business firm if the firm is:

(a) Engaged within the enterprise zone in the business of providing goods, products or services to the general public for personal or household use.

(b) Significantly engaged in a business activity within the enterprise zone that consists of retail sales or services, child care, housing, retail food service, health care, tourism, entertainment, financial services, professional services, leasing space to others, property management, construction or other similar activities, even if for another business or organization.

(3) If a business firm described in subsection (2) of this section engages in an activity described in subsection (1) of this section, the business firm is an eligible business firm if the activity is performed at a location that is separate from the activity of the firm that is described in subsection (2) of this section. Property at the location at which the firm conducts an activity described in subsection (2) of this section may not be exempt under ORS 285C.175.

(4) Two or more business firms that otherwise meet the requirements of this section may elect to be treated as one eligible business firm if 100 percent of the equity interest

in the business firms is owned by the same person or persons, or if one of the business firms owns 100 percent of the equity interest of the other or others.

(5) Notwithstanding subsections (1) to (3) of this section, each of the following business firms is an eligible business firm under subsection (1) of this section:

(a) A business firm engaged in the activity of providing a retail or financial service within the enterprise zone if:

(A) The activity serves customers by responding to orders or requests received only by telephone, computer, the Internet or similar means of telecommunications; and

(B) Not less than 90 percent of the customers or orders are located and originate in an area from which long distance telephone charges, in the absence of a toll-free number, would apply if the order were placed by telephone.

(b) A business firm that operates a facility within the enterprise zone that serves statewide, regional, national or global operations of the firm through administrative, design, financial, management, marketing or other activities, without regard to the relationship of these activities to any otherwise eligible activities within the enterprise zone.

(c) A business firm that operates a hotel, motel or destination resort in the enterprise zone if the sponsor has elected under ORS 285C.070 to treat a business firm engaged in hotel, motel or destination resort operations in an enterprise zone as an eligible business firm.

(d) A business firm that is engaged in electronic commerce if the enterprise zone has been designated for electronic commerce under ORS 285C.095. [Formerly 285B.707; 2015 c.648 §20]

#### (Authorization)

**285C.140 Application for authorization; contents; filing fee; consultation; approval; appeal; late filing.** (1)(a) Any eligible business firm seeking to have property exempt from property taxation under ORS 285C.175 shall, before the commencement of direct site preparation activities or the construction, addition, modification or installation of qualified property in an enterprise zone, and before the hiring of eligible employees, apply for authorization under this section.

(b) The application shall be made on a form prescribed by the Department of Revenue and the Oregon Business Development Department.

(c) The application shall be filed with the sponsor of the zone. A sponsor may require that the application filed with the sponsor be accompanied by a filing fee. If required, the filing fee may not exceed the greater of \$200 or one-tenth of one percent of the value of the investment in qualified property that is proposed in the application for authorization. The filing fee may be required for the filing of applications only after the sponsor adopts a policy, consistent with Oregon Business Development Department rules, authorizing the imposition of the filing fee.

(2) The application shall contain the following information:

(a) A description of the nature of the firm's current and proposed business operations inside the boundary of the enterprise zone;

(b) A description and estimated value of the qualified property to be constructed, added, modified or installed inside the boundary of the enterprise zone;

(c) The number of employees of the firm that are employed within the enterprise zone, averaged over the previous 12 months, and an estimate of the number of employees that will be hired by the firm;

(d) A commitment to meet all requirements of ORS 285C.200 and 285C.215, and to verify compliance with these requirements;

(e) A commitment to satisfy all additional conditions for authorization that are imposed by the enterprise zone sponsor under ORS 285C.150, 285C.155 or 285C.205 or pursuant to an agreement entered into under ORS 285C.160, and to verify compliance with these additional conditions;

(f) A commitment to renew the application, consistent with ORS 285C.165, every two years while the zone exists if the firm has not filed a claim under ORS 285C.220 that is based on the application; and

(g) Any other information considered necessary by the Department of Revenue and the Oregon Business Development Department.

(3) After an application is submitted to a sponsor, the business firm may revise or amend the application. An amendment or revision may not be made on or after January 1 of the first assessment year for which the qualified property associated with the application is exempt under ORS 285C.175.

(4) If an application for authorization appears to be complete and the proposed investment appears to be eligible for authorization, the sponsor and the business firm shall conduct a preauthorization consultation. The county assessor shall be timely notified and have the option to par-

ticipate in the consultation. The consultation shall:

(a) Identify issues with the potential to affect compliance with relevant exemption requirements, including but not limited to enterprise zone boundary amendments;

(b) Arrange for methods and procedures to establish and verify compliance with applicable requirements; and

(c) Identify the person who is obligated to notify the county assessor if requirements are not being satisfied.

(5) Upon completion of the consultation, the sponsor shall prepare a written summary of the consultation made under subsection (4) of this section, attach the summary to the application and forward the application to the county assessor of each county in which the zone is located for review by the assessor.

(6) Following the preauthorization conference under subsection (4) of this section, the sponsor and the county assessor shall authorize the business firm by approving the application, if the sponsor and county assessor determine that:

(a) The current or proposed operations of the business firm in the enterprise zone result in the firm being eligible under ORS 285C.135; and

(b) The firm has made the commitments and provided the other information required under subsection (2) of this section.

(7) If the business firm seeking authorization is an eligible business firm described in ORS 285C.135 (5)(b), the sponsor must, as a condition to approving the application, make a formal finding that the business firm is an eligible business firm under ORS 285C.135 and that the size of the proposed investment, the employment at the facility of the firm or the nature of the activities undertaken by the firm within the enterprise zone will significantly enhance the local economy, promote the purposes for which the zone was created and increase employment within the zone.

(8) The approval of both the sponsor and the county assessor under this section shall be prima facie evidence that the qualified property of the business firm will receive the property tax exemption under ORS 285C.175. In approving the application, the sponsor and county assessor shall provide proof of approval as directed by the Oregon Business Development Department.

(9) If the sponsor or county assessor fails or refuses to authorize the business firm, the business firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall provide copies of the

firm's appeal to the sponsor, county assessor, the Department of Revenue and the Oregon Business Development Department.

(10) Authorization under this section does not ensure that property constructed, added, modified or installed by the authorized business firm will receive property tax exemption under ORS 285C.175. The sponsor and the county assessor are not liable in any way if the Department of Revenue or the county assessor later determines that an authorized business firm does not satisfy the requirements for an exemption on qualified property.

(11) Notwithstanding subsection (1) of this section, if an eligible business firm has begun or completed the construction, addition, modification or installation of property that meets the qualifications of ORS 285C.180, and the property has not yet been subject to property tax, then, for purposes of ORS 285C.050 to 285C.250, the firm shall be authorized under this section if the firm files an application that is allowed under subsection (12) of this section and is otherwise authorized under this section.

(12) Late submission of an application under this section is allowed if:

(a) A rule permits late submissions of applications under this section; or

(b) The Department of Revenue waives filing deadline requirements under this section. The department shall issue a letter to the eligible business firm and zone sponsor setting forth the waiver under this paragraph. [Formerly 285B.719]

**285C.145 Leasing existing property to authorized firm; failure to timely file for authorization; certain records exempt from disclosure.** (1) The Legislative Assembly finds that the standard procedure for authorization in an enterprise zone inappropriately deters development or redevelopment of qualified buildings on speculation for subsequent sale or lease to eligible business firms.

(2) Notwithstanding ORS 285C.140 (1), a new building or structure or an addition to or modification of an existing building or structure may qualify for the exemption allowed under ORS 285C.175 if the qualified property is leased or sold by an unrelated party to one or more authorized business firms after commencement of the construction, addition or modification but prior to use or occupancy of the qualified property.

(3) A business firm may not be considered authorized and is not qualified for the exemption allowed under ORS 285C.175 if the county assessor discovers prior to initially granting the exemption that the application for authorization was not submitted by the

business firm in a timely manner in accordance with ORS 285C.140, except as allowed under subsection (2) of this section or ORS 285C.140 (11) and (12).

(4) Records, communications or information submitted to a public body by a business firm for purposes of ORS 285C.050 to 285C.250 that identify a particular qualified property, that reveal investment plans prior to authorization, that include the compensation the firm provides to firm employees, that are described in ORS 192.502 (17) or that are submitted under ORS 285C.225 or 285C.235 are exempt from disclosure under ORS 192.410 to 192.505 and, as appropriate, shall be shared among the county assessor, the zone sponsor, the Department of Revenue and the Oregon Business Development Department. [Formerly 285B.701; 2007 c.152 §3]

**285C.150 Conditions required by sponsor for authorization; reports.** (1) The sponsor of an urban enterprise zone may require an eligible business firm seeking authorization under ORS 285C.140 to satisfy other conditions in order for the firm to be authorized.

(2) The conditions that a sponsor may impose under this section must be reasonably related to the public purpose of providing opportunities for groups of persons, as defined by the sponsor, to obtain employment, including but not limited to providing training to these groups of persons.

(3) The sponsor may establish procedures for monitoring and verifying compliance with conditions imposed on the firm under this section and require the firm to agree to the procedures as a condition to authorizing the firm.

(4) Conditions established under this section may be imposed on a firm only if the sponsor has adopted a policy that establishes standards for the imposition of the conditions.

(5) Conditions imposed by a sponsor under this section shall be in addition to, and not in lieu of, conditions and requirements imposed under ORS 285C.050 to 285C.250 or pursuant to an agreement entered into under ORS 285C.160 and do not affect the duties of the Department of Revenue or of the county assessor under ORS 285C.050 to 285C.250.

(6) A sponsor of an urban enterprise zone that imposes conditions for authorization on eligible business firms under this section shall submit a written report every four years to the Legislative Assembly concerning the application and effects of the conditions on business firms within the enterprise zone. [2003 c.662 §32]

**285C.155 Minimum employment and other requirements for authorization.** For purposes of ORS 285C.200 (2):

(1) The sponsor of an enterprise zone, at the time authorization is sought by a business firm under ORS 285C.140, shall establish a minimum number of employees the firm must maintain in the enterprise zone throughout the exemption period.

(2) The sponsor, at the time authorization is sought by a business firm under ORS 285C.140, may establish other reasonable conditions with which the firm must comply in order for qualified property of the firm to be exempt under ORS 285C.175.

(3) Employment requirements and other conditions established by the sponsor under this section shall be set forth in a resolution adopted by the governing body of the sponsor at the time the sponsor approves the application of the business firm for authorization under ORS 285C.140.

(4) A resolution adopted pursuant to this section may be modified at the request of the business firm at any time prior to the start of the first tax year for which an exemption under ORS 285C.175 is claimed. [2003 c.662 §33]

**285C.160 Agreement between firm and sponsor for additional period of exemption; requirements.** (1) An eligible business firm seeking authorization under ORS 285C.140 and the sponsor of the enterprise zone in which the firm intends to invest may enter into a written agreement to extend the period during which the qualified property is exempt from taxation under ORS 285C.175 if the firm complies with the terms of the agreement.

(2) The period for which the qualified property is to continue to be exempt must be set forth in the agreement and may not exceed two additional tax years.

(3) In order for an agreement under this section to extend the period of exemption, the agreement must be executed on or before the date on which the firm is authorized, and:

(a) If the enterprise zone is a rural enterprise zone or an urban enterprise zone located inside a metropolitan statistical area of fewer than 400,000 residents, the agreement must require that the firm meet both of the following:

(A) Annually compensate all new employees hired by the firm at an average rate of not less than 150 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization.

(B) Any additional requirement that the sponsor may reasonably request.

(b) If the enterprise zone is an urban enterprise zone located inside a metropolitan statistical area of 400,000 residents or more, the agreement must require that the firm meet any additional requirement the sponsor may reasonably require.

(4) If a firm enters into an agreement under this section that includes a compensation requirement under subsection (3)(a)(A) of this section and the firm subsequently submits one or more statements of continued intent under ORS 285C.165, notwithstanding the terms of the agreement made under this section, for each statement of continued intent submitted, the county average annual wage under subsection (3)(a)(A) of this section shall be adjusted to a level that is current with the statement. [2003 c.662 §34; 2005 c.94 §9]

**285C.165 Extension of period of authorization; filing fee.** (1) In the case of an authorized business firm that has not yet claimed the exemption under ORS 285C.175 on qualified property:

(a) After the January 1, but on or before the April 1, that first occurs more than two years after the application for authorization is approved, an authorized business firm shall submit a written statement to both the sponsor and the county assessor attesting to the firm's continued intent to complete the proposed investment and seek the enterprise zone exemption. The statement may include significant changes to the descriptions and estimates of anticipated qualified property or employment. If the firm is subject to a compensation requirement under ORS 285C.160 (3)(a)(A), the statement shall acknowledge that the applicable county average annual wage in the agreement is updated to equal the level that is current with the statement.

(b) Every two years after the submission of a statement described in paragraph (a) of this subsection, the firm shall submit another such statement. The statement must be submitted after January 1, but on or before April 1 of that year.

(2) If the firm fails to submit a statement required under subsection (1) of this section, the authorization of the firm shall be considered inactive. An inactive authorized business firm may claim the exemption under ORS 285C.175 only as provided under subsection (3) of this section.

(3)(a) An inactive authorized business firm may file an exemption claim under ORS 285C.220 only if the claim includes a filing fee equal to the greater of \$200 or one-tenth of one percent of the real market value of the qualified property listed in the property schedule that is filed with the claim.

(b) The filing fee required under this subsection is in addition to and not in lieu of any other required filing fee.

(c) An exemption under ORS 285C.175 may not be granted if the filing fee does not accompany the claim.

(d) The real market value of the property used to determine the filing fee under this subsection may be appealed in the same time and manner as other determinations of value made by the assessor are appealed.

(e) Any filing fee collected under this subsection shall be deposited to the county general fund.

(4) If an inactive authorized business firm is subject to a compensation requirement under ORS 285C.160 (3)(a)(A) and files a claim for exemption under ORS 285C.220 in the manner prescribed in subsection (3) of this section, notwithstanding the terms of the agreement executed under ORS 285C.160, the applicable county average annual wage shall be updated to equal the level that is current with the date of the filing of the claim.

(5) This section applies only until the enterprise zone is terminated. Following zone termination, ORS 285C.245 applies. [2003 c.662 §34a]

#### (Exemptions)

**285C.170 Construction-in-process exemption.** (1) Property shall be exempt from ad valorem property taxation under this section if:

(a) The property is located in an enterprise zone;

(b) The property is owned or leased by an authorized business firm or the business firm is contractually obligated to own or lease the property upon the property's being placed in service;

(c) The property is or, upon completion of the construction, addition, modification or installation of the property, will be qualified property;

(d) The authorization of the business firm remains active under ORS 285C.140 or 285C.165;

(e) The property has not been subject to exemption under ORS 307.330 at the location;

(f) The property is not and will not be centrally assessed under ORS 308.505 to 308.681;

(g) The property is not to be operated as all or a part of a hotel, motel or destination resort; and

(h) There is no known reason to conclude that the property or the firm will not satisfy any applicable requirements for the property

to be exempt under ORS 285C.175 upon being placed in service.

(2) Property may be exempt under this section for no more than two tax years, which must be consecutive.

(3) In determining whether property is exempt under this section, the county assessor:

(a) Shall adhere to the same procedures as apply under ORS 285C.175 (6) and (7); and

(b) May require the submission of additional evidence by the authorized business firm or zone sponsor showing that the property qualifies for exemption under this section. If required, the additional evidence must be submitted on or before April 1 of the assessment year.

(4) The exemption under this section does not depend on the property or the authorized business firm receiving the exemption under ORS 285C.175 or satisfying requirements applicable to the exemption under ORS 285C.175.

(5) A year in which property is exempt under this section shall be considered a year in which the property is exempt under ORS 307.330 for purposes of determining the maximum number of years for which the property may be exempt under this section or ORS 307.330. [2003 c.662 §34b]

**285C.175 Enterprise zone exemption; requirements; duration.** (1) Property of an authorized business firm is exempt from ad valorem property taxation if:

(a) The property is qualified property under ORS 285C.180;

(b) The firm meets the qualifications under ORS 285C.200; and

(c) The firm has entered into a first-source hiring agreement under ORS 285C.215.

(2)(a) The exemption allowed under this section applies to the first tax year for which, as of January 1 preceding the tax year, the qualified property is in service. The exemption shall continue for the next two succeeding tax years if the property continues to be owned or leased by the business firm and located in the enterprise zone.

(b) The property may be exempt from property taxation under this section for up to two additional tax years consecutively following the tax years described in paragraph (a) of this subsection, if authorized by the written agreement entered into by the firm and the sponsor under ORS 285C.160.

(c) If qualified property of a qualified business firm is sold or leased to an eligible business firm in the enterprise zone during the period the property is exempt under this

section, the purchasing or leasing firm is eligible to continue the exemption of the selling or leasing firm for the balance of the exemption period, but only if any effects on employment within the zone that result from the sale or lease do not constitute substantial curtailment under ORS 285C.210.

(3)(a) The exemption allowed under this section shall be 100 percent of the assessed value of the qualified property in each of the tax years for which the exemption is available.

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

(A) If the qualified property is an addition to or modification of an existing building or structure, the exemption shall be measured by the increase in value, if any, attributable to the addition or modification.

(B) If the qualified property is an item of reconditioned, refurbished, retrofitted or upgraded real property machinery or equipment, the exemption shall be measured by the increase in the value of the item that is attributable to the reconditioning, refurbishment, retrofitting or upgrade.

(4)(a) An exemption may not be granted under this section for qualified property assessed for property tax purposes in the county in which the property is located on or before the date on which:

(A) Designation of the zone takes effect under ORS 285C.074; or

(B) A boundary change for the zone takes effect under ORS 285C.117 if the property is located in an area added to the zone.

(b) An exemption may not be granted for qualified property constructed, added, modified or installed in the zone or in the process of construction, addition, modification or installation in the zone on or before the date on which:

(A) Designation of the zone takes effect under ORS 285C.074; or

(B) A boundary change for the zone takes effect under ORS 285C.117 if the property is located in an area added to the zone.

(c) An exemption may not be granted for any qualified property that was in service within the zone for more than 12 months by January 1 of the first assessment year for which an exemption claim is made, or 24 months, in the case of a late claim under ORS 285C.220 (10).

(d) An exemption may not be granted for any qualified property unless the property is actually in use or occupancy before July 1 of the year immediately following the year during which the property was first placed in service.



(e) Except as provided in ORS 285C.245, an exemption may not be granted for qualified property constructed, added, modified or installed after termination of an enterprise zone.

(5) Property is not required to have been exempt under ORS 285C.170 in order to be exempt under this section.

(6) The county assessor shall notify the business firm in writing whenever property is denied an exemption under this section. The denial of exemption may be appealed to the Oregon Tax Court under ORS 305.404 to 305.560.

(7) For each tax year that the property is exempt from taxation, the assessor shall:

(a) Enter on the assessment roll, as a notation, the assessed value of the property as if it were not exempt under this section.

(b) Enter on the assessment roll, as a notation, the amount of additional taxes that would be due if the property were not exempt.

(c) Indicate on the assessment roll that the property is exempt and is subject to potential additional taxes as provided in ORS 285C.240, by adding the notation "enterprise zone exemption (potential additional tax)." [Formerly 285B.698; 2015 c.648 §21]

#### (Qualified Property)

##### **285C.180 Qualified property generally.**

(1) The following types of property are qualified for exemption under ORS 285C.175:

(a) A newly constructed building or structure.

(b) A new addition to or modification of an existing building or structure.

(c) Any real property machinery or equipment or personal property, whether new, used or reconditioned, that is installed on property that is owned or leased by an authorized business firm, and:

(A) Newly purchased or leased by the firm, unless the property is described in ORS 285C.175 (4)(a); or

(B) Newly transferred into the enterprise zone from outside the county within which the site of the firm is located and installed.

(2) Property described in subsection (1) of this section is qualified under this section only if:

(a) The property meets or exceeds the minimum cost requirements established under ORS 285C.185;

(b) The property satisfies applicable usage, lease or location requirements established under ORS 285C.185;

(c) The property was constructed, added, modified or installed to further the production of income;

(d) The property is owned or leased by an authorized business firm;

(e) The location of the property corresponds to the location as set forth in the application for authorization of the business firm and consists of a single site or multiple sites adjacent to or having comparable proximity to each other, within the boundaries of the enterprise zone;

(f) The property is the same general type of property as described in the application for authorization; and

(g) In the case of an eligible business firm described in ORS 285C.135 (5)(b), the actual investment at the facility of the firm is consistent with the description set forth in the application for authorization.

(3) Notwithstanding subsection (1) of this section, the following property is not qualified for exemption under ORS 285C.175:

(a) Land.

(b) Property that was not in use or occupancy for more than a 180-day period that ends during the preceding assessment year.

(c) On-site developments that, consistent with ORS 307.010, are assessed as land.

(d) Noninventory supplies, including but not limited to lubricants.

(e) Any operator-driven item of machinery or equipment or any vehicle, if the item or vehicle moves by internal motorized power. An item or vehicle described in this paragraph includes but is not limited to an item or vehicle that moves within an enclosed space.

(f) Any device or rolling stock that is pulled, pushed or carried by a vehicle that is suitable as a mode of transportation beyond the enterprise zone boundary.

(4) Subsection (3)(b) of this section does not apply to the first assessment year for which the property is exempt under ORS 285C.175.

(5) For purposes of this section and ORS 285C.175, property includes any portion or incremental unit of property that is newly constructed or installed, or that is a new addition to or modification of an existing building or structure. [Formerly 285B.713; 2015 c.648 §22]

**285C.185 Minimum cost of qualified property; leased property; hotel, motel or destination resort property; electronic commerce property.** (1) In order for property to be qualified property under ORS 285C.180, the property must cost:

(a) \$50,000 or more, in the case of:

(A) All real property that is concurrently exempt at the location; or

(B) An item of personal property that is not described in paragraph (b) of this subsection.

(b) \$1,000 or more, in the case of an item of personal property that is used:

(A) Exclusively in the production of tangible goods; or

(B) In electronic commerce in an enterprise zone approved for electronic commerce designation under ORS 285C.095.

(2) The estimated cost of property set forth in an application for authorization under ORS 285C.140 shall be disregarded for purposes of determining if property is qualified property.

(3) Property that is leased by the authorized business firm may be qualified property under ORS 285C.180 only if the terms of the lease provide:

(a) During the term of the lease, that the authorized business firm is to compensate the owner of the leased property for all property taxes assessed against the leased property or that the firm is to pay these taxes; and

(b) That the term of the lease begins on or before the start of the first tax year for which the property is exempt and ends on or after the last day of the last tax year for which the property is exempt.

(4) In order for property that is owned or leased by an authorized business firm operating a hotel, motel or destination resort to be qualified property under ORS 285C.180, the property must be:

(a) Located and in service in an enterprise zone for which the sponsor has elected under ORS 285C.070 to treat a business firm engaged in hotel, motel or destination resort operations as an eligible business firm;

(b) Located at the same site as the hotel, motel or destination resort or in close proximity to that site; and

(c) Used primarily to serve overnight guests of the hotel, motel or destination resort. Property is used primarily to serve overnight guests if at least 50 percent of any receipts from use of the property are paid by overnight guests.

(5) In order for property owned or leased and operated by a business firm engaged in electronic commerce in a city designated for electronic commerce under ORS 285C.100 to be qualified property, the property otherwise qualified under this section and the applicable electronic commerce operations of the firm must be located in that city.

(6)(a) As used in this section, "item of personal property" includes an integrated system consisting of various components.

(b) Consistent with paragraph (a) of this subsection, the Department of Revenue may by rule further define what constitutes an item of personal property for purposes of this section. [2003 c.662 §37]

**285C.190 Requirements for qualifying reconditioned, refurbished, retrofitted or upgraded property.** (1) Notwithstanding ORS 285C.180 (1)(c), an item of reconditioned, refurbished, retrofitted or upgraded real property machinery or equipment that is owned or leased by an authorized business firm is qualified property under ORS 285C.180 if:

(a) The real property machinery or equipment is idle:

(A) At the time of application for authorization; and

(B) For a period of at least 18 consecutive months before or after the time of application for authorization but preceding the first assessment year of the exemption;

(b) Prior to the period of idleness, the property was in use within the enterprise zone or elsewhere in the county for at least 12 consecutive months;

(c) The reconditioning, refurbishing, retrofitting or upgrading of the property costs at least \$50,000 and is completed in the year immediately preceding the first assessment year in which the property is exempt under ORS 285C.175; and

(d) The business firm applies for authorization before reconditioning, refurbishment, retrofitting or upgrading commences.

(2) The reconditioning, refurbishing, retrofitting or upgrading of an item of real property machinery or equipment described in subsection (1) of this section is a modification and the extent of the exemption under ORS 285C.175 shall be determined as provided in ORS 285C.175 (3)(b)(B).

(3) ORS 285C.175 (4)(a) to (c) does not apply to qualified property described in subsection (1) of this section. [Formerly 285B.714]

**285C.195** [2003 c.662 §38a; repealed by 2015 c.648 §25]

#### **(Firm and Employment Qualifications)**

**285C.200 Qualifications of business firm; rules.** (1) The qualified property of an authorized business firm may be exempt from property taxation under ORS 285C.175 only if the firm meets the following qualifications:

(a) The firm is an eligible business firm engaged in eligible business operations under ORS 285C.135 that are located inside the enterprise zone;

(b) The firm owns or leases qualified property that is located inside the enterprise zone;

(c) The employment of the firm, no later than the date the exemption is claimed under ORS 285C.220 or April 1 following the year in which the investment in qualified property is made, whichever is earlier, is not less than the greater of:

(A) 110 percent of the annual average employment of the firm; or

(B) The annual average employment of the firm plus one employee;

(d) The firm does not diminish employment outside the enterprise zone as described in subsections (5) and (6) of this section;

(e) The firm does not substantially curtail operations within the enterprise zone as described in ORS 285C.210; and

(f) The firm complies in all material respects with local, Oregon and federal laws applicable to the firm's operations inside the enterprise zone since the application for authorization and throughout the period of exemption, as prescribed by rule.

(2) Notwithstanding subsection (1)(c) or (e) of this section, an eligible business firm may meet the qualifications of this section if the firm has satisfied the following requirements:

(a) The firm is authorized subject to ORS 285C.155 and the firm satisfies those requirements; and

(b)(A) The firm completes an investment of \$25 million or more in qualified property; or

(B) The firm fulfills the requirements of ORS 285C.205 and the employment of the firm does not decrease below the annual average employment of the firm.

(3) Notwithstanding subsection (1)(c) or (e) or (2) of this section, an eligible business firm is a qualified business firm under this section if:

(a) The firm is authorized under ORS 285C.140;

(b) The zone sponsor has taken the actions and the firm has satisfied the requirements specified in ORS 285C.203; and

(c) The firm completes an investment of \$4 million or more in qualified property if it is in a rural enterprise zone or \$8 million or more in qualified property if it is in an urban enterprise zone.

(4) An authorized business firm that engages in both eligible and ineligible operations in an enterprise zone and is an eligible business firm because of ORS 285C.135 (3) meets the qualifications of this section if:

(a) The eligible operations of the firm under ORS 285C.135 meet the qualifications of this section; and

(b) The employees of the firm work a majority of their time in eligible operations within the enterprise zone.

(5) A business firm does not meet the qualifications of this section if the firm or any other firm under common control closes or permanently curtails operations in another part of the state more than 30 miles from the nearest boundary of the enterprise zone in which the firm seeks a property tax exemption. This subsection applies to the transfer of any of the business firm's operations to an enterprise zone from another part of the state, if the closure or permanent curtailment in the other part of the state diminished employment in the county and more local labor markets after authorization and on or before December 31 of the first tax year for which any qualified property of the firm in that zone would otherwise be exempt under ORS 285C.175.

(6) An authorized business firm that moves any of its employees from a site or sites within 30 miles from the nearest boundary of the enterprise zone after authorization may meet the qualifications under this section if the employment of the firm has been increased within the zone and at the site or sites from which the employees were transferred, no later than April 1 preceding the first tax year for which qualified property of the firm is exempt under ORS 285C.175, to not less than 110 percent of the annual average employment of the firm within the zone and the site or sites from which the employees were transferred, calculated over the 12 months preceding the date of application for authorization.

(7) For purposes of subsection (1)(f) of this section, the Oregon Business Development Department shall adopt rules that define the effect of noncompliance on an eligible business firm's continuing exemption in an enterprise zone and that indicate what is necessary to establish the noncompliance in terms of materiality of the relevant violation, the finality of applicable legal or regulatory proceedings and judgments involving the firm, the failure by the firm to perform or submit to remedial or curative actions and similar factors.

(8) As used in this section:

(a) "Annual average employment of the firm" means the average employment of the firm, calculated over the 12 months preceding the date of application for authorization.

(b) Except as provided in subsection (6) of this section, "employment of the firm" means:

(A) The number of employees working for the firm a majority of their time in eligible operations at locations within the enterprise zone; or

(B) In the case of a firm described in ORS 285C.135 (5)(b), the number of employees working a majority of their time at the facility in the enterprise zone for which authorization was obtained. [Formerly 285B.704; 2010 c.39 §3]

**285C.203 Waiver of employment requirements; extension of exemption period.** For purposes of ORS 285C.200 (3):

(1) When the conditions specified in subsection (2) of this section exist, the sponsor of an enterprise zone may:

(a) Specify a minimum number of employees that an authorized business firm must maintain throughout the exemption period that is less than the employment requirements of ORS 285C.200 (1)(c); and

(b) Extend the period of time for which the qualified property of the authorized business firm may continue to be exempt from taxation under ORS 285C.175, not to exceed two additional tax years.

(2) The zone sponsor may take the actions specified in subsection (1) of this section when the following conditions exist:

(a) There has been a decline for two or more consecutive quarters in the last 12 months in seasonally adjusted nonfarm payroll employment; and

(b) The unemployment rate of the county in which the enterprise zone is located is at least two percentage points greater than the comparable unemployment rate for this state, as defined by the most recently available data published or officially provided and verified by the United States Government or the Employment Department.

(3) When the zone sponsor has taken the actions specified in subsection (1) of this section, the authorized business firm may not file a claim for exemption under ORS 285C.175 unless it otherwise meets all of the requirements of ORS 285C.200 (1) for any tax year during the exemption period as extended under subsection (1)(b) of this section.

(4) The actions of the zone sponsor under subsection (1) of this section must be set forth in a resolution adopted by the governing body of the sponsor within 60 days of taking the actions. A resolution adopted under this subsection may be revoked or modified at the request of the zone sponsor at any time during the exemption period as extended under subsection (1)(b) of this section.

(5) An eligible business firm authorized under ORS 285C.140 does not lose its status as an authorized business firm solely because

the zone sponsor has taken the actions specified in subsection (1) of this section. [2010 c.39 §2]

**285C.205 Effect of productivity increases on qualification of certain firms; uses of tax savings.** The requirements of ORS 285C.200 (2)(b)(B) are met if the qualified business firm does all of the following:

(1) The firm demonstrates at least a 10 percent increase in productivity no later than 18 months following January 1 of the first assessment year for which an exemption under ORS 285C.175 is claimed. Unless further specified by the sponsor of the enterprise zone through the resolution adopted under ORS 285C.155:

(a) The increase must be in business operations of the firm that are using qualified property receiving the exemption;

(b) Productivity is measured by dividing physical units or quantity of output by the number of labor hours engaged in the operations that produced the physical units or quantity of output; and

(c) The base level of productivity shall be established over a minimum 12-month period preceding the date on which the qualified property is placed in service.

(2) The firm maintains or exceeds the 10 percent increase in productivity under subsection (1) of this section as an annual average rate for each subsequent assessment year during the remainder of the exemption period.

(3) On or before April 1 of each of the first three assessment years for which an exemption is claimed, the firm deposits into an account established by the sponsor an amount equal to 25 percent of the estimated tax savings arising from the exemption for that year. The sponsor may adopt additional specifications or requirements applicable to this subsection in the resolution the sponsor adopts under ORS 285C.155. Consistent with this subsection and any additional specifications or requirements adopted by the sponsor:

(a) For up to 30 months following the relevant April 1 date for which a deposit is made, the firm may draw from the account amounts equal to any expense incurred for training or retraining employees to promote or facilitate productivity increases under this section, except that the total amount withdrawn from the account for that deposit may not exceed \$3,500 per trained employee;

(b) Any amount attributable to the deposit that remains in the account after the 30-month period in which firm withdrawals may be made under paragraph (a) of this subsection shall be transferred to a special

fund for use by local publicly funded job training providers; and

(c) No more than 18 months after the deposit, the estimated tax savings on which the deposit was based shall be reconciled with the actual tax savings arising from the exemption. The reconciliation shall be accomplished by the firm immediately making a further deposit into the account to cover any shortfall or by being reimbursed from the account for any surplus. A deposit or reimbursement made pursuant to this paragraph does not affect withdrawals or transfers that occur as a result of paragraph (a) or (b) of this subsection. [2003 c.662 §33a]

**285C.210 Substantial curtailment of business operations.** (1) For purposes of ORS 285C.175, 285C.200 and 285C.240, operations of a business firm are substantially curtailed when:

(a) The number of employees of the firm within the enterprise zone is reduced by more than 85 percent from the highest number of employees of the firm within the enterprise zone;

(b) The number of employees of a firm within the enterprise zone has been reduced by more than 50 percent from the highest number of employees of the firm within the enterprise zone for a period of time that is equal to or more than nine months; or

(c) The annual average number of employees within the enterprise zone during the first assessment year for which the exemption under ORS 285C.175 is granted, or any subsequent year in which an exemption is claimed, is reduced below the greater of:

(A) The annual average number of employees of the business firm within the enterprise zone, averaged over the 12 months preceding the date of the application for authorization, plus one employee; or

(B) 110 percent of the annual average number of employees of the firm within the enterprise zone, averaged over the 12 months preceding the date of the application for authorization.

(2) For the purposes of this section:

(a) The number of employees of a firm within the enterprise zone is the employment of the firm, as defined in ORS 285C.200, on the earlier of the date a claim for exemption is filed under ORS 285C.220 or April 1, of each assessment year for which an exemption under ORS 285C.175 is claimed, and for the year immediately following the last assessment year for which an exemption is claimed.

(b) Except as specified in subsection (1)(c) of this section, the annual average number of employees of the firm is the number of

firm employees within the enterprise zone averaged over each assessment year in which an exemption under ORS 285C.175 is allowed, using employment figures for no fewer than four equivalent periods during the year.

(c) For the first assessment year for which an authorized business firm that qualifies under ORS 285C.200 (6) claims an exemption under ORS 285C.175, substantial curtailment under subsection (1)(a) or (c) of this section shall be determined by:

(A) Combining the number of employees of the firm within the enterprise zone and the number of employees at all other sites of the firm within the area described in ORS 285C.200 (6); and

(B) Combining the annual average number of employees of the firm within the enterprise zone with the annual average number of employees at any other site of the firm from which employees were transferred into the enterprise zone.

(3) Notwithstanding subsections (1) and (2) of this section, it is not a substantial curtailment of operations of a business firm for purposes of ORS 285C.175, 285C.200 and 285C.240 if the sponsor of an enterprise zone has taken the actions and the firm has satisfied the requirements specified in ORS 285C.203. [2003 c.662 §40; 2010 c.39 §5]

**285C.215 First-source hiring agreements; rules.** (1) The qualified property of an authorized business firm may be exempt from property tax under ORS 285C.175 only if the firm enters into a first-source hiring agreement for the period of property tax exemption. The agreement must be executed prior to the assessment date for the first tax year for which qualified property of the firm is exempt under ORS 285C.175 and must expire no sooner than December 31 of the final year of the exemption.

(2)(a) If a firm has not entered into a first-source hiring agreement when qualified property of the firm is first placed in service, as of April 1 preceding the first tax year for which the authorized business firm claims an exemption for qualified property under ORS 285C.175, the sponsor shall inform the county assessor that an agreement under this section has not been executed.

(b) A publicly funded job training provider having knowledge of the date when qualified property of the firm is first placed in service may also inform the county assessor that an agreement under this section has not been executed.

(3) In accordance with rules adopted by the Oregon Business Development Department, the Director of the Oregon Business Development Department may waive the requirements of subsection (1) of this section

for an authorized business firm. The rules adopted by the department shall provide for a waiver under this subsection when the director finds that:

(a) The business firm is unable to employ persons referred under the agreement; or

(b) The waiver would further the goals and purposes of applicable state policies. [Formerly 285B.710]

### (Exemption Claim and Verification Procedures)

**285C.220 Exemption claims; contents; late filing; fees.** (1)(a) After January 1 and on or before April 1 of the assessment year immediately following the year in which qualified property in an enterprise zone is placed in service, and of each assessment year thereafter for which an exemption is sought, an authorized business firm may file a claim for the exemption allowed under ORS 285C.175.

(b) The claim shall be made by completing a form prescribed by the Department of Revenue and by filing the form with the county assessor. The firm shall furnish a copy of the claim to the sponsor.

(c) The firm shall also file a form described in this subsection after the final assessment year of the exemption period.

(2) A claim filed under this section shall contain all of the following:

(a) A statement that:

(A) The business firm satisfies the requirements of ORS 285C.200 as a qualified business firm; and

(B) The business firm has been authorized by the enterprise zone sponsor and the county assessor and has satisfied any commitments made in the firm's application for authorization or made as a condition of authorization. The date the application for authorization was submitted and approved shall be set forth in the statement.

(b) A statement confirming the continued eligibility of the firm under ORS 285C.135 or explaining any change in eligibility.

(c) A schedule setting forth the following employment data:

(A) The number of employees of the firm within the enterprise zone on the date the claim is filed under this section or April 1, whichever is earlier;

(B) The annual average number of employees of the firm within the enterprise zone during the preceding assessment year; and

(C) The annual average number of employees of the firm within the enterprise zone, averaged over the 12-month period pre-

ceding the date of the application for authorization.

(d) The annual average compensation for the previous assessment year of new employees hired by the firm within the enterprise zone, but only if:

(A) The firm is subject to annual compensation requirements under ORS 285C.160; and

(B) The claim is filed for a year that is not the first year for which a claim is filed under this section.

(e) Any attachments required under ORS 285C.225.

(f) For any qualified property listed on a property schedule included in a claim filed for a previous assessment year and that continues to be exempt for the current assessment year:

(A) Confirmation that there has been no change in the ownership, lease, location, disposition, operation, use or occupancy of the property; or

(B) In the case of a change in the ownership, lease, location, disposition, operation, use or occupancy of the property, an explanation of the change.

(g) Any other information required by the Department of Revenue.

(3) The business firm shall be prepared to verify any information set forth in a claim filed under this section. The statement made pursuant to subsection (2)(a) of this section shall be prima facie evidence that the firm is a qualified business firm.

(4) If the assessor determines the property for which exemption is sought satisfies the requirements of ORS 285C.175, the assessor shall grant the exemption for the tax year beginning July 1.

(5) The assessor shall provide copies of each claim for exemption filed under this section as directed by the Department of Revenue.

(6) If a claim for exemption relates to state-appraised industrial property as defined in ORS 306.126 and is filed with the Department of Revenue within the time required by subsection (1) of this section, the claim shall be deemed timely filed with the assessor. The Department of Revenue shall send a copy of the filed claim to the assessor.

(7)(a) Notwithstanding subsection (1) of this section, a claim may be filed under this section on or before June 1 of the assessment year if:

(A) The claim includes qualified property that, pursuant to ORS 285C.225, is required to be listed on a property schedule included with the claim form because the year for

which the claim is being filed is the first year for which the property is exempt under ORS 285C.175; and

(B) The claim is accompanied by a late filing fee equal to the greater of \$200 or one-tenth of one percent of the real market value of the qualified property listed on the property schedule accompanying the claim.

(b) An exemption may not be granted pursuant to a claim filed under this subsection if the claim is not accompanied by the late filing fee.

(8)(a) Notwithstanding subsection (1) of this section, a claim may be filed under this section on or before August 31 of the assessment year if:

(A) The claim does not include qualified property that, pursuant to ORS 285C.225, is required to be listed on a property schedule included with the claim; and

(B) The claim is accompanied by a late filing fee equal to the greater of:

(i) \$200; or

(ii) One-fiftieth of one percent of the real market value of the qualified property of the business firm multiplied by the number of 30-day periods from April 1 of the assessment year until the date the claim is filed. A period of less than 30 days shall constitute a 30-day period for purposes of this subparagraph.

(b) An exemption may not be granted pursuant to a claim filed under this subsection if the claim is not accompanied by the late filing fee.

(9) The value of the property used to determine the late filing fees under this section is appealable in the same manner as other determinations of value by the county assessor are appealable.

(10)(a) Notwithstanding subsection (1) of this section, a claim may be filed under this section on or before April 1 following the assessment year after the year in which the qualified property was placed in service.

(b) If a claim filed under this subsection is approved by the county assessor, the qualified property shall be exempt from property taxation only for those tax years that begin after the date the claim was filed under this subsection and for which the property otherwise qualifies for exemption under ORS 285C.050 to 285C.250.

(11) Any filing fee collected under this section shall be deposited to the county general fund.

(12) A claim may be filed under this section as of the dates prescribed in subsections (7), (8) and (10) of this section, regardless of any grounds for hardship under ORS 307.475. [Formerly 285B.722; 2015 c.36 §4]

**285C.225 Sponsor's addendum; property schedule; amendments.** (1) An exemption claim filed under ORS 285C.220 must, when applicable, include a sponsor's addendum setting forth any information required by the sponsor of the enterprise zone pursuant to ORS 285C.140 (5), 285C.150, 285C.155, 285C.160 or 285C.203.

(2) For the first tax year for which qualified property is exempt under ORS 285C.175, the claim filed under ORS 285C.220 must include a property schedule listing the qualified property.

(3)(a) The business firm is required to include the property schedule described in subsection (2) of this section with a claim filed under ORS 285C.220 only once for any item of qualified property. The firm shall include additional property schedules with subsequent claims in order to claim exemption of additional qualified property that is pursuant to the same application for authorization.

(b) The firm may not file an additional property schedule to claim an exemption for additional qualified property for a tax year that is more than two years after the first tax year for which any qualified property of the firm was exempt under ORS 285C.175, except pursuant to another authorization application.

(4) The property schedule shall be set forth on a form prescribed by the Department of Revenue and shall contain:

(a) A list of all qualified property that satisfies all requirements for exemption under ORS 285C.175 for the tax year for which the exemption is being claimed and that has not been exempt under ORS 285C.175 for a previous tax year;

(b) For each item of property described in paragraph (a) of this subsection, the cost of the property and the date the property was placed in service;

(c) Any information needed to determine compliance with any applicable requirements under ORS 285C.180, 285C.185 or 285C.190;

(d) In the case of qualified property that is leased by the business firm, a signature on the property schedule or other evidence that the enterprise zone exemption is acknowledged by the owner of the leased property; and

(e) Any other information required by the Department of Revenue.

(5) The county assessor may allow the business firm to amend the property schedule to include any other item of qualified property described in subsection (2) of this section that was not listed on the original property schedule included in the claim filed

for the assessment year. An amendment to the property schedule may not be made after June 1 of the assessment year. [2003 c.662 §43; 2010 c.39 §6]

**285C.230 Assessor to grant or deny exemption; assistance of sponsor.** (1) In granting or denying an exemption under ORS 285C.175, the county assessor may:

(a) Reasonably rely on information set forth in the exemption claim filed under ORS 285C.220; and

(b) Request and be given assistance from the sponsor before making certain determinations, including but not limited to:

(A) Determining if the exemption is being claimed by a qualified business firm under ORS 285C.200;

(B) Determining the extent to which qualified property is used by persons other than the qualified business firm or is used for business activities that may not be conducted in an enterprise zone by an eligible business firm under ORS 285C.135; or

(C) Determining if the use, leasing or location of qualified property satisfies applicable requirements under ORS 285C.180, 285C.185 or 285C.190.

(2) The county assessor is not responsible for determining if the firm has satisfied any requirement established by the sponsor under ORS 285C.140, 285C.150, 285C.155, 285C.160, 285C.203 or 285C.205.

(3) If a business firm fails to timely file an exemption claim under ORS 285C.220:

(a) The assessor or the sponsor may use the authority granted to the assessor under ORS 285C.235; or

(b) The assessor may deny the exemption under ORS 285C.175 for the current tax year or for any future tax year for which the property would otherwise qualify for exemption under ORS 285C.175.

(4) If the sponsor or the assessor has reason to question the accuracy or veracity of any information contained in a claim filed under ORS 285C.220, the sponsor or the assessor may use the authority provided under ORS 285C.235.

(5) If any information submitted by a business firm under ORS 285C.220 indicates that the firm is no longer in compliance with any requirements that apply to the firm or the qualified property of the firm, the information shall be considered notice for purposes of ORS 285C.240.

(6) The county assessor shall make reasonable and timely efforts to notify an authorized business firm that is seeking or receiving an exemption under ORS 285C.175 of the filing requirements under ORS

285C.220, but the county assessor and the Department of Revenue are not under any obligation other than as otherwise provided in ORS 285C.050 to 285C.250 to seek or receive information about the continued entitlement of property to an exemption under ORS 285C.175.

(7) The sponsor is primarily responsible for assisting a business firm in timely filing claims under ORS 285C.220. If the sponsor, or a local zone manager designated by the sponsor, does not receive a copy of the claim as required under ORS 285C.220 by the time the claim is required to be filed under ORS 285C.220, the sponsor or manager shall immediately contact the assessor for taking action under subsection (3) of this section. [2003 c.662 §44; 2010 c.39 §7]

**285C.235 Authority of county assessor; authority of sponsor.** (1) The county assessor is at all times authorized to demand reports by registered or certified mail from owners or lessees of qualified property concerning the use of the qualified property and the employment status of the qualified business firm for purposes of ORS 285C.050 to 285C.250. If, after 60 days' notice in writing by registered or certified mail, the owner or lessee fails to comply with this demand, the assessor may disqualify the property under ORS 285C.240, giving written notice of the disqualification to the Department of Revenue and the owner or lessee of the qualified property.

(2) The assessor is under no obligation to verify compliance by a qualified business firm with requirements imposed on the firm by the sponsor under ORS 285C.150, 285C.155, 285C.160, 285C.203 or 285C.205.

(3) The sponsor of an enterprise zone may initiate procedures in order to verify compliance by qualified business firms with requirements imposed under ORS 285C.050 to 285C.250. The procedures may include written requests to the assessor by the local zone manager or an executive official of the sponsor that the assessor exercise authority under this section for a particular qualified business firm. [2003 c.662 §45; 2010 c.39 §8]

#### (Disqualification From Exemption)

**285C.240 Disqualification; notice and procedures; in lieu payments and additional taxes; penalty; use of moneys.** (1) The county assessor of any county in which an enterprise zone is situated or the sponsor shall be notified in writing by the qualified business firm or by the owner of the qualified property leased by the qualified business firm not later than July 1 following the assessment year for which the exemption is claimed and in which one of the following events occurs:



(a) Property granted exemption from taxation under ORS 285C.175 is sold, exchanged, transported or otherwise disposed of for use outside the enterprise zone or for use by an ineligible business firm;

(b) The qualified business firm closes or so reduces eligible operations that the reduction constitutes a substantial curtailment of operations under ORS 285C.210, unless a substantial curtailment of operations is permitted under ORS 285C.200 (2);

(c) The qualified business firm fails to meet any of the qualifications required under ORS 285C.200;

(d) The qualified business firm fails to meet any condition that the firm is required to satisfy under ORS 285C.150, 285C.155, 285C.203 or 285C.205 or any term of an agreement entered into with the sponsor under ORS 285C.160 with which the firm had agreed to comply;

(e) The qualified business firm uses the property to conduct activities in the enterprise zone that are not eligible activities; or

(f) Property of the qualified business firm for which exemption under ORS 285C.175 is claimed ceases to be qualified property under ORS 285C.180.

(2) If the sponsor receives written notice under subsection (1) of this section, the sponsor shall immediately send a copy of the notice to the county assessor of the county in which the enterprise zone is situated.

(3)(a) When an assessor receives written notice under subsection (1) or (2) of this section, the assessor shall disqualify the property for the assessment year following the disqualifying event and 100 percent of the additional taxes calculated under ORS 285C.175 shall be assessed against the property for each year for which the property had been granted exemption under ORS 285C.175.

(b) Notwithstanding paragraph (a) of this subsection, if a qualified business firm fails to meet any of the requirements of an agreement entered into by the firm under ORS 285C.160 during the exemption, but meets all other applicable requirements under ORS 285C.050 to 285C.250 during the first three years of the exemption, the qualified property of the firm may not be disqualified during the first three years of exemption for failure to comply with the requirements of the agreement entered into under ORS 285C.160.

(c) The additional taxes assessed under this subsection shall be reduced by the amount, if any, paid by the qualified business firm to the sponsor under subsection (6) of this section for the same property.

(4) If the qualified business firm or owner fails to give the notice on time or at all as

required by subsection (1) of this section, upon discovering the property no longer qualifies for the exemption due to a circumstance described in subsection (1) of this section, the assessor shall:

(a) Disqualify the property from exemption;

(b) Compute the amount of taxes described in subsection (3) of this section as though notice had been given, and add to that amount an additional penalty equal to 20 percent of the total amount so computed; and

(c) Add the property to the assessment and tax roll without the exemption as if the notice had been given.

(5) The amount determined to be due under subsections (3) and (4) of this section:

(a) May be paid to the tax collector before completion of the next general property tax roll pursuant to ORS 311.370; and

(b) Shall be added to the tax extended against the property on the next general property tax roll to be collected and distributed in the same manner as the remainder of the property taxes.

(6)(a) Notwithstanding subsections (3) and (5) of this section, if an assessor or sponsor receives notice from a business firm under subsection (1)(b), (c) or (d) of this section and the qualified business firm has not closed its operations, the qualified business firm shall pay the sponsor an amount equal to the property taxes for the qualified property in the assessment year for which the exemption is claimed in lieu of the amounts otherwise due under subsection (3) of this section.

(b) Moneys collected under paragraph (a) of this subsection shall be used by the sponsor to benefit the residents of the enterprise zone and for the development of jobs, skills and training for residents of the enterprise zone and the zone's immediate vicinity.

(c) This subsection applies only to the first notice given by the business firm under subsection (1)(b), (c) or (d) of this section.

(d) If the sponsor does not receive the full amount to be paid by the qualified business firm under paragraph (a) of this subsection, the assessor shall disqualify the property and impose the entire amount of additional taxes as prescribed under subsection (3) of this section.

(7) An assessor may not disqualify property under this section for failure by a qualified business firm or an owner of qualified property leased by the qualified business firm to notify the assessor or the enterprise zone sponsor that the qualified business firm does not meet requirements under ORS 285C.150,

285C.155, 285C.160 or 285C.205, without having received written communication from the sponsor that demonstrates that the qualified business firm does not meet the requirements.

(8) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.

(9) If property is disqualified from exemption under this section, the assessor shall notify the qualified business firm, and the owner of any qualified property that is leased by the firm, of the disqualification. The notification shall be made in writing. The assessor shall provide copies of the disqualification to the sponsor, the Department of Revenue and the Oregon Business Development Department. The decision of the assessor to disqualify property under this section may be appealed to the Oregon Tax Court under ORS 305.404 to 305.560. [Formerly 285B.728; 2010 c.39 §9]

#### (Termination of Enterprise Zone)

**285C.245 Termination; effect of termination on property; procedures.** (1) When the termination of an enterprise zone occurs under this section:

(a) The termination of the enterprise zone does not affect:

(A) The continuation of a qualified business firm's property tax exemption first allowed before the effective date of the termination of the enterprise zone; or

(B) The ability of an authorized business firm to claim exemption under ORS 285C.175 if:

(i) The authorization application of the firm was filed with the sponsor before the effective date of the termination of the zone;

(ii) The firm remains authorized at the time the exemption is claimed;

(iii) The firm completes construction, addition, modification or installation of the qualified property within a reasonable time and without interruption of construction, addition, modification or installation activity; and

(iv) The property meets all other applicable requirements for exemption under ORS 285C.175.

(b) A business firm that is currently authorized or qualified in the enterprise zone shall be allowed until 10 years after the effective date of the termination of the enterprise zone to apply for authorization under ORS 285C.140 and to subsequently claim the exemption for any qualified property that is constructed, added, modified or installed inside the former enterprise zone boundaries,

as those boundaries existed at the time of termination, and entirely outside of the boundaries of any current enterprise zone. Construction, addition, modification or installation of qualified property must commence prior to the end of the final tax year in which qualified property of the firm is exempt under ORS 285C.175 and must be completed within a reasonable time and without interruption of construction, addition, modification or installation activity. The property must meet all other applicable requirements for exemption under ORS 285C.175.

(c) Disqualification under ORS 285C.240 of all exempt property of the business firm after the effective date of the termination of the enterprise zone shall prohibit and terminate all authorizations sought or obtained by the business firm that would not otherwise be allowed except for paragraph (b) of this subsection. Disqualification under ORS 285C.240 of all exempt property of the business firm on or after the effective date of the termination of the enterprise zone shall cause the assessor to deny any claim for exemption under ORS 285C.175 of qualified property of the business firm made in a subsequent tax year.

(2) An enterprise zone designated under ORS 285C.050 to 285C.250 shall terminate when 10 years plus that number of days necessary to delay the date of termination to the June 30 next following have elapsed since the effective date of the designation.

(3) An enterprise zone designated under ORS 285C.050 to 285C.250 shall terminate prior to the time specified in subsection (2) of this section only as provided in subsections (4) and (5) of this section.

(4) The governing body of the sponsor may submit a resolution requesting termination of the enterprise zone to the Oregon Business Development Department. The sponsor shall provide copies of the resolution to the county assessor and the Department of Revenue. After receipt of the request, the Director of the Oregon Business Development Department shall order termination of the enterprise zone and shall specify the effective date of the termination.

(5) If a sponsor is unable or unwilling to carry out its responsibilities under ORS 285C.105, the director shall order termination of the enterprise zone and shall specify the effective date of the termination. However, in the case of failure to provide enhanced local public services, local incentives or local regulatory flexibility that the sponsor has established under ORS 285C.105, termination is not required if the sponsor provides to any affected authorized or qualified business firms new enhanced local public services, lo-

cal incentives or local regulatory flexibility of comparable value, or makes reasonable corrections of shortcomings in existing local incentives. A sponsor may reduce the time within which it will provide enhanced local public services, local incentives and local regulatory flexibility to a time period equal to the amount of time allowed for an exemption under ORS 285C.175 without causing termination under this section.

(6) A reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306 shall terminate in accordance with subsection (2) of this section, but may be redesignated at any time under ORS 285C.306. [Formerly 285B.686; 2010 c.76 §21; 2015 c.648 §23]

**285C.250 Redesignation or designation of new zone following zone termination.**

(1)(a) Within a reasonable period of time prior to the termination of an enterprise zone under ORS 285C.245 (2), the sponsors of the enterprise zone may redesignate the enterprise zone in accordance with ORS 285C.065 and 285C.074, except that the redesignation shall take effect no sooner than the date of termination.

(b) The sponsor of an enterprise zone terminated under ORS 285C.245 (4) or (5) is not eligible to redesignate an enterprise zone or designate a new enterprise zone for a period not to exceed 10 years after the zone is terminated.

(c) Paragraph (b) of this subsection does not apply to a county government if the terminated zone was also jointly sponsored by one or more cities or ports.

(2) Enterprise zones redesignated under this section are subject to ORS 285C.245. [Formerly 285B.689; 2005 c.94 §10; 2005 c.704 §12; 2009 c.33 §5; 2012 c.71 §3; 2015 c.648 §24]

**(Sunset Date)**

**285C.255 Sunset of enterprise zone program.** (1) Notwithstanding any other provision of ORS 285C.050 to 285C.250:

(a) An area may not be designated as an enterprise zone after June 30, 2025;

(b) A business firm may not obtain authorization under ORS 285C.140 after June 30, 2025; and

(c) An enterprise zone, except for a reservation enterprise zone or a reservation partnership zone, that is in existence on June 29, 2025, is terminated on June 30, 2025.

(2) Notwithstanding subsection (1) of this section:

(a) A reservation enterprise zone may be designated, and a reservation partnership zone may be cosponsored, under ORS 285C.306 after June 30, 2025; and

(b) A business firm may obtain authorization under ORS 285C.140 after June 30, 2025:

(A) If located in a reservation enterprise zone or a reservation partnership zone; or

(B) As allowed under ORS 285C.245 (1)(b). [2003 c.662 §49; 2007 c.888 §1; 2010 c.76 §22; 2011 c.375 §1]

**Note:** 285C.255 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285C.260** [Formerly 285B.731; renumbered 285C.045 in 2005]

**RESERVATION ENTERPRISE ZONES;  
RESERVATION PARTNERSHIP ZONES**

**285C.300 Definitions for ORS 285C.300 to 285C.320.** As used in ORS 285C.300 to 285C.320:

(1) “Eligible business” means a business that:

(a) Is engaged within a reservation enterprise zone or a reservation partnership zone in the manufacture or provision of goods, products or services to other businesses or to the general public, through activities including, but not limited to, manufacturing, assembly, fabrication, processing, shipping, storage, retail sales or services, child care, housing, retail food service, health care, tourism, entertainment, financial services, professional services, energy development, construction or similar activities; and

(b) Occupies or owns a new business facility within a reservation enterprise zone or a reservation partnership zone.

(2) “New business facility”:

(a) Means a physical asset within a reservation enterprise zone or a reservation partnership zone that satisfies the following requirements:

(A) The facility is used by a business in the operation of a revenue-producing enterprise, except that the revenue-producing enterprise must consist of activity other than leasing the facility to another person; and

(B) The facility is acquired by or leased to a business on or after January 1, 2002, including a facility, the title or possession of which is transferred to the business on or after January 1, 2002, or a facility, the construction, erection or installation of which is completed on or after January 1, 2002;

(b) Subject to paragraph (c) of this subsection, includes a facility acquired or leased from a person that used the facility in a revenue-producing enterprise within the boundaries of the same Indian reservation

immediately prior to the transfer of title or possession of the facility to the business; and

(c) Does not include:

(A) A facility that is used in a revenue-producing enterprise that is the same or substantially identical to the revenue-producing enterprise in which the facility was previously used within the boundaries of the same Indian reservation; or

(B) Any property that merely replaces existing property and that does not expand the capacity of the revenue-producing enterprise in which the facility is to be used.

(3) "Reservation enterprise zone" means an enterprise zone designated under ORS 285C.306.

(4) "Reservation partnership zone" means an enterprise zone cosponsored under ORS 285C.306.

(5) "Tribal government" means the governing body of an Indian tribe, if the governing body has the authority to levy, impose and collect taxes within the boundaries of the reservation of the tribe.

(6) "Tribal tax" means any specific tax that is or may be levied or imposed by a tribal government upon a business and that is measured with reference to a specific level or quantity of that business's income, operations, use or ownership of property. "Tribal tax" includes, but is not limited to, an income or excise tax, an ad valorem property tax, a gross receipts tax or a sales and use tax. [Formerly 285B.766; 2010 c.76 §23]

**285C.303 Legislative findings.** The Legislative Assembly finds that the welfare of the residents of the rural Indian reservations of this state is acutely dependent upon the growth, development and expansion of employment and business opportunities within reservation boundaries. Geographic and other obstacles have made it difficult for rural Indian reservations to attract and retain private business investment. The tax systems of this state, by subjecting businesses located within reservation boundaries to state taxation in addition to any taxation imposed by the reservations themselves, has heightened the economic isolation of this state's rural reservations and impeded the efforts of Indian tribes to develop sufficient tax bases to fund essential governmental services on their reservations. The Legislative Assembly further finds that it is in the best interests of this state to create equality that will enable rural Indian reservations to attract and retain private business investment. The Legislative Assembly declares that it is the purpose of ORS 285C.300 to 285C.320 to remove the tax disincentives that currently inhibit private business and industry from locating and operating enterprises within the

boundaries of the rural Indian reservations of this state. [Formerly 285B.767]

**285C.306 Reservation enterprise zones and reservation partnership zones.** (1) As used in this section, "eligible Indian tribe" means each of the Burns Paiute Tribe, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Warm Springs, the Coquille Indian Tribe, the Cow Creek Band of Umpqua Tribe of Indians and the Klamath Tribes, as long as each remains a federally recognized Indian tribe.

(2)(a) The government of an eligible Indian tribe may request the Oregon Business Development Department to designate one reservation enterprise zone. The reservation enterprise zone may cover an area of no more than 12 square miles, which does not have to be contiguous.

(b) Upon request, the department shall designate a reservation enterprise zone if the land for which zone designation is sought is:

(A) Land held in trust by the United States for the benefit of the tribe;

(B) Land for which an application to transfer the land into trust has been filed with the federal government and is pending; or

(C) Land that is located within the boundaries of the tribe's reservation.

(c) Land designated as a reservation enterprise zone pursuant to paragraph (b)(A) or (B) of this subsection may be outside the boundaries of the tribe's reservation.

(3)(a) The government of an eligible Indian tribe may cosponsor a reservation partnership zone comprising an area of up to 12 square miles. A reservation partnership zone includes lands within the jurisdiction of a cosponsoring city, county or port and may include both lands held in trust by the federal government for the benefit of the tribe and lands within the boundaries of the tribe's reservation.

(b) A reservation partnership zone must be cosponsored by the government of an eligible Indian tribe and a city, county or port pursuant to an agreement formed under ORS 190.110 to perform the duties imposed on a sponsor under ORS 285C.050 to 285C.250. [Formerly 285B.770; 2005 c.704 §3; 2007 c.71 §86; 2009 c.743 §1]

**285C.309 Income tax credit for new business facility in reservation enterprise zone or reservation partnership zone.** (1) A credit against the taxes that are otherwise

due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to an eligible business operating a new business facility in a reservation enterprise zone or a reservation partnership zone.

(2) The amount of the credit allowed to the eligible business shall equal:

(a) The amount of tribal property tax imposed on a new business facility of an eligible business that is paid or incurred by the eligible business during the income or corporate excise tax year of the eligible business; or

(b) If the eligible business has not previously conducted business operations within the reservation enterprise zone or reservation partnership zone, the amount of tribal tax paid or incurred by the eligible business during the income or corporate excise tax year of the eligible business.

(3) The credit allowed to the eligible business may not exceed the tax liability of the eligible business for the tax year and may not be carried over to another tax year.

(4) A credit is allowable under this section only to the extent the tribal tax on which the credit is based is imposed on businesses not owned by Indians on a uniform basis within the territory over which the tribal government has the authority to levy, impose and collect taxes.

(5) The credit shall be claimed on a form prescribed by the Department of Revenue containing the information required by the department, including information sufficient for the department to determine that the taxpayer is an eligible business and that the facility operated by the business is a new business facility.

(6) An eligible nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (1) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(7) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(8) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(9) An eligible business claiming a credit under this section shall maintain records

sufficient to authenticate the allowance of the credit claimed under this section and shall furnish the department with these records upon the request of the department.

(10) A credit claimed by an eligible business may not be disallowed solely because the eligible business conducts business operations both within and outside of a reservation enterprise zone or a reservation partnership zone. [Formerly 285B.773; 2010 c.76 §24]

**Note:** Section 21, chapter 913, Oregon Laws 2009, provides:

**Sec. 21.** A credit may not be claimed under ORS 285C.309 for tax years beginning on or after January 1, 2018. [2009 c.913 §21; 2010 c.76 §28]

**285C.320 Status of reservation enterprise zone and reservation partnership zone; sponsor.** (1) A reservation enterprise zone and a reservation partnership zone are rural enterprise zones for purposes of ORS 285C.050 to 285C.250.

(2) Reservation enterprise zones and reservation partnership zones may not be taken into account in determining the number of rural enterprise zones allowable in this state under ORS 285C.050 to 285C.250, and are not subject to numerical limitation under ORS 285C.050 to 285C.250.

(3) Exemptions and tax credits available in connection with an enterprise zone are available in connection with a reservation enterprise zone or a reservation partnership zone. In order for property within a reservation enterprise zone or a reservation partnership zone to be exempt under ORS 285C.175, the business firm and property must meet the requirements applicable to business firms and property in an enterprise zone.

(4) As used in this section, "business firm" has the meaning given that term in ORS 285C.050. [Formerly 285B.776; 2005 c.94 §11; 2009 c.743 §2; 2010 c.76 §25]

### **RURAL RENEWABLE ENERGY DEVELOPMENT ZONES**

**285C.350 Definitions for ORS 285C.350 to 285C.370.** As used in ORS 285C.350 to 285C.370:

(1) "Applicant" means the city, county or group of counties applying for designation of territory as a rural renewable energy development zone.

(2) "Renewable energy" means electricity that is generated through use of a renewable energy resource, as defined in ORS 469B.130, or a liquid, gaseous or solid fuel for commercial sale or distribution that is one of the following:

(a) A biofuel, such as biodiesel or ethanol, as those terms are defined in ORS 646.905, that is derived from an organic

source. As used in this paragraph, "biofuel" includes, but is not limited to, raw biomass harvested for biofuel or suitable by-products, residue from agriculture, forestry or other industries and residue from commercial or municipal waste collection.

(b) A fuel additive that has been verified under the United States Environmental Protection Agency's Environmental Technology Verification Program or the California Air Resources Board verification program and is composed of at least 90 percent renewable materials.

(3) "Rural area" means an area in the state that is not within the urban growth boundary of a city with a population of 30,000 or more. [2003 c.662 §69; 2005 c.94 §12; 2007 c.739 §9]

**285C.353 Designation of rural renewable energy development zones; requirements; multiple designations; zone sponsor.** (1) A county, a city in a rural area or a combination of contiguous counties may apply to the Director of the Oregon Business Development Department for designation of the entire territory of the applicant that is located in a rural area as a rural renewable energy development zone.

(2) An application for designation of a rural renewable energy development zone shall be in such form and shall contain such information as the Oregon Business Development Department prescribes by rule. The application shall include a copy of the resolution of the governing body of the city or each county that constitutes the applicant that states that the city or county seeks rural renewable energy development zone designation.

(3) The director shall approve designation of the territory of the applicant as a rural renewable energy development zone, excluding any territory of an applicant that is not within a rural area at the time of designation.

(4)(a) The designation of an area as a rural renewable energy development zone authorizes the exemption of up to an amount, determined as prescribed in paragraph (d) of this subsection, in real market value of property described in ORS 285C.359 that meets the requirements for exemption under ORS 285C.362.

(b) An applicant may seek subsequent additional designations under this section. An application for additional designation shall be made in the same manner as an application for initial designation, and shall be approved by the director if the application for additional designation meets the qualifications for designation under subsection (3) of this section.

(c) Each additional designation approved under this section authorizes the exemption of a new amount, determined as prescribed in paragraph (d) of this subsection, in real market value of property described in ORS 285C.359 that meets the requirements for exemption under ORS 285C.362.

(d) Each amount authorized for exemption under this section shall be determined as follows:

(A) The amount shall be set forth in the resolution described in subsection (2) of this section.

(B) If no amount is specified in the resolution described in subsection (2) of this section, the amount shall be \$250 million.

(C) The amount may not exceed \$250 million for any single designation under this section.

(D) The amount applies only to exemptions first claimed for a tax year that begins after January 1 following the date of adoption of the resolution described in subsection (2) of this section.

(5) If an application for designation was made by one city or county, that city or county shall serve as sponsor of the rural renewable energy development zone. If the application for designation was made by two or more counties, the application shall identify which county shall serve as the sponsor of the zone. [2003 c.662 §70; 2005 c.595 §4; 2007 c.739 §9a]

**285C.356 Application for authorization.** (1) Following designation of a rural renewable energy development zone, an eligible business firm seeking an exemption under ORS 285C.362 may apply for authorization under ORS 285C.140.

(2) The firm shall include a written description of the locations, extent and expected real market value of the proposed renewable energy development project.

(3) The firm shall be authorized if the firm would otherwise be authorized under ORS 285C.140, but the authorization is limited to investments in the renewable energy development project described in the application submitted by the firm. [2003 c.662 §71]

**285C.359 Qualified property.** Property shall qualify for exemption under ORS 285C.362 if the property meets all of the following requirements:

(1) The property constitutes all or a part of a facility used to generate renewable energy or is used to support or maintain a renewable energy facility;

(2) The property is newly constructed or installed in the rural renewable energy development zone; and

(3) The property meets all other requirements for qualification under ORS 285C.180. [2003 c.662 §72]

**285C.362 Exemption; requirements; duration.** (1) Property of an authorized business firm is exempt from ad valorem property taxation if:

(a) The property is qualified property under ORS 285C.359;

(b) The firm meets the qualifications under ORS 285C.200; and

(c) The firm has entered into a first-source hiring agreement under ORS 285C.215.

(2) Notwithstanding subsection (1)(b) of this section, property that otherwise qualifies under subsection (1) of this section is exempt from ad valorem property taxation if:

(a) At the time the zone sponsor approves the application of the firm for authorization pursuant to ORS 285C.356, the governing body of the zone sponsor adopts a resolution waiving the requirements of ORS 285C.200 (1)(c) and (e) with respect to the application; and

(b) The firm completes an investment of \$5 million or more in qualified property.

(3)(a) Property described in subsection (1) or (2) of this section is exempt from ad valorem property taxation only to the extent the real market value of the property, when added to the real market value of all other property in the rural renewable energy development zone that has received an exemption under this section, is less than the exemption authorization level established for the zone under ORS 285C.353 (4).

(b) For purposes of this subsection, real market value shall be determined as of the assessment date for the first year that property is exempt under this section.

(4) The exemption allowed under this section applies to the first tax year for which, as of January 1 preceding the tax year, the qualified property is in service. The exemption shall continue for the next two succeeding tax years if the property continues to be owned or leased by the business firm, operated to generate renewable energy or to support or maintain renewable energy facilities, and located in the rural renewable energy development zone.

(5)(a) The exemption allowed under this section may continue for up to two additional tax years consecutively following the tax years described in subsection (4) of this section if authorized by a written agreement entered into by the firm and the sponsor under ORS 285C.160.

(b) Notwithstanding ORS 285C.160, a contiguous county that applied for a rural

renewable energy development zone designation may elect to not participate in a two-year extension of the exemption under this subsection. The election shall be made by resolution of the governing body of the contiguous county on or before execution of the written agreement between the firm and the sponsor under ORS 285C.160. [2003 c.662 §73; 2013 c.385 §1]

**285C.365 Application of enterprise zone laws.** Except where inconsistent with the provisions of ORS 285C.350 to 285C.370, the provisions of ORS 285C.050 to 285C.250 apply to rural renewable energy development zones as if rural renewable energy development zones were enterprise zones, and to the exemption or disqualification from exemption of property located in rural renewable energy development zones. [2003 c.662 §74]

**285C.370 Rules.** The Oregon Business Development Department may adopt rules for implementing and administering ORS 285C.350 to 285C.370, including rules that define terms. [2003 c.662 §75]

#### LONG TERM TAX INCENTIVES FOR RURAL ENTERPRISE ZONES

**285C.400 Definitions for ORS 285C.400 to 285C.420.** As used in ORS 285C.400 to 285C.420:

(1) "Business firm" has the meaning given that term in ORS 285C.050.

(2) "Certified business firm" means a business firm that has been certified under ORS 285C.403.

(3) "County with chronically low income or chronic unemployment" means, based on the most recently revised annual average unemployment rate or annual per capita income levels available, a county in which:

(a) The median ratio of the per capita personal income of the county to the equivalent annual personal income figure of the entire United States for each year, as reported by the Bureau of Economic Analysis of the United States Department of Commerce, is equal to or less than 0.75 over the last 10 years;

(b) The median ratio of the unemployment rate of the county to the equivalent rate of the entire United States for each year is at least 1.3 over the last 20 years or over the last 10 years; or

(c) The population of the county has experienced a negative net migration, irrespective of natural population change, since the most recent federal decennial census occurring three or more years prior to the current estimated population figure for the county, based on available population statistics.

(4) "Facility" means the land, real property improvements and personal property that are used:

(a) At a location in a rural enterprise zone that is identified in the application for certification under ORS 285C.403; and

(b) In those business operations of the business firm that are the subject of the application for certification under ORS 285C.403.

(5) "Rural enterprise zone" has the meaning given that term in ORS 285C.050. [Formerly 285B.781; 2005 c.94 §13]

**285C.403 Certification of business firm; application; review; appeal.** (1) Any business firm proposing to apply for the tax exemption provided under ORS 285C.409 shall, before the commencement of construction or installation of property or improvements at a location in a rural enterprise zone and before the hiring of employees, apply for certification with the sponsor of the zone and with the county assessor of the county or counties in which the zone is located. The application shall be made on a form prescribed by the Department of Revenue.

(2) The application shall contain the following information:

(a) A description of the firm's proposed business operations and facility in the rural enterprise zone;

(b) A description and estimated cost or value of the property or improvements to be constructed or installed at the facility;

(c) An estimate of the number of employees at the facility that will be hired by the firm;

(d) A commitment to meet the applicable requirements of ORS 285C.412;

(e) A commitment to satisfy all additional conditions agreed to pursuant to the written agreement between the rural enterprise zone sponsor and the business firm under subsection (3)(c) of this section; and

(f) Any other information considered necessary by the Department of Revenue.

(3) The sponsor and the county assessor shall certify the business firm by approving the application if the sponsor and the county assessor determine that all of the following requirements have been met:

(a) The governing body of the county and city in which the facility is located has adopted a resolution approving the property tax exemption for the facility.

(b) The business firm has committed to meet the applicable requirements of ORS 285C.412.

(c) The business firm has entered into a written agreement with the sponsor of the

rural enterprise zone that may include any additional requirements that the sponsor may reasonably request, including but not limited to contributions for local services or infrastructure benefiting the facility. The written agreement shall state the number of consecutive tax years for which the facility, following commencement of operations, is to be exempt from property tax under ORS 285C.409. The agreement may not provide for a period of exemption that is less than seven consecutive tax years or more than 15 consecutive tax years. If the agreement is silent on the number of tax years for which the facility is to be exempt following placement in service, the exemption shall be for seven consecutive tax years.

(d) The facility is located in a county with chronically low income or chronic unemployment, based on the most recently revised annual data available when the written agreement with the zone sponsor is executed.

(4) The approval of an application by both the sponsor and the county assessor under subsection (3) of this section shall be prima facie evidence that the business firm will qualify for the property tax exemption under ORS 285C.409.

(5) The sponsor and the county assessor shall provide copies of an approved application to the applicant, the Department of Revenue and the Oregon Business Development Department.

(6) If the sponsor or the county assessor fails or refuses to certify the business firm, the business firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall provide copies of the firm's appeal to the sponsor, the county assessor, the Oregon Business Development Department and the Department of Revenue. [Formerly 285B.783; 2005 c.94 §14]

**285C.406 Claiming property tax exemption or income tax credit.** In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or a corporate excise or income tax credit under ORS 317.124:

(1) The written agreement between the business firm and the rural enterprise zone sponsor that is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise zone under ORS 285C.245; and

(2)(a) For the purpose of the property tax exemption, the business firm must obtain certification under ORS 285C.403 on or before June 30, 2025; or

(b) For the purpose of the corporate excise or income tax credit, the business firm



must obtain certification under ORS 285C.403 on or before June 30, 2018. [Formerly 285B.796; 2005 c.94 §15; 2005 c.667 §3; 2007 c.888 §2; 2009 c.913 §2; 2011 c.375 §2; 2011 c.730 §6]

**285C.409 Property tax exemption; requirements; duration.** (1) A facility of a certified business firm is exempt from ad valorem property taxation:

(a) For the first tax year following the calendar year in which the business firm is certified under ORS 285C.403 or after which construction or reconstruction of the facility commences, whichever event occurs later;

(b) For each subsequent tax year in which the facility is not yet in service as of the assessment date; and

(c) For a period of at least seven consecutive tax years but not more than 15 consecutive tax years, as provided in the written agreement between the business firm and the rural enterprise zone sponsor under ORS 285C.403 (3)(c), if the facility satisfies the requirements of ORS 285C.412. The period described in this paragraph shall commence as of the first tax year in which the facility is in service as of the assessment date.

(2) An exemption under this section may not be allowed for real or personal property that has received a property tax exemption under ORS 285C.170 or 285C.175.

(3) For each tax year that the facility is exempt from taxation under this section, the county assessor shall:

(a) Enter on the assessment and tax roll, as a notation, the real market value and assessed value of the facility.

(b) Enter on the assessment and tax roll, as a notation, the amount of tax that would be due if the facility were not exempt.

(c) Indicate on the assessment and tax roll that the property is exempt and is subject to potential additional taxes as provided in ORS 285C.420 by adding the notation "enterprise zone exemption (potential additional tax)."

(4) The amount determined under subsection (3)(b) of this section and the name of the business firm shall be reported to the Department of Revenue on or before December 31 of each tax year so that the department may compute the distributions described in ORS 317.131.

(5) The following property may not be exempt from property taxation under this section:

(a) Land.

(b) Any property that existed at the facility on an assessment date before the assessment date for the first tax year for which property of the firm is exempt under this section. [Formerly 285B.786; 2005 c.94 §16]

**285C.412 Conditions for continued exemption.** In order for a facility of a business firm to continue to be exempt from ad valorem property taxation under ORS 285C.409 for a tax year following the first assessment date on which the facility is in service, all of the conditions of any one of the alternative subsections in this section must be met:

(1) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds the lesser of \$25 million or one percent of the real market value of all nonexempt taxable property in the county in which the facility is located, as determined for the assessment year in which the business firm is certified (and rounded to the nearest \$10 million of such value);

(b) The business firm hires or will hire at least 75 full-time employees at the facility by the end of the fifth calendar year following the year in which the facility is placed in service; and

(c) The annual average compensation for employees, based on payroll, at the business firm's facility is at least 150 percent of the average wage in the county in which the facility is located. This requirement may be initially met in any year during the first five years after the year in which operation of the facility begins, and thereafter is met if the annual average compensation at the facility for the year exceeds the average wage in the county for the year in which the requirement is initially met.

(2) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) The facility meets the total cost requirements set forth in subsection (1)(a) of this section;

(b) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section; and

(c)(A) The business firm hires or will hire at least 10 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is certified, the location of the facility is in a county with a population of 10,000 or fewer; or

(B) The business firm hires or will hire at least 35 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is certified, the location of the facility is in a county with a population of 40,000 or fewer.

(3) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds the lesser of \$12.5 million or one-half of one percent of the real market value of all nonexempt taxable property in the county in which the facility is located, as determined for the assessment year in which the business firm is certified (and rounded to the nearest \$10 million of such value);

(b) At the time that the business firm is certified, the location of the facility is 10 or more miles from Interstate Highway 5, as measured between the two closest points between the facility site and anywhere along that interstate highway;

(c) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section; and

(d)(A) The business firm hires or will hire at least 50 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service; or

(B) The business firm satisfies the requirements of subsection (2)(c)(A) or (B) of this section.

(4) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) Within three years either before or after the property tax year in which the facility is placed in service, the business firm places one or more other facilities in the same or another enterprise zone for which the business firm is certified and otherwise meets the requirements of ORS 285C.400 to 285C.420;

(b) The total cost of all facilities of the business firm exceeds \$25 million by the end of the calendar year in which the last such facility is placed in service;

(c) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section independently for each facility of the firm; and

(d) The business firm hires or will hire a total of at least 100 full-time employees at all of the firm's facilities by the end of the fifth

calendar year following the year in which the first such facility is placed in service.

(5) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds \$200 million;

(b) At the time that the business firm is certified, the location of the facility meets the siting requirements of subsection (3)(b) of this section;

(c) The business firm hires or will hire at least 10 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service; and

(d) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section. [Formerly 285B.789]

**285C.415 Notice to county assessor.**

Upon meeting the applicable requirements of ORS 285C.412, the certified business firm shall notify the county assessor in writing that the applicable requirements have been met. [Formerly 285B.790]

**285C.420 Disqualification; exception; additional taxes.**

(1) If a certified business firm does not begin operations or is not reasonably expected to begin operations, as determined by the county assessor consistent with criteria established by rule of the Department of Revenue, or fails to meet the minimum requirements set forth in ORS 285C.412, while receiving an exemption under ORS 285C.409, the assessor shall, as of the next tax year, disqualify the property from the exemption.

(2)(a) If a certified business firm that has achieved the minimum applicable full-time hiring requirements and annual average wage requirements at a facility under ORS 285C.412 subsequently fails to maintain the applicable minimum number of full-time employees or the minimum annual average compensation level at the facility, the assessor shall disqualify the facility from exemption under ORS 285C.409.

(b) This subsection does not apply if the decrease in hiring or in annual average compensation is caused by circumstances beyond the control of the business firm, including force majeure.

(3) Upon disqualification, there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of ad valorem property taxes, an amount equal to the taxes that would otherwise have been assessed

against the property and improvements for each of the tax years for which the property was exempt under ORS 285C.409.

(4) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate. [Formerly 285B.793]

**285C.450** [Formerly 285B.825; 2005 c.119 §2; renumbered 307.841 in 2005]

**285C.453** [Formerly 285B.827; 2005 c.119 §3; renumbered 307.844 in 2005]

**285C.456** [Formerly 285B.830; 2005 c.119 §4; renumbered 307.847 in 2005]

**285C.459** [Formerly 285B.833; 2005 c.119 §5; renumbered 307.851 in 2005]

**285C.462** [Formerly 285B.848; 2005 c.119 §6; renumbered 307.854 in 2005]

**285C.465** [Formerly 285B.839; 2005 c.119 §7; renumbered 307.857 in 2005]

**285C.468** [Formerly 285B.842; 2005 c.119 §8; renumbered 307.861 in 2005]

**285C.471** [Formerly 285B.845; 2005 c.119 §9; renumbered 307.864 in 2005]

**285C.480** [Formerly 285B.836; 2005 c.119 §10; renumbered 307.867 in 2005]

### BUSINESS DEVELOPMENT INCOME TAX EXEMPTION

**285C.495 Short title.** ORS 285C.500 to 285C.506 may be cited as the Oregon Investment Advantage Act. [2007 c.843 §77]

**285C.500 Definitions for ORS 285C.500 to 285C.506.** As used in ORS 285C.500 to 285C.506:

(1) “Business firm” has the meaning given that term in ORS 285C.050.

(2) “County per capita personal income” means the per capita personal income level published by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

(3) “County unemployment rate” means the most recently available unemployment rate for the county, as determined by the Employment Department.

(4) “Facility” means the land, real property improvements and personal property that are used by a business firm to conduct business operations, and that are the subject of an application for preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.

(5) “Qualified location” means any area that is:

(a) Zoned for industrial use or is within the urban growth boundary of a city that has 15,000 or fewer residents; and

(b) Located in a county that, during either of the two years preceding the date an application for preliminary certification is filed under ORS 285C.503, had both:

(A) A county unemployment rate that was in the top half of county unemployment rates in this state; and

(B) A county per capita personal income that was in the bottom half of county per capita personal incomes in this state.

(6) “Urban growth boundary” means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district under ORS 268.390 (3). [Formerly 285B.103; 2005 c.94 §17; 2005 c.595 §1]

**Note:** Section 3, chapter 595, Oregon Laws 2005, provides:

**Sec. 3.** Notwithstanding ORS 285C.500 (5), for purposes of preliminary certifications issued under ORS 285C.503 on or after January 1, 2006, based on applications for preliminary certification filed before July 1, 2016, and annual certifications issued under ORS 285C.506 that are associated with preliminary certifications issued under ORS 285C.503 on or after January 1, 2006, based on applications for preliminary certification filed before July 1, 2016, “qualified location” means any area that is:

(1) Within the urban growth boundary of a city that has 15,000 or fewer residents or is land zoned for industrial use; and

(2) Located in a county that, during either of the two years preceding the date an application for preliminary certification is filed under ORS 285C.503 and this section, had:

(a) A county unemployment rate that was in the highest third of county unemployment rates in this state; or

(b) A county per capita personal income that was in the lowest third of county per capita personal incomes in this state. [2005 c.595 §3; 2007 c.843 §79; 2011 c.730 §21a]

### 285C.503 Preliminary certification of facility; application; fee; review; appeal.

(1) A business firm seeking the income and corporate excise tax exemption allowed under ORS 316.778 or 317.391 shall, before the commencement of construction, reconstruction, modification or installation of property or improvements at the location for which the exemption is sought and before the hiring of any employees at that location, apply to the Oregon Business Development Department for preliminary certification under this section.

(2) The application shall be on a form prescribed by the department and shall contain the following information:

(a) The proposed location of the facility;

(b) A description of the property to be constructed, reconstructed, modified, acquired, installed or leased and that is to comprise the facility when the business firm commences business operations at the facility;

(c) If any property described in paragraph (b) of this subsection is to be leased, the term of the lease;

(d) The number of full-time, year-round employees the business firm intends to hire;

(e) The minimum annual average compensation intended to be given to the employees described in paragraph (d) of this subsection;

(f) A description of any other business activities of the firm in this state at the time of application, sufficient for the department to be able to determine if the proposed facility will constitute a new business in this state; and

(g) Any other information that the department requires.

(3) An application filed under this section must be accompanied by a fee in an amount prescribed by the Oregon Business Development Department by rule. The fee required by the department may not exceed \$500.

(4)(a) When an application is filed under this section, the department shall send copies of the application to the governing bodies of the city and county in which the facility is proposed to be located. If the facility is to be located within a port, the department shall also send a copy of the application to the governing body of the port.

(b) The governing body of a city, port or county described in paragraph (a) of this subsection may object to the preliminary certification of a business firm if the firm would be:

(A) In competition with an existing business employing individuals within the city, port or county; or

(B) Incompatible with economic growth or development standards that the city, port or county had adopted prior to the date of application for preliminary certification.

(c) If the governing body of the city, port or county decides to object to preliminary certification of the firm, the governing body shall adopt a resolution stating its objection and the reason for its objection.

(d) The governing body of a city, port or county has 60 days from the date the application is sent to the city, port or county to object to preliminary certification. If the objection is not made within the 60-day period, the city, port or county shall be deemed to have agreed to preliminary certification.

(5) When an application is filed under this section, the department shall review the application and determine whether all of the following requirements are met:

(a) The proposed facility is to be located at a qualified location.

(b) The proposed facility is intended to operate as a facility for at least 10 years following the date the facility becomes operational.

(c) The business firm intends to hire at least five employees for full-time, year-round employment.

(d) The newly hired employees described in paragraph (c) of this subsection are to receive a minimum annual compensation of:

(A) 150 percent of the county per capita personal income of the county in which the facility is to be located as of the date of the application for preliminary certification; or

(B) 100 percent of the county per capita personal income of the county in which the facility is to be located as of the date of the application for preliminary certification and the business firm will provide health insurance coverage to the employees at the facility who are described in paragraph (c) of this subsection that equals or exceeds the health insurance benefits provided to employees of the city, port or county in which the facility is to be located.

(e) The business operations of the business firm that are to be conducted at the facility constitute a new business that the firm does not operate at another location in this state.

(f) The business operations of the business firm will not compete with existing businesses in the city or county in which the facility is to be located.

(6) If the department determines that the proposed facility, if completed as described in the application, meets the criteria set forth in subsection (5) of this section and the governing body of the city, port or county does not object under subsection (4) of this section to preliminary certification of the firm, the department shall issue a preliminary certification to the firm.

(7) If the department determines that the proposed facility, as set forth in the application, does not meet the requirements for preliminary certification under this section, the department may not issue a preliminary certification. The applicant may appeal the decision to not issue a preliminary certification in the manner of a contested case under ORS chapter 183. No appeal may be made if the reason for not issuing a preliminary certification is the objection of the governing body of the city, port or county under subsection (4) of this section. [Formerly 285B.105]

**285C.506 Annual certification of facility; application; fee; review; appeal; duration of certification.** (1) Following completion of the construction, reconstruction, modification, acquisition, installation or lease of the facility, the hiring of employees

to conduct business operations at the facility and the commencement of operations at the facility, a business firm that obtained preliminary certification under ORS 285C.503 may apply for annual certification under this section.

(2) The application shall be filed with the Oregon Business Development Department on or before 30 days after the end of the income or corporate excise tax year of the business firm.

(3) The application shall contain the following information:

(a) A description of the business operations conducted at the facility;

(b) The date business operations commenced at the facility;

(c) The number of full-time, year-round employees employed by the business firm at the facility;

(d) A schedule of the annual compensation paid to the employees; and

(e) Any other information required by the department.

(4) An application filed under this section must be accompanied by a fee in an amount prescribed by the department by rule. The fee required by the department may not exceed \$100.

(5) The department shall review a business firm's application and approve the application if:

(a) The business operations of the firm at the facility commenced at least 24 months before the date of application for annual certification but within 10 years before the end of the tax year preceding the date of application for annual certification; and

(b) The business firm has satisfied the employment and minimum compensation requirements described in ORS 285C.503 (5)(c) and (d).

(6) In the case of the first application for annual certification filed by a business firm under this section, the department may approve the application only if, in addition to the requirements of subsection (5) of this section:

(a) Business operations commenced at the facility within a reasonable period of time, as determined by the department by rule, following the date of preliminary certification under ORS 285C.503;

(b) There has not been a significant interruption in construction, reconstruction, modification or installation activity at the location, as determined by the department by

rule, following the date of preliminary certification under ORS 285C.503; and

(c) The facility and the business operations actually conducted at the facility are reasonably similar to the proposed facility and proposed operations described in the application for preliminary certification.

(7) After the first application for annual certification, the department may approve a subsequent application or certification filed under this section only if:

(a) The business firm meets the requirements of subsection (5) of this section; and

(b) The facility and the business operations actually conducted at the facility remain similar characteristics to the facility and the business operations actually conducted at the facility during the period of prior certification. This paragraph does not preclude an applicant from changing the location of the facility, the ownership or organization of the business firm or other aspects of the facility or business firm that are within the intent of ORS 285C.500 to 285C.506 if the change is made in accordance with rules adopted by the department.

(8) The department may consult with the city or county in determining whether to approve or disapprove an application under this section.

(9) If the department approves an application, it shall issue an annual certification to the business firm.

(10) If the department disapproves an application, the business firm or any owner of the business firm may not be allowed the exemption described in ORS 316.778 or 317.391 for the tax year for which the annual certification was sought or for any subsequent tax year.

(11) The decision of the department to disapprove an application under this section may be appealed in the manner of a contested case under ORS chapter 183.

(12) An annual certification may not be issued under this section for a tax year that is more than nine consecutive tax years following the first tax year an exemption is allowed under ORS 316.778 or 317.391 with respect to the facility.

(13) The department must approve or disapprove an application under this section within 30 days of the date the application is filed. [Formerly 285B.108; 2007 c.843 §78; 2011 c.730 §21b]

**285C.530** [Formerly 285B.486; repealed by 2011 c.83 §4]

**285C.533** [Formerly 285B.488; repealed by 2011 c.83 §4]

**RENEWABLE ENERGY  
RESOURCE EQUIPMENT  
MANUFACTURING FACILITIES**

**285C.540 Definitions for ORS 285C.540 to 285C.559.** As used in ORS 285C.540 to 285C.559:

(1) “Component parts of electric vehicles” does not include:

(a) Parts that may be used in both electric and conventional vehicles; or

(b) Batteries.

(2) “Cost” means the capital costs and expenses necessarily incurred in the erection, construction, installation and acquisition of a facility.

(3) “Electric vehicles” means vehicles that are designed for use as Class I or Class II all-terrain vehicles, as those terms are defined in ORS 801.190 and 801.193, and that are used for agricultural, commercial, industrial or governmental purposes, or vehicles that are designed for use as modes of transportation on public roads and highways. The Director of the Oregon Business Development Department may further define “agricultural, commercial, industrial or governmental purposes” of electric vehicles by rule.

(4)(a) “Renewable energy resource” includes, but is not limited to:

(A) Straw, forest slash, wood waste or other wastes from farm or forest land, non-petroleum plant or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal energy;

(B) A hydroelectric generating facility that obtains all applicable permits and complies with all state and federal statutory requirements for the protection of fish and wildlife and that:

(i) Does not exceed 10 megawatts of installed capacity; or

(ii) Qualifies as a research, development or demonstration facility; or

(C) A renewable energy storage device as defined by the director by rule.

(b) “Renewable energy resource” does not include a hydroelectric generating facility that is not described in paragraph (a) of this subsection.

(5) “Renewable energy resource equipment manufacturing facility” means any structure, building, installation, excavation, device, machinery or equipment, or an addition, reconstruction or improvement to land, to an existing structure, building, installation, excavation or device or to existing machinery or equipment, that is necessarily acquired, constructed or installed by a person in connection with the conduct of a

trade or business and that is used primarily to manufacture:

(a) Component parts of electric vehicles.

(b) Electric vehicles.

(c) Equipment, machinery or other products designed to use a renewable energy resource and that meets the criteria established under ORS 285C.543.

(d) Renewable energy storage devices. [2011 c.474 §5]

**285C.543 Rules; criteria for renewable energy resource equipment manufacturing facilities.** The Oregon Business Development Department shall by rule establish all of the following criteria:

(1) Standards relating to the type of equipment, machinery or other products being manufactured and related performance and efficiency standards applicable to the manufactured products;

(2) Standards, consistent with the definitions in ORS 285C.540 and relating to what constitutes a single renewable energy resource equipment manufacturing facility, that include:

(a) Standards establishing what constitutes property that is not included within a facility; and

(b) The consideration of such factors as phases of development, expansion of or additions to existing facilities or product lines, increased production and number of jobs created or maintained by an applicant;

(3) Standards requiring that the minimum levels of increased employment in Oregon for a facility are proportionate to industry standards and to the amount of tax credit allowed;

(4) Standards requiring that the compensation paid and benefits provided to employees of an applicant meet or exceed the national average in annual compensation for comparable employment;

(5) Standards that can be independently reviewed by a third party:

(a) Relating to indicators of financial viability of an applicant for preliminary certification under ORS 285C.547; and

(b) Relating to the likelihood of long-term operation and success of a facility; and

(6) Standards relating to the likelihood that an applicant seeking preliminary certification of a facility will base decisions to locate or expand a facility in Oregon on the allowance of a tax credit under ORS 315.341. [2011 c.474 §6]

**285C.545 Annual limit to cost of facility in granting tax credits; discretion of director.** (1) For a renewable energy resource equipment manufacturing facility, the

total cost that receives a preliminary certification from the Director of the Oregon Business Development Department for tax credits in any calendar year may not exceed:

(a) \$2.5 million in the case of a facility used to manufacture electric vehicles or component parts of electric vehicles; or

(b) \$40 million, in the case of any other facility.

(2) Notwithstanding subsection (1) of this section, the director may certify a lesser amount than the total cost of the facility, or need not certify any amount, if any of the following conditions exist at the time of preliminary certification:

(a) The last quarterly economic and revenue forecast for a biennium indicates that moneys available to the General Fund for the next biennium will be at least three percent less than appropriations from the General Fund for the current biennium;

(b) A quarterly economic and revenue forecast projects that revenues in the General Fund in the current biennium will be at least two percent below what revenues were projected to be in the revenue forecast on which the legislatively adopted budget, as defined in ORS 291.002, for the current biennium was based;

(c) The proposed facility, in the estimate of the director, does not possess the likelihood of success established in criteria of success under ORS 285C.543 (5);

(d) The proposed facility, in the estimate of the director, is not likely to increase employment in Oregon to the minimum levels required in rules adopted under ORS 285C.543 (3);

(e) The applicant lacks the minimum level of financial viability established in rules adopted under ORS 285C.543 (5);

(f) The applicant is unlikely, in the estimate of the director, to base a decision to relocate or expand a facility in Oregon on allowance of the tax credit, given the criteria established in rules under ORS 285C.543 (6); or

(g) During a time period listed in section 15, chapter 474, Oregon Laws 2011, the director receives applications for preliminary certification with a total amount of potential tax credits in excess of the limitation for the time period.

(3) The director shall determine the dollar amount certified for any facility and the priority between applications for certification based upon the criteria contained in ORS 285C.540 to 285C.559 and applicable rules and standards adopted under ORS 285C.540 to 285C.559. The director may consider the status of a facility as a research, development

or demonstration facility of new renewable resource generating and conservation technologies in the determination. [2011 c.474 §7]

**285C.547 Application for preliminary certification; eligibility; contents; fees; rules.** (1) Prior to erection, construction, installation or acquisition of a proposed renewable energy resource equipment manufacturing facility, any person may apply to the Oregon Business Development Department for preliminary certification under ORS 285C.551 if:

(a) The facility complies with the standards or rules adopted by the Director of the Oregon Business Development Department; and

(b) The applicant meets one of the following criteria:

(A) The applicant is a person to whom a tax credit for the facility has been transferred; or

(B) The applicant will be the owner, contract purchaser or lessee of the facility at the time of erection, construction, installation or acquisition of the proposed facility, and:

(i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to utilize the facility in connection with Oregon property; or

(ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to lease the facility to a person that will utilize the facility in connection with Oregon property.

(2) An application for preliminary certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the applicant or the lessee of the applicant's facility plans to acquire, construct or install a facility.

(b) A detailed description of the proposed facility and its operation and information showing that the facility will operate as represented in the application and remain in operation for at least five years, unless the director by rule specifies a shorter period of operation.

(c) The projected cost of the facility.

(d) Information on the number and type of jobs that will be created, the number of jobs sustained throughout the construction, installation and operation of the facility and the benefits of the facility with regard to overall economic activity in this state.

(e) Information demonstrating that the proposed facility will comply with applicable state and local laws and regulations and obtain required licenses and permits.

(f) Information relating to the criteria described in ORS 469B.136.

(g) Any other information the director considers necessary to determine whether the proposed facility is in accordance with the provisions of ORS 285C.540 to 285C.559, and any applicable rules or standards adopted by the director.

(3) An application for preliminary certification shall be accompanied by a fee established under ORS 285C.555. The director may refund all or a portion of the fee if the application for certification is rejected.

(4) The director may allow an applicant to file the preliminary application after the start of erection, construction, installation or acquisition of the facility if the director finds:

(a) Filing the application before the start of erection, construction, installation or acquisition is inappropriate because special circumstances render filing earlier unreasonable; and

(b) The facility would otherwise qualify for tax credit certification pursuant to ORS 285C.540 to 285C.559.

(5) A preliminary certification shall remain valid for a period of five calendar years after the date the preliminary certification is issued by the director. [2011 c.474 §8]

**285C.549 Transferability of facility tax credit.** (1) The owner, contract purchaser or lessee of a renewable energy resource equipment manufacturing facility may transfer a tax credit for the facility in exchange for a cash payment equal to the present value of the tax credit.

(2) The Director of the Oregon Business Development Department shall establish by rule a formula to be employed in the determination of prices of credits transferred under this section. In establishing the formula the department shall incorporate inflation projections and market real rate of return.

(3) The director shall recalculate credit transfer prices quarterly, employing the formula established under subsection (2) of this section. [2011 c.474 §9]

**285C.551 Submission of plans, specifications and contract terms; preliminary certification; suspension or denial.** (1) The Director of the Oregon Business Development Department may require the submission of plans, specifications and contract terms and after examination of the plans, specifications and terms, may request corrections and revisions.

(2) If the director determines that the proposed erection, construction, installation or acquisition is technically feasible and

should operate in accordance with the representations made by the applicant, and is in accordance with the provisions of ORS 285C.540 to 285C.559 and any applicable rules or standards adopted by the director, the director shall issue a preliminary certificate approving the erection, construction, installation or acquisition of the facility. The certificate shall indicate the potential amount of tax credit allowable and shall list any conditions for claiming the credit.

(3) The director may issue an order altering, conditioning, suspending or denying preliminary certification if the director determines that:

(a) The erection, construction, installation or acquisition does not comply with the provisions of ORS 285C.540 to 285C.559 and applicable rules and standards;

(b) The applicant has previously received preliminary or final certification for the same costs;

(c) The applicant is unable to demonstrate that the facility would be economically viable without the allowance of additional credits under ORS 315.341;

(d) The applicant was directly involved in an act for which the director has levied civil penalties or revoked, canceled or suspended any certification under ORS 285C.540 to 285C.559; or

(e) The applicant or the principal, director, officer, owner, majority shareholder or member of the applicant, or the manager of the applicant if the applicant is a limited liability company, is in arrears for payments owed to any government agency while in any capacity with direct or indirect control over a business. [2011 c.474 §10]

**285C.553 Final certification; eligibility; application; content; performance agreement; rules.** (1) A final certification may not be issued by the Director of the Oregon Business Development Department under this section unless:

(a) The renewable energy resource equipment manufacturing facility was erected, constructed, installed or acquired under a preliminary certificate of approval issued under ORS 285C.551 or 469B.157;

(b) The applicant demonstrates the ability to provide the information required by ORS 285C.547 (2) and does not violate any condition that may be imposed as described in ORS 285C.551 (3); and

(c) The facility was erected, constructed, installed or acquired in accordance with the applicable provisions of ORS 285C.540 to 285C.559 and any applicable rules or standards adopted by the director.



(2) Any person may apply to the Oregon Business Development Department for final certification of a facility:

(a) If the person received preliminary certification for the facility under ORS 285C.551 or under ORS 469B.157; and

(b)(A) After completion of erection, construction, installation or acquisition of the proposed facility; or

(B) After transfer of the facility, as provided in ORS 315.341 (4).

(3) An application for final certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the conditions of the preliminary certification have been complied with;

(b) The actual cost of the facility certified to by a certified public accountant who is not an employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts for purchase and installation of the facility;

(c) The amount of the credit under ORS 315.341 that is to be claimed;

(d) The number and type of jobs created by the operation and maintenance of the facility over the five-year period beginning with the year of preliminary certification under ORS 285C.551 and information on the benefits of the facility with regard to overall economic activity in this state;

(e) Information sufficient to demonstrate that the facility will remain in operation for at least five years, unless the director by rule specifies a shorter period of operation;

(f) Information sufficient to demonstrate, in the case of a research, development or demonstration facility that is not in operation, that the applicant has made reasonable efforts to make the facility operable and to meet the requirements of the preliminary certificate;

(g) Documentation of compliance with applicable state and local laws and regulations and licensing and permitting requirements as defined by the director; and

(h) Any other information determined by the director to be necessary prior to issuance of a final certificate, including inspection of the facility by the department.

(4) The director shall act on an application for certification before the 60th day after the filing of the application under this section. The director may issue the certificate together with such conditions as the director determines are appropriate to promote the purposes of ORS 285C.540 to 285C.559 and 315.341. If the applicant is an

entity subject to regulation by the Public Utility Commission, the director may consult with the commission prior to issuance of the certificate. The action of the director shall include certification of the actual cost of the facility. However, the director may not certify an amount for tax credit purposes that is more than the amount approved in the preliminary certificate issued for the facility.

(5) If the director rejects an application for final certification, or certifies a lesser actual cost of the facility than was claimed in the application, the director shall send to the applicant written notice of the action, together with a statement of the findings and reasons for the action, by certified mail, before the 60th day after the filing of the application. Failure of the director to act constitutes rejection of the application.

(6) Upon approval of an application for final certification of a facility, the director shall certify the facility. Each certificate shall bear a separate serial number for each device. Where one or more devices constitute an operational unit, the director may certify the operational unit under one certificate.

(7) The director shall enter into a performance agreement with the applicant at the time of certification under this section. The performance agreement shall include conditions with which the applicant must comply in order to maintain certification, including a deadline by which the applicant must comply with the employment and compensation standards of ORS 285C.543 (3) and (4).

(8) The director may establish by rule timelines and intermediate deadlines for submission of application materials. [2011 c.474 §11]

#### **285C.555 Rules; fees for certification.**

By rule and after hearing, the Director of the Oregon Business Development Department may adopt a schedule of reasonable fees that the Oregon Business Development Department may require of applicants for preliminary or final certification under ORS 285C.540 to 285C.559. Before the adoption or revision of the fees, the department shall estimate the total cost of the program to the department. The fees shall be used to recover the anticipated cost of filing, investigating, granting and rejecting applications for certification and shall be designed not to exceed the total cost estimated by the department. Any excess fees shall be held by the department and shall be used by the department to reduce any future fee increases. The fee may vary according to the size and complexity of the facility. The fee is not considered part of the cost of the facility to be certified. [2011 c.474 §12]

**285C.557 Certification required for tax credits; certification not to exceed five years; use by transferee.** (1) A certificate issued under ORS 285C.553 or 469B.161 is required for purposes of obtaining tax credits in accordance with ORS 315.341. Such certification shall be granted for a period not to exceed five years. The five-year period shall begin with the tax year of the applicant during which the completed application for final certification of the facility under ORS 285C.553 is received by the Oregon Business Development Department.

(2) If the original owner of the certificate uses any portion of the credit, the certificate becomes nontransferable.

(3) For a transferee holding a credit that has been transferred under ORS 285C.549, the five-year period shall begin with the tax year in which the transferee pays for the credit. [2011 c.474 §13; 2012 c.45 §18]

**285C.559 Revocation of certificate; collection.** (1) Under the procedures for a contested case under ORS chapter 183, the Director of the Oregon Business Development Department may order the suspension or revocation of the certificate issued under ORS 285C.553 or 469B.161 if the director finds that:

(a) The certification was obtained by fraud or misrepresentation;

(b) The holder of the certificate or the operator of the facility has failed to construct or operate the facility in compliance with the plans, specifications and procedures in the certificate or the performance agreement; or

(c) The facility is no longer in operation.

(2) As soon as the order of revocation under this section becomes final, the director shall notify the Department of Revenue, the facility owner, contract purchaser or lessee and any transferee under ORS 285C.549 of the order of revocation. Upon notification, the Department of Revenue immediately shall proceed to collect:

(a) In the case in which no portion of a certificate has been transferred under ORS 285C.549, those taxes not paid by the certificate holder as a result of the tax credits provided to the certificate holder under ORS 315.341, from the certificate holder or a successor in interest to the business interests of the certificate holder. All prior tax credits provided to the holder of the certificate by virtue of the certificate shall be forfeited.

(b) In the case in which all or a portion of a certificate has been transferred under ORS 285C.549, the maximum theoretical amount of the tax credits allowable under ORS 315.341, from the transferor.

(3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (2) of this section from the person that obtained certification from the State Department of Energy or from the Oregon Business Development Department, or any successor in interest to the business interests of that person. No assessment of tax shall be necessary and no statute of limitation shall preclude the collection of taxes described in this subsection.

(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an interest through bankruptcy or through foreclosure of a security interest is not considered to be a successor in interest to the business interests of the person that obtained certification.

(4) Notwithstanding subsections (1) to (3) of this section, a certificate or portion of a certificate held by a transferee under ORS 285C.549 may not be considered revoked for purposes of the transferee, the tax credit allowable to the transferee under ORS 315.341 may not be reduced and a transferee is not liable under subsections (2) and (3) of this section. [2011 c.474 §14]

#### STRATEGIC INVESTMENT PROGRAM (Generally)

**285C.600 Definitions for ORS 285C.600 to 285C.635.** As used in ORS 285C.600 to 285C.635:

(1) "Business firm" has the meaning given that term in ORS 285C.050.

(2) "Eligible project" means a project that meets criteria established by the Oregon Business Development Commission to be exempt from property taxation under ORS 307.123.

(3) "First-source hiring agreement" has the meaning given that term in ORS 285C.050.

(4) "Newly created jobs" means, for an eligible project, total jobs less retained jobs.

(5) "Publicly funded job training provider" has the meaning given that term in ORS 285C.050.

(6) "Rural area" means an area located entirely outside of the urban growth boundary of a city with a population of 40,000 or more, as the urban growth boundary is acknowledged on the date on which an applicant submits an application, pursuant to rules adopted by the Oregon Business Development Department, for property tax exemption under ORS 307.123.

(7) "Strategic investment zone" means a geographic area established under ORS

285C.623, within which the property of eligible projects may be exempt from property taxation under ORS 307.123. [Formerly 285B.380; 2005 c.237 §1; 2015 c.518 §1; 2015 c.757 §1]

**Note:** Section 2, chapter 518, Oregon Laws 2015, provides:

**Sec. 2.** The amendments to ORS 285C.600 by section 1 of this 2015 Act do not apply to:

(1) An eligible project located, or an application for a project to be located, within a strategic investment zone designated before the effective date of this 2015 Act [October 5, 2015].

(2) A parcel of land on which an eligible project is located on the effective date of this 2015 Act. [2015 c.518 §2]

**285C.603 Legislative purpose.** The Legislative Assembly declares that a significant purpose of the strategic investment program established in ORS 285C.600 to 285C.635 and 307.123 is to improve employment in areas where eligible projects are to be located and urges business firms that will benefit from an eligible project to hire employees from the region in which the eligible project is to be located whenever practicable. [2003 c.800 §5; 2005 c.237 §2]

**285C.606 Determination of projects for tax exemption; limitations; revenue bond financing; first-source hiring agreements.**

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

(a) The project is an eligible project;

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

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

(A) \$100 million; or

(B) \$25 million, if the project is located in a rural area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Property of an eligible project that is currently exempt under ORS 307.123 may remain exempt for any remaining period of exemption allowed under ORS 307.123 upon the property being acquired by a business firm that is different from the business firm that initially benefited from the exemption, if the acquiring firm satisfies all applicable requirements under ORS 285C.600 to 285C.635 and assumes the obligations, conditions, requirements and other terms of the agreement described in ORS 285C.609 (4). [Formerly 285B.383; 2005 c.237 §4]

**285C.609 Request by county; community services fee agreement; distribution of fee proceeds.** (1) A determination under ORS 285C.606 (1) by the Oregon Business Development Commission that a project shall be exempt from property taxation under ORS 307.123 must be requested by official action of the governing body of the county taken at a regular or duly called special meeting

thereof by the affirmative vote of a majority of its members.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If an effective agreement is not entered into under paragraph (a) of this sub-

section within three months after the date of the determination by the commission under ORS 285C.606 (1), the commission shall, by official action, establish a formula for distributing the fee collected under subsection (4)(b) of this section. [Formerly 285B.386]

**285C.612 Eligible project application fees.** (1) The Oregon Business Development Commission shall collect the fees set forth in subsection (2) of this section from an applicant that seeks to have the real and personal property constituting the eligible project declared eligible for the tax exemption provided in ORS 307.123. The fee may be collected even though the project has not been determined to be eligible for the tax exemption.

(2) The fees described in subsection (1) of this section are as follows:

(a) \$10,000, or \$5,000 if the project is located in a rural area, upon application to the commission; and

(b) \$50,000, or \$10,000 if the project is located in a rural area, when the eligible project is determined by the commission to be eligible for the tax exemption provided in ORS 307.123. The commission shall pay 50 percent of this fee to the Department of Revenue for the purpose of administration of ORS 307.123.

(3) The fees collected under subsection (2) of this section shall be deposited in the Oregon Business, Innovation and Trade Fund created under ORS 285A.227. [Formerly 285B.389; 2009 c.830 §148]

**285C.615 Annual participant reports; penalty; disclosure; rules.** (1) On or before April 1 following each tax year that property is exempt under ORS 307.123, the business firm that owns or leases the exempt property shall submit a report to the Oregon Business Development Department, in addition to any other reporting or filing requirement.

(2) The report shall be in a form prescribed by the Oregon Business Development Department and shall include:

(a) The assessed value and location of taxable and exempt property constituting the eligible project and the corresponding payment and savings of property taxes for the tax year, as ascertained from the county assessor;

(b) The amount and disposition of fees and other amounts paid by the business firm pursuant to the agreement with the county under ORS 285C.609 in the immediately preceding calendar year;

(c) The average number of persons hired or employed by the business firm in association with the eligible project, determined by dividing the total number of hours for which such hired or employed persons were paid

during the immediate prior calendar year by 2,080;

(d) The annual amount of taxable income and total compensation paid to employees as described in paragraph (c) of this subsection;

(e) Numbers and amounts as described in paragraphs (c) and (d) of this subsection for retained jobs and newly created jobs for the eligible project; and

(f) Any other information required by the department.

(3)(a) If a business firm fails to provide a report required under this section or to verify information as requested by the Oregon Business Development Department, the Oregon Business Development Commission, upon recommendation by the department, may suspend the determination of the commission that the project receive the tax exemption provided for in ORS 307.123.

(b) If the commission suspends the determination of eligibility under this subsection, the exemption is revoked as provided in ORS 307.123 (6), until the department receives the report.

(c) Upon receipt of a report required under this section or the information requested by the department, the department shall notify the commission and the commission shall rescind the suspension under this subsection.

(4) Information collected under this section may be used by the Oregon Business Development Department to make aggregate figures and analyses of activity under the strategic investment program publicly available.

(5) Specific data concerning the financial performance of individual firms collected under this section is exempt from public disclosure under ORS chapter 192.

(6) After receiving the reports required under this section, the Oregon Business Development Department shall compile and organize the reported information for purposes of ORS 285C.635 and transmit it to the Oregon Department of Administrative Services. The Oregon Business Development Department shall transmit the information not later than April 15.

(7) The Oregon Business Development Department shall adopt rules the department considers necessary to administer ORS 285C.600 to 285C.635. [2007 c.905 §2; 2013 c.722 §52; 2015 c.757 §2]

**Note:** Section 6, chapter 905, Oregon Laws 2007, provides:

**Sec. 6.** (1) ORS 285C.615 and 285C.635 apply to:

(a) Tax years beginning on or after January 1, 2009.

(b) Income taxes attributable to eligible projects that first become exempt from property taxation under ORS 307.123 on or after January 1, 2008.

(2) Distributions under ORS 285C.635 (3) may not be made after July 15, 2024. [2007 c.905 §6; 2015 c.757 §5]

**285C.620 Confidentiality of project information.** Notwithstanding ORS 192.410 to 192.505, the identity of an applicant for an eligible project determination under ORS 285C.606, the application form submitted to the county governing body and the Oregon Business Development Commission and the negotiations conducted between the applicant and the county shall be confidential, until the county governing body gives notice of its intent to take official action on the application. [Formerly 285B.392]

### (Strategic Investment Zones)

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

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

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

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

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

(b) The agreement provides for the payment of a fee by each business firm that is to own or operate an eligible project within

the proposed zone, as a condition for the exemption under ORS 307.123. The agreement shall provide for the payment of the fee, as follows:

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

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

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

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

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

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

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

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

(b) If an additional agreement is not entered into under paragraph (a) of this subsection within three months after the date of the determination by the commission under ORS 285C.606 (1), the commission shall, by official action, establish a formula for distributing the fee collected under subsection (4)(b) of this section. [2005 c.237 §5]

**285C.626 Business firm application for project within strategic investment zone.**

(1) A business firm seeking the exemption under ORS 307.123 for a project the firm intends to install or construct within a strategic investment zone shall apply to the

Oregon Business Development Department. The application shall be in the form and shall contain the information required by the department.

(2) A completed application containing all of the required information shall be considered by the Oregon Business Development Commission for the purposes of determining whether the project constitutes an eligible project under ORS 285C.606. [2005 c.237 §3]

**(Distributions)**

**285C.635 Determination of personal income tax revenue; distributions to counties; annual limit; rules.**

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

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

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

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

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

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

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

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

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

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

(5) The Oregon Department of Administrative Services shall adopt rules necessary to administer this section. [2007 c.905 §3; 2013 c.722 §50; 2013 c.763 §6; 2015 c.757 §3]

**Note:** See note under 285C.615.

**285C.639** [2007 c.905 §4; 2013 c.722 §51; repealed by 2015 c.757 §4]

## OREGON LOW INCOME COMMUNITY JOBS INITIATIVE

**285C.650 Certification as qualified equity investment; eligibility for tax credit; rules.** (1) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for a tax credit under ORS 315.533 shall apply to the Oregon Business Development Department. The department shall establish by rule application procedures for applications for certification. The entity must submit an application on a form that the department provides that includes:

(a) The entity's name, address, tax identification number and evidence of the entity's certification as a qualified community development entity.

(b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund that includes the State of Oregon in its service area.

(c) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Com-

munity Development Financial Institutions Fund.

(d) A description of the proposed purchase price, structure and purchaser of the equity investment or long-term debt security.

(e) The name and tax identification number of any person eligible to claim a tax credit, under ORS 315.533, allowed as a result of the certification of the qualified equity investment.

(f) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment.

(g) A nonrefundable application fee of \$20,000. This fee shall be paid to the department and shall be required for each application submitted.

(2) Within 15 days after receipt of a completed application containing the information necessary for the department to certify a proposed equity investment, including the payment of the application fee, the department shall grant or deny the application in full or in part. If the department denies any part of the application, the department shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the department or otherwise completes its application within 15 days after the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(3) If the application is deemed complete, the department shall certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under ORS 315.533, subject to the limitations in ORS 315.536. The department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and their respective credit amounts. If the names of the persons or entities that are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to ORS 315.536, the qualified community development entity shall notify the department of the change.

(4)(a) Except as provided in paragraph (b) of this subsection, within 60 days after receiving notice of certification, a qualified community development entity shall issue the qualified equity investment and receive

cash in the amount of the certified purchase price. The qualified community development entity must provide the department with evidence of the receipt of the cash investment within 10 business days after receipt.

(b) For a qualified equity investment described in ORS 285C.653 (2), a qualified community development entity shall issue the qualified equity investment during the period beginning July 1, 2012, and ending 60 days after receiving notice of certification. If the qualified equity investment is issued prior to the submission of an application for certification under this section, the qualified community development entity must provide the department with evidence of the qualified equity investment and of receipt of the cash investment at the time of application for certification.

(c) If a qualified community development entity does not receive the cash investment and issue the qualified equity investment on or before the 60th day following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the department for certification. A certification that lapses reverts to the department and may be reissued only in accordance with the application process outlined in this section.

(5) The department shall certify qualified equity investments in the order applications are received by the department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the department shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitation in ORS 285C.653, the department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(6) A qualified community development entity that is certified under this section shall pay an annual evaluation fee of \$1,000 to the department.

(7) The department shall establish by rule procedures to administer the provisions of this section, including the allocation of tax credits issued for qualified equity investments. [2011 c.732 §6; 2013 c.744 §2]

**Note:** Definitions in 315.529 apply to 285C.650, 285C.653 and 285C.656.

**Note:** Section 11, chapter 732, Oregon Laws 2011, provides:

**Sec. 11.** Sections 2 to 8 of this 2011 Act [315.529 to 315.536, 285C.650, 285C.653, 285C.656] and the amendments to ORS 314.752 and 318.031 by sections 9 and 10 of this 2011 Act apply to qualified equity investments made on or after July 1, 2012. [2011 c.732 §11]

**Note:** 285C.650, 285C.653, 285C.656 and 285C.659 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285C.653 Tax credit utilization limit per tax year; rules.** (1) Once the Oregon Business Development Department has certified a cumulative amount of qualified equity investments that can result in the utilization of \$16 million of tax credits in any tax year, the department may not certify any more qualified equity investments under ORS 285C.650. This limitation shall be based on the scheduled utilization of tax credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

(2) The department shall reserve 15 percent of the total amount of qualified equity investments that receive certification under ORS 285C.650 for investments in qualified active low-income community businesses that:

(a) Have a primary purpose of improving the environment or reducing emissions of greenhouse gases; or

(b) Produce goods that directly reduce emissions of greenhouse gases or are designed as environmentally sensitive replacements for products in current use.

(3) The department shall establish by rule procedures and criteria for implementing the provisions of this section. [2011 c.732 §7]

**Note:** See notes under 285C.650.

**285C.656 Recapture of tax credit.** (1) The Department of Revenue may recapture any portion of a tax credit allowed under ORS 315.533 if:

(a) Any amount of federal tax credit that might be available with respect to the qualified equity investment that generated the tax credit under ORS 315.533 is recaptured under section 45D of the Internal Revenue Code. The department's recapture shall be proportionate to the federal recapture with respect to the qualified equity investment.

(b) The qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit prior to the final credit allowance date of the qualified equity investment. The department's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.



(c) The qualified community development entity fails to invest at least 85 percent of the purchase price of the qualified equity investment in qualified low-income community investments within 12 months of the issuance of the qualified equity investment and maintain the same level of investment in qualified low-income community investments until the last credit allowance date for the qualified equity investment. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by the entity even if the investment has been sold or repaid provided that the entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this state within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the qualified equity investment's final credit allowance date.

(2) The department shall provide notice to the qualified community development entity of any proposed recapture of tax credits pursuant to this section. The entity shall have 90 days to cure any deficiency indicated in the department's original recapture notice and avoid the recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the department shall provide the entity and the taxpayer from whom the credit is to be recaptured with a final order of recapture. Any tax credit for which a final recapture order has been issued shall be recaptured by the department from the taxpayer who claimed the tax credit on a tax return. [2011 c.732 §8]

**Note:** See notes under 285C.650.

**285C.659 Report; posting on Oregon transparency website required.** (1) The Oregon Business Development Department shall annually prepare a report that discloses all costs and fees incurred by the department, or by any other state agency, in administering, during the agency fiscal year ending during the current calendar year, the tax credit allowed under ORS 315.533.

(2) The report required under this section shall also provide information about qualified equity investments issued on or after July 1, 2013, including, for the previous calendar year and for tax years ending during the previous calendar year:

(a) The amount of tax credit allowed for the qualified equity investments under ORS 315.533;

(b) The amount of tax credit claimed for the qualified equity investments under ORS 315.533;

(c) The costs and expenses of forming the qualified community development entities that issued the qualified equity investments, including but not limited to fees paid for professional services, including legal and accounting services, related to the formation and operation of the entities; and

(d) Information with respect to qualified equity investments and qualified low-income community investments that would be reported as part of the institution level report and transaction level reports submitted by qualified community development entities pursuant to section 45D of the Internal Revenue Code.

(3) The Oregon Business Development Department shall submit the report required under this section to the Oregon Department of Administrative Services no later than September 30 of each year. The information shall then be posted on the Oregon transparency website required under ORS 184.483 no later than December 31 of the same year.

(4) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the Oregon Department of Administrative Services.

(5) The Oregon Business Development Department shall collect data sufficient for the purpose of preparing the report required under this section.

(6) For purposes of this section, the Oregon Business Development Department may not collect or report proprietary information related to a taxpayer, taxpayers holding qualified equity investments, qualified community development entities or qualified active low-income community businesses, or information about the specific terms of financial agreements pertaining to any project. [2013 c.744 §6; 2015 c.27 §25]

**Note:** See third note under 285C.650.

