

**(Including Amendments to Resolve Conflicts)**

## **B-Engrossed**

# **Senate Bill 292**

Ordered by the Senate July 4  
Including Senate Amendments dated March 7 and July 4

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for Economic and Community Development Department)

### **SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Removes revenue bond limit for certain bonds financing municipal infrastructure projects.

Authorizes Economic and Community Development Department to contract directly with Oregon Downtown Development Association and Rural Development Initiatives for delivery of certain support services to municipalities. Exempts contracts from certain public contract requirements.

**Allows Economic and Community Development Department and Ports Division of department to provide assistance or grants in form of direct purchase of goods or services.**

Eliminates urban/rural financing split for infrastructure and water projects. Eliminates requirement for quarterly valuation of Special Public Works Fund and Water Fund.

**Includes telecommunications infrastructure in types of infrastructure projects that may receive financial or other assistance using moneys from Special Public Works Fund.**

Modifies limit on expenditures for grants and loans from Special Public Works Fund.

**Provides that not less than 60 percent of moneys disbursed from Special Public Works Fund and from Water Fund shall be used to provide assistance to distressed areas and non-urban infrastructure projects.**

**Permits eligible business firm to obtain enterprise zone tax exemption for certain otherwise ineligible refurbished, retrofitted or upgraded real property, machinery or equipment if specified requirements are met. Requires application for exemption to be filed on or before April 1, 2004.**

Repeals requirement for biennial report to Legislative Assembly by Port of Portland.

*[Declares emergency, effective on passage.]*

**Takes effect on 91st day following adjournment sine die.**

### **A BILL FOR AN ACT**

1 Relating to economic development; creating new provisions; amending ORS 238.015, 240.205,  
2 285A.020, 285A.045, 285A.055, 285A.075, 285A.090, 285A.200, 285A.213, 285A.227, 285A.264,  
3 285A.276, 285A.654, 285A.657, 285A.666, 285A.669, 285A.672, 285A.675, 285A.678, 285A.681,  
4 285A.684, 285A.690, 285A.693, 285A.699, 285A.702, 285A.708, 285A.711, 285B.410, 285B.413,  
5 285B.416, 285B.419, 285B.422, 285B.425, 285B.428, 285B.434, 285B.437, 285B.440, 285B.443,  
6 285B.452, 285B.455, 285B.458, 285B.461, 285B.467, 285B.479, 285B.560, 285B.563, 285B.578,  
7 285B.581, 285B.590, 285B.596 and 777.195; repealing ORS 778.240 and section 1, chapter 343,  
8 Oregon Laws 2001 (Enrolled House Bill 3660), and sections 5, 6 and 7, chapter \_\_\_\_\_, Oregon  
9 Laws 2001 (Enrolled Senate Bill 479); and prescribing an effective date.

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

11 **SECTION 1. ORS 778.240 and section 1, chapter 343, Oregon Laws 2001 (Enrolled House  
12 Bill 3660), are repealed.**

13 **SECTION 1a. If Senate Bill 479 becomes law, sections 5 (amending ORS 285B.413), 6**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (amending ORS 285B.410) and 7 (amending ORS 285B.428), chapter \_\_\_\_\_, Oregon Laws 2001  
2 (Enrolled Senate Bill 479), are repealed.

3 **SECTION 1b.** ORS 285A.020 is amended to read:

4 285A.020. (1) The Legislative Assembly finds that:

5 (a) Oregon's economy continues to experience change and adjustment that greatly affect the  
6 well-being of its citizens.

7 (b) The state has a need for continuing economic development to help provide the jobs for its  
8 citizens that lead to community vitality and a high quality of life.

9 (2) The Legislative Assembly further finds that:

10 (a) Oregon's human resources constitute a major asset in the state's effort to promote economic  
11 expansion and improvement.

12 (b) Oregon's natural resources provide ample opportunities for productive and beneficial eco-  
13 nomic enterprise.

14 (c) Oregon's location on the growing economy of the Pacific Rim provides substantial opportu-  
15 nities and challenges in international trade.

16 (d) Oregon's special heritage, its respect for and cultivation of its environment and its quality  
17 of life are a unique and sustaining virtue that will both guide and assist in maintaining the state's  
18 economic health.

19 (3) It is the purpose of ORS chapters 285A and 285B to promote the improvement of Oregon's  
20 economy to better provide for the well-being of its citizens. To that end, the Economic and Com-  
21 munity Development Department shall invest resources in accordance with the following principles:

22 (a) Structures and processes for making public investments and dealing with local and regional  
23 issues must be designed flexibly so that actions can adapt to the constantly changing conditions and  
24 demands under which communities and businesses operate.

25 (b) Partnerships among local, state and federal, public and private players should be used to set  
26 direction, develop projects and set priorities.

27 (c) The expected impact of public investments at all levels should be explicitly identified, in  
28 terms of measurable outcomes, whenever possible.

29 (d) State, federal and community goals, constraints and obligations should be identified at the  
30 beginning of the public investment planning process, and the state should work actively with com-  
31 munities and regions to accomplish their mutual objectives.

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

33 (a) Focus on Oregonians in communities that are rural, economically distressed or lack diverse  
34 employment opportunities, including providing assistance in recruiting jobs from outside the com-  
35 munity or state and financing necessary infrastructure;

36 (b) Assist Oregonians who are underemployed or in low income jobs;

37 (c) Assist start-up companies and companies already doing business in Oregon; *[and]*

38 (d) Help regions that are committed to making strong progress toward an integrated structure  
39 and process for strategic planning and project development; **and**

40 (e) **Focus on strategies and investments that maximize the economic benefit to the state  
41 of the global shift to an information, science and technology driven economy and on indus-  
42 tries and companies that make significant use of the high-capacity telecommunications, sci-  
43 ence and technology-related manufacturing processes or knowledge transfer typical of these  
44 emerging economic sectors.**

45 **SECTION 1c.** ORS 285A.045 is amended to read:

1        285A.045. (1) As its primary duty, the Oregon Economic and Community Development Commis-  
2        sion shall develop and maintain an economic and community development policy for this state that  
3        implements the strategy declared in ORS 285A.020 (4) and that includes policies that:

4            (a) Maintain and create jobs that raise real wage levels of Oregon workers.  
5            (b) Increase the skill levels of the Oregon workforce.  
6            (c) Improve the competitiveness of this state's traded sector industries, **including industries**  
7        **characterized by significant use of high-capacity telecommunications, science and**  
8        **technology-related manufacturing processes or knowledge transfer**, and achieve benchmarks  
9        for those industries established by the Oregon Progress Board.

10           (d) Invest public moneys in a manner that produces the greatest possible return on investment.

11           (e) Support statewide and regional strategies to develop and maintain the infrastructure neces-  
12        sary to support and strengthen the economy of this state.

13           (f) Identify and eliminate barriers that impede the competitiveness of Oregon businesses.

14           (g) Encourage expansion of existing Oregon businesses and the attraction of new business and  
15        industry to those communities that desire such development, **with particular attention to indus-**  
16        **ties characterized by significant use of high-capacity telecommunications, science and**  
17        **technology-related manufacturing processes or knowledge transfer**.

18        (2) It is the function of the Oregon Economic and Community Development Commission to es-  
19        tablish the policies for economic and community development in this state in a manner consistent  
20        with the policies and purposes set forth in this section and ORS 285A.050. In addition, the commis-  
21        sion shall perform any other duty vested in it by law.

22        (3) The commission shall keep complete and accurate records of all the meetings, transactions  
23        and business of the commission at the office of the Economic and Community Development Depart-  
24        ment.

25        (4) The commission shall set policy for and monitor programs relating to economic development  
26        and rural and community development and such other programs related to economic and community  
27        development that may be assigned by law to the department.

28           (5) In carrying out its duties under subsection (1) of this section, the commission shall:

29           (a) Place priority on those policies that achieve benchmarks established by the Oregon Progress  
30        Board; and

31           (b) Coordinate its activities with the policies of the Education and Workforce Policy Advisor  
32        and the policymaking bodies of the Housing and Community Services Department, the Department  
33        of Transportation, the Department of Environmental Quality, the Department of Land Conservation  
34        and Development and the Employment Department, as well as other appropriate state and federal  
35        agencies.

36        **SECTION 2.** ORS 285A.055 is amended to read:

37        285A.055. Prior to the approval of bond financing of economic development projects under ORS  
38        285B.320 to 285B.377, the making of a loan under ORS 285A.666 to 285A.732 or the making of any  
39        loan or the granting of any moneys from any source [*except for those allocated under chapter 777,*  
40        *Oregon Laws 1985*], the Oregon Economic and Community Development Commission shall:

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

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

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

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

5       (5) Find that the project involved is consistent with applicable adopted local economic develop-  
6 ment plans; and

7       (6) Provide for public notice of, and public comment on, the action.

8       **SECTION 3.** ORS 285A.075 is amended to read:

9       285A.075. (1) The Economic and Community Development Department, through research, pro-  
10 motion and coordination of activities in this state, shall foster the most desirable growth and ge-  
11 ographical distribution of agriculture, industry and commerce in the state. The department shall  
12 serve as a central coordinating agency and clearinghouse for activities and information concerning  
13 the resources and economy of the state.

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

16       (3) The department shall administer the state's participation in the federal Community Devel-  
17 opment Block Grant funding program authorized by 42 U.S.C. 5301 et seq.

18       (4) In order to accomplish the purposes of ORS chapters 285A and 285B and ORS 329.905 to  
19 329.975, the department may expend moneys duly budgeted to pay the travel and various other ex-  
20 penses of industrial or commercial site location agents, film or video production location agents,  
21 business journal writers, elected state officials or other state personnel whom the Director of the  
22 Economic and Community Development Department determines may promote the purposes of this  
23 subsection.

24       (5) In accordance with applicable provisions of ORS 183.310 to 183.550, the department may  
25 adopt rules necessary for the administration of laws that the department is charged with adminis-  
26 tering.

27       (6) ORS 276.428, 279.021, 279.310 to 279.322, 279.334, 279.336, 279.338, 279.340, 279.342, 279.348  
28 to 279.363, 279.365, 279.545 to 279.650, 279.712, 279.826, 282.020, 282.050, 282.210, 282.220, 282.230 and  
29 283.140 do not apply to the department's operation of foreign trade offices outside the state.

30       **(7) Notwithstanding ORS 279.712, the department may enter into contracts for personal  
31 services as necessary or appropriate to carry out the duties, functions and powers vested in  
32 the department by law.**

33       **(8)(a) The department may contract directly with the Oregon Downtown Development  
34 Association, or its successor entity, to provide downtown development and redevelopment  
35 assistance and similar services to municipalities in Oregon.**

36       **(b) The department may contract directly with Rural Development Initiatives, or its  
37 successor entity, to provide training, technical assistance, planning assistance and other  
38 support and services to municipalities in Oregon to build economic and community develop-  
39 ment capacity.**

40       **(c) Contracts entered into under this subsection are exempt from the requirements of  
41 ORS chapter 279.**

42       **(9) If the director determines that moneys are available, the department may transfer  
43 funds from the Special Public Works Fund created under ORS 285B.455 or from the Water  
44 Fund established under ORS 285B.563 to a state agency to provide financial assistance in the  
45 delivery of technical assistance or other services to one or more water systems for eval-**

1 **ation of water quality or services or for planning the improvement of water quality or ser-**  
2 **vices. The department may structure the financial assistance under this subsection in the**  
3 **form of an interagency grant or loan or in any other manner the director considers neces-**  
4 **sary or appropriate.**

5 **SECTION 4.** ORS 285A.200 is amended to read:

6 285A.200. (1) The Economic and Community Development Department may accept gifts of money  
7 or other property from any public or private agency or person made for the purpose of assisting the  
8 department to carry out any programs or laws that the department is charged with administering.  
9 Moneys so received shall be paid into an appropriate fund or account. Property so received shall  
10 be used for the purposes for which that property is given.

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

15 **(3) The department may assess and charge fees for loans made from any of its funds or**  
16 **accounts.**

17 **SECTION 4a.** ORS 285A.213 is amended to read:

18 285A.213. (1) There is established in the State Treasury, separate and distinct from the General  
19 Fund, the Safe Drinking Water Revolving Loan Fund. All moneys in the Safe Drinking Water Re-  
20 volving Loan Fund are continuously appropriated to the Economic and Community Development  
21 Department.

22 (2) The Economic and Community Development Department shall administer the Safe Drinking  
23 Water Revolving Loan Fund in accordance with a memorandum of understanding between the de-  
24 partment and the Health Division.

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

26 (a) Moneys transferred to the fund by the Health Division for purposes authorized by the mem-  
27 orandum of understanding between the Health Division and the Economic and Community Develop-  
28 ment Department.

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

31 (c) Moneys transferred to the fund by the Legislative Assembly or the Oregon Economic and  
32 Community Development Commission.

33 (d) Proceeds from the sale of revenue bonds.

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

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

36 (4) Moneys in the Safe Drinking Water Revolving Loan Fund shall be used to provide financial  
37 **or other** assistance to publicly owned and privately owned water systems under the Safe Drinking  
38 Water Act Amendments of 1996, P.L. 104-182, and rules of the Economic and Community Develop-  
39 ment Department. **As used in this subsection, “assistance” includes direct purchase by the**  
40 **department of goods or services related to a water system project to the extent permitted**  
41 **by the memorandum of understanding between the department and the Health Division, the**  
42 **Safe Drinking Water Act Amendments of 1996, and as authorized by rules of the department.**

43 **SECTION 5.** ORS 285A.227 is amended to read:

44 285A.227. (1) There is created within the State Treasury, separate and distinct from the General  
45 Fund, the Oregon Community Development Fund. The fund is created to provide a flexible funding

1 source for financing those programs and projects that are determined by the Oregon Economic and  
2 Community Development Commission under the policies, criteria and standards set forth in ORS  
3 285A.020, 285A.045 and 285A.055 to further economic and community development. **The Economic**  
4 **and Community Development Department may finance programs and projects determined by**  
5 **the commission to further economic and community development by making grants or loans**  
6 **using moneys in the fund. Notwithstanding ORS 279.712, the department may enter into**  
7 **contracts for personal services as necessary or appropriate to implement programs and**  
8 **projects determined by the commission to further economic and community development**  
9 **using moneys in the fund.** The Oregon Community Development Fund shall consist of all moneys  
10 credited to the fund, including moneys from the Administrative Services Economic Development  
11 Fund, federal funds collected or received, and fees, moneys or other revenues, including Miscella-  
12 neous Receipts, collected or received by the Economic and Community Development Department,  
13 and all interest earnings that accrue to the fund. The moneys in the Oregon Community Develop-  
14 ment Fund are continuously appropriated to the Economic and Community Development Department  
15 to promote economic and community development.

16 (2) The Oregon Economic and Community Development Commission, by rule, shall adopt stan-  
17 dards, objectives and criteria for use of the moneys in the Oregon Community Development Fund.

18 **SECTION 6.** ORS 285A.264 is amended to read:

19 285A.264. The Oregon Tourism Commission shall perform the following duties:

20 (1) Serve as a body to advise governmental bodies and agencies and private persons on the de-  
21 velopment and implementation of state policies and programs relating to tourism and recreation and  
22 to assist in the coordination of these activities.

23 (2) Advise the Governor and direct the administrator of the Oregon Tourism Program on all  
24 matters pertaining to tourism.

25 (3) Prepare, approve and periodically revise and submit to the Governor, the Director of the  
26 Economic and Community Development Department and tourism industry associations a recom-  
27 mended comprehensive marketing plan for review by the Governor, the director and the tourism  
28 industry associations. The comprehensive marketing plan shall be directed toward the accomplish-  
29 ment of at least the following purposes:

30 (a) Maximizing the return on public and private investment in tourism.  
31 (b) Encouraging longer stays by visitors to Oregon.  
32 (c) Reducing seasonal fluctuations in travel and tourist related industries.  
33 (d) Encouraging visitors to be destination oriented in this state **by targeting high-yield visitor**  
34 **segments that may include cultural tourism, agri-tourism, nature-based tourism or sports**  
35 **and adventure tourism.**

36 (e) Encouraging visitors from foreign countries to come to Oregon.  
37 (f) Encouraging Oregonians to vacation in Oregon.

38 (4) Develop a biennial budget for all operations of the tourism commission and the tourism  
39 program and submit the budget to the Governor.

40 (5) Seek and receive the views of all levels of government and the private sector with respect  
41 to state programs and policies for the promotion and assistance of tourism.

42 (6) Prepare and adopt administrative rules necessary for the operation of the programs of the  
43 tourism commission.

44 (7) Cooperate with educational institutions of the state in the development of educational pro-  
45 grams preparing persons for supporting and leadership positions critical to the development of an

1 economically strong and socially beneficial tourism industry in Oregon.

2 (8) Cooperate with and provide expertise for communities and tourism marketing associations  
3 in the development and promotion of their tourism attractions and businesses.

4 **(9) At the discretion of the tourism commission, exercise directly any power or authority  
5 vested in the tourism program.**

6 **SECTION 7.** ORS 285A.276 is amended to read:

7 285A.276. (1) The Public-Private Partnership is hereby established as a program of the Oregon  
8 Tourism Commission.

9 (2) The tourism commission shall adopt a biennial budget for the Public-Private Partnership us-  
10 ing the classifications of expenditures and revenues required by ORS 291.206 (1).

11 (3) The tourism commission shall adopt the budget for the Public-Private Partnership only after  
12 holding a public hearing on the proposed budget. At least 15 days prior to any public hearing on the  
13 proposed budget, the tourism commission shall give notice of the hearing to all persons known to  
14 be interested in the proceedings of the tourism commission and to any person who requests notice.

15 (4) All moneys collected, received or appropriated for the purposes of the Public-Private Part-  
16 nership shall be deposited in an account established in a depository bank insured by the Federal  
17 Deposit Insurance Corporation. In a manner consistent with the requirements of ORS chapter 295,  
18 the chair of the tourism commission shall ensure that sufficient collateral secures any amount of  
19 funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corpo-  
20 ration. Subject to approval by the tourism commission, the commission may invest moneys collected  
21 or received for the Public-Private Partnership. Investments made by the tourism commission are  
22 limited to the types of investments listed in ORS 294.035 (1) to (9). Interest earned from any amounts  
23 invested shall be made available to the tourism commission in a manner consistent with the biennial  
24 budget for the Public-Private Partnership.

25 (5) Moneys in the account established under subsection (4) of this section for the Public-Private  
26 Partnership shall consist of:

27 (a) Gifts, grants and other contributions from private and nonprofit entities;

28 (b) Grants, loans and other revenue transfers from public entities, including the State of Oregon;  
29 [and]

30 (c) Interest earned on moneys in the account; **and**

31 **(d) Revenues generated by the tourism commission or by Oregon Tourism Program ac-  
32 tivities.**

33 (6) Notwithstanding ORS chapter 279, all expenditures from the account established under sub-  
34 section (4) of this section shall be in conformance with the duties of the tourism commission set  
35 forth in ORS 285A.264. All expenditures from the account are exempt from any state expenditure  
36 limitation. **The Public-Private Partnership is exempt from ORS 291.050 to 291.060.** The tourism  
37 commission shall follow generally accepted accounting principles and keep such financial and sta-  
38 tistical information that is necessary to completely and accurately disclose the financial condition  
39 of the account as may be required by the Secretary of State.

40 **SECTION 7a.** ORS 285A.654 is amended to read:

41 285A.654. (1) There is created within the State Treasury, separate and distinct from the General  
42 Fund, the Port Planning and Marketing Fund. All moneys in the Port Planning and Marketing Fund  
43 are appropriated continuously to the Ports Division and shall be used by the division for:

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

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

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

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

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

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

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

9       (3) Moneys in the Port Planning and Marketing Fund, with the approval of the State Treasurer,  
10 may be invested as provided by ORS 293.701 to 293.820, and the earnings from such investments  
11 shall be credited to the Port Planning and Marketing Fund.

12       **SECTION 7b.** ORS 285A.657 is amended to read:

13       285A.657. (1) The Ports Division may make grants, as funds are available, to any port incorpo-  
14 rated under ORS chapter 777 or 778 for:

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

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

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

22       (3) An application under this section shall be filed in such a manner and contain or be accom-  
23 panied by such information as the Ports Division may prescribe.

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

27       (a) Reject the application; or

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

29       (5) The Ports Division may approve a grant for a planning project or a marketing project de-  
30 scribed in an application filed under this section if, after investigation, the Ports Division finds that:

31       (a) The project meets the standards and criteria established by the Ports Division for grant fi-  
32 nancing from the Port Planning and Marketing Fund; and

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

34       (6) Grants to ports under ORS 285A.654 to 285A.660 shall not exceed \$25,000 and shall not ex-  
35 ceed 75 percent of the total cost of the project.

36       (7) The Ports Division shall not fund any program that subsidizes regular port operating ex-  
37 penses.

38       **(8) In lieu of all or part of the grant financing approved under ORS 285A.654 to 285A.660  
39 for a planning or marketing project, the Ports Division may purchase goods or services to  
40 assist a port in implementing a project.**

41       **SECTION 8.** ORS 285A.666 is amended to read:

42       285A.666. As used in ORS 285A.666 to 285A.732, unless the context requires otherwise:

43       (1) "Business development project" means the engineering, improvement, rehabilitation, con-  
44 struction, operation or maintenance, in whole or in part, including the preproject planning costs of  
45 any business development project authorized by ORS 777.250 (1). The term does not include a flexi-

1   ble manufacturing space project.

2   (2) "Division" means the Ports Division of the Economic and Community Development Depart-  
3   ment.

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

9   (4) "Fund" means the Oregon Port Revolving Fund.

10   (5) "Port development project" means the engineering, improvement, rehabilitation, construction,  
11   operation or maintenance, in whole or in part, including the preproject planning costs of any project  
12   authorized by ORS 777.105 to 777.258, except projects authorized primarily by ORS 777.250 (1).

13   (6) "Port district" means any municipal corporation incorporated, or proposed to be incorpo-  
14   rated, pursuant to ORS 777.005 to 777.725 and 777.915 to 777.953 or ORS chapter 778.

15   **(7) "Project" means a port development project, a business development project or a  
16   flexible manufacturing space project.**

17   **SECTION 9.** ORS 285A.669 is amended to read:

18   285A.669. Any Oregon port district may file with the Oregon Economic and Community Devel-  
19   opment Commission an application to borrow money from the Oregon Port Revolving Fund for a  
20   [*port development*] project as provided in ORS 285A.666 to 285A.732. The application shall be filed  
21   in such a manner and contain or be accompanied by such information as the commission may pre-  
22   scribe.

23   **SECTION 10.** ORS 285A.672 is amended to read:

24   285A.672. (1) Upon receipt of an application filed as provided in ORS 285A.669, the Oregon  
25   Economic and Community Development Commission shall determine whether the plans and specific-  
26   ifications for the proposed [*port development*] project set forth in or accompanying the application are  
27   satisfactory. If the commission determines that the plans and specifications are not satisfactory, the  
28   commission may within 60 days:

29   (a) Reject the application.

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

32   (2) The commission shall charge and collect from the applicant, at the time the application is  
33   filed, a fee of not to exceed \$100. Moneys referred to in this subsection shall be paid into the Oregon  
34   Port Revolving Fund.

35   **SECTION 11.** ORS 285A.675 is amended to read:

36   285A.675. Nothing in ORS 285A.666 to 285A.732 is intended to prevent an applicant from em-  
37   ploying a private engineering firm and construction firm to perform the engineering and con-  
38   struction work on a proposed [*port development*] project.

39   **SECTION 12.** ORS 285A.678 is amended to read:

40   285A.678. The Oregon Economic and Community Development Commission may approve a [*port*  
41   *development*] project proposed in an application filed as provided in ORS 285A.669, if, after investi-  
42   gation, the commission finds that:

43   (1) The proposed [*port development*] project is feasible and a reasonable risk from practical and  
44   economic standpoints, and the loan has reasonable prospect of repayment.

45   (2) Moneys in the Oregon Port Revolving Fund are or will be available for the proposed [*port*

1 *development]* project.

2 (3) There is a need for the proposed *[port development]* project, and the applicant's financial re-  
3 sources are adequate to provide the working capital needed to *[assure]* **ensure** success of the  
4 project.

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

6 (5) The applicant has not received or entered into a contract or contracts exceeding \$1.4 million  
7 with the commission, under authority of ORS 285A.666 to 285A.732, for the previous 365 days, and  
8 provided that no applicant may have more than \$2 million in outstanding loans at any one time.

9 (6) The standards under ORS 285A.055 have been met.

10 **SECTION 13.** ORS 285A.681 is amended to read:

11 285A.681. If the Oregon Economic and Community Development Commission approves the  
12 project, the commission, on behalf of the state, and the applicant may enter into a loan contract of  
13 not more than \$700,000[.] **that is** secured by good and sufficient collateral[. *which shall set forth,*]

14 **The loan contract shall set forth**, among other matters:

15 (1) A plan for repayment by the applicant to the Oregon Port Revolving Fund **of** moneys bor-  
16 rowed from the fund *[used]* for the *[port development project, flexible manufacturing space project or*  
17 *business development]* project and interest on *[such moneys used]* **the moneys** at a rate of interest  
18 for port development projects and flexible manufacturing space projects of not less than five percent  
19 or for business development projects of not less than one percent less than the prevailing interest  
20 rate on United States Treasury bills of comparable term, as determined by the commission. The re-  
21 payment plan, among other matters:

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

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

30 (c) Shall provide for such evidence of debt assurance of, and security for, repayment by the ap-  
31 plicant as are considered necessary by the commission.

32 (d) Shall set forth a schedule of payments and the period of loan which shall not exceed the  
33 usable life of the contracted project or 20 years from the date of the contract, whichever is less, and  
34 shall also set forth the manner of determining when loan payments are delinquent. The payment  
35 schedule shall include repayment of interest which accrues during any period of delay in repayment  
36 authorized by paragraph (a) of this subsection, and the payment schedule may require payments of  
37 varying amounts for collection of such accrued interest.

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

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

45 (2) Provisions satisfactory to the commission for field engineering and inspection, the commis-

1 sion to be the final judge of completion of the contract.

2 (3) That the liability of the state under the contract is contingent upon the availability of mon-  
3 eys in the Oregon Port Revolving Fund for use in the project.

4 (4) Such further provisions as the commission considers necessary to *[insure]* **ensure** expendi-  
5 ture of the funds for the purposes set forth in the approved application.

6 (5) That the commission may institute appropriate action or suit to prevent use of the facilities  
7 of a project financed by the Oregon Port Revolving Fund if the *[port]* **applicant** is delinquent in the  
8 repayment of any moneys due the Oregon Port Revolving Fund.

9 **SECTION 14.** ORS 285A.684 is amended to read:

10 285A.684. If the Oregon Economic and Community Development Commission approves a loan for  
11 a *[port development]* project, the commission shall pay moneys for *[such]* **the** project from the Oregon  
12 Port Revolving Fund, in accordance with the terms of the loan contract as prescribed by the com-  
13 mission.

14 **SECTION 15.** ORS 285A.690 is amended to read:

15 285A.690. (1) The Oregon Economic and Community Development Commission may institute  
16 proceedings to foreclose any lien for delinquent loan payments.

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

21 (3) The commission may also provide by contract or otherwise for a *[port development]* project  
22 until the project is assumed by the new port project developer.

23 **SECTION 16.** ORS 285A.693 is amended to read:

24 285A.693. A port district that enters into a contract with the Oregon Economic and Community  
25 Development Commission for a *[port development]* project and repayment as provided in ORS  
26 285A.681 may obtain moneys for repayment to the Oregon Port Revolving Fund under the contract  
27 in the same manner as other moneys are obtained for purposes of the port district or other moneys  
28 available to the developer.

29 **SECTION 17.** ORS 285A.699 is amended to read:

30 285A.699. Except as provided in ORS 285A.702, if any *[port development]* project is refinanced  
31 or financial assistance is obtained from other sources after the execution of the loan from the state,  
32 all such funds shall be *[first]* used to repay the state **first** if such refinancing or financial assistance  
33 applies only to the *[port development]* project authorized and does not include any subsequent addi-  
34 tion, expansion, improvement or further development.

35 **SECTION 18.** ORS 285A.702 is amended to read:

36 285A.702. (1) The Oregon Economic and Community Development Commission may authorize  
37 funds from the Oregon Port Revolving Fund to be used in appropriate joint governmental partic-  
38 ipation projects or as match money with any port, state or federally funded *[port development]*  
39 project authorized within a port district, subject to the stipulations of ORS 285A.666 to 285A.732.

40 (2) Any application for a loan under this section shall be in such form as the commission pre-  
41 scribes and shall furnish such proof of federal, state or local approval as appropriate for funding of  
42 the *[port development]* project.

43 (3) The total amount of moneys loaned from the fund for federal, state or local joint *[port de-*  
44 *velopment]* project purposes shall not exceed \$700,000 per project.

45 **SECTION 19.** ORS 285A.708 is amended to read:

1        285A.708. (1) There is created within the State Treasury a revolving fund known as the Oregon  
2        Port Revolving Fund, separate and distinct from the General Fund. Moneys in this fund are contin-  
3        uously appropriated to the Oregon Economic and Community Development Commission for the fol-  
4        lowing purposes:

5        (a) Administrative expenses of the commission in processing applications and investigating pro-  
6        posed [port development] projects.

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

8        (c) Administrative expenses of the Ports Division relating to ports. In any one year, adminis-  
9        trative expenses charged under this paragraph may not be greater than the total revenues received  
10      in that year from fees provided for in subsection (2)(a) of this section, plus three percent of the total  
11      asset value of the fund.

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

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

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

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

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

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

20      (4) No money shall be expended from the Oregon Port Revolving Fund for any economic devel-  
21      opment study costing more than \$25,000 unless a work plan and budget for such study has been  
22      provided to the Joint Legislative Committee on Trade and Economic Development.

23      **SECTION 20.** ORS 285A.711 is amended to read:

24      285A.711. All payments, receipts and interest from outstanding indebtedness shall be retained in  
25      the Oregon Port Revolving Fund and accumulated for new project disbursal, and repayment of funds  
26      allocated pursuant to section 25, chapter 838, Oregon Laws 1977. All interest earnings of the fund  
27      from whatever source shall be retained and accumulated in the Oregon Port Revolving Fund and  
28      shall be used for [port development] projects, and repayment of funds allocated pursuant to section  
29      25, chapter 838, Oregon Laws 1977.

30      **NOTE:** Sections 21 through 26 were deleted by amendment. Subsequent sections were not re-  
31      numbered.

32      **SECTION 27.** ORS 285B.410 is amended to read:

33      285B.410. As used in ORS 285B.410 to 285B.479, unless the context requires otherwise:

34      [(1) *"Municipality"* means a city, a county, a port incorporated under ORS 777.010 and 777.050, the  
35      Port of Portland created by ORS 778.010, a metropolitan service district organized under ORS chapter  
36      268, a domestic water supply district organized under ORS chapter 264, a water authority or sanitary  
37      authority organized under ORS 450.600 to 450.989, a water improvement district organized under ORS  
38      chapter 552, a water control district organized under ORS chapter 553, a sanitary district organized  
39      under ORS 450.005 to 450.245, a county service district organized under ORS chapter 451 or a tribal  
40      council of an Indian tribe in this state.]

41      (1) **"Community facilities"** means municipal facilities that assist the economic and com-  
42      munity development of the municipality, as specified in rules adopted by the Economic and  
43      Community Development Department, whether operated by the municipality or by a person  
44      under a management contract or an operating agreement with the municipality.

45      (2) **"Direct project management costs"** means new expenses incurred by a municipality

1 **solely to support, plan for and manage an infrastructure project, funded in whole or in part**  
 2 **through financial assistance under ORS 285B.410 to 285B.479, during the planning and con-**  
 3 **struction phases of the project.**

4 **[2] (3) "Infrastructure project" means:**

5 (a) A project for the construction of sewage treatment works, solid waste disposal sites, water  
 6 supply works, roads, public transportation, railroad industrial spurs or sidings, **telecommunications**  
 7 **infrastructure** or other facilities that comprise the physical foundation for industrial and commer-  
 8 cial activity. The costs of property acquisition directly related to the infrastructure project and ac-  
 9 quisition of easements or rights of way necessary to accomplish construction of the infrastructure  
 10 project are eligible for assistance under ORS 285B.410 to 285B.479. The costs of activities related  
 11 to performing an environmental evaluation of a brownfield are eligible for assistance under ORS  
 12 285B.416 (2) and 285B.455 (5). Purchases of off-site property for project-related purposes such as  
 13 wetland mitigation or other uses not directly related to the infrastructure are not eligible for as-  
 14 sistance. As used in this paragraph, "brownfield" and "environmental evaluation" have the meanings  
 15 given those terms respectively in ORS 285A.185 and 285A.188.

16 (b) A project, in consultation with the Department of Transportation and other affected agen-  
 17 cies, for the acquisition, reconstruction or rehabilitation of an abandoned railroad line or railroad  
 18 line that has been designated by the owner and operator thereof as subject to abandonment within  
 19 a three-year period pursuant to federal law and regulations governing abandonment of common  
 20 carrier railroad lines. The project may include operation or maintenance costs if the project also  
 21 includes acquisition, reconstruction or rehabilitation.

22 (c) A safe drinking water project, in consultation with the Water Resources Department, the  
 23 Health Division of the Department of Human Services or the Department of Land Conservation and  
 24 Development, for improving a drinking water system for the purpose of achieving or maintaining  
 25 compliance with applicable state or federal drinking water quality regulations.

26 (d) A project for the acquisition, construction or development of community facilities, including  
 27 the acquisition of land, the construction, acquisition, renovation or reconstruction of buildings,  
 28 structures and other real property and the acquisition or construction of related equipment and  
 29 fixtures. *[“Community facilities” includes facilities that are owned by a municipality and are operated*  
 30 *by either the municipality or a person under a management contract or operating agreement with the*  
 31 *municipality.]*

32 **(4) “Municipality” means a city, a county, the Port of Portland created by ORS 778.010,**  
 33 **a county service district organized under ORS chapter 451, a tribal council of an Indian tribe**  
 34 **in this state or a district as defined in ORS 198.010.**

35 **(5) “Nonurban infrastructure projects” includes all those projects which do not meet the**  
 36 **definition of urban infrastructure projects.**

37 **[3] (6) “Public transportation” includes public depots, public parking, public docks, public**  
 38 **wharves, railroads and airport facilities.**

39 **[4] (7) “Roads” includes:**

40 (a) Ways described as streets, highways, throughways or alleys;  
 41 (b) Road related structures that are in the right of way such as tunnels, culverts or similar  
 42 structures; and  
 43 (c) Structures that provide for continuity of the right of way such as bridges.

44 **[5] (8) “Sewage treatment works” includes all facilities necessary for collecting, pumping,**  
 45 **treating and disposing of sanitary or storm sewage.**

1        **[6] (9)** "Solid waste disposal site" has the meaning given to the term "disposal site" by ORS  
2        459.005.

3        **(10)** "Telecommunications infrastructure" means real or personal property, structures  
4        or equipment constructed, used or configured for the electronic transmission or receipt of  
5        voice, data, text, images or video between sites and facilities.

6        **(11)** "Urban infrastructure projects" includes all those projects located in whole or in  
7        part within the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary,  
8        and the acknowledged urban growth boundaries of the cities of Eugene, Springfield, Salem,  
9        Keizer or Medford or projects that will principally benefit these areas. The Director of the  
10      Economic and Community Development Department is authorized to resolve situations left  
11      in question by this definition.

12      **[7] (12)** "Water supply works" includes all facilities necessary for tapping natural sources of  
13      domestic and industrial water, treating and protecting the quality of the water and transmitting it  
14      to the point of sale to any public or private agency for domestic, municipal and industrial water  
15      supply service.

16      **[8]** "Urban infrastructure projects" includes all those projects located in whole or in part within  
17      the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary, and the acknowl-  
18      edged urban growth boundaries of the cities of Eugene, Springfield, Salem, Keizer or Medford or  
19      projects that will principally benefit these areas. The Director of the Economic and Community Devel-  
20      opment Department is authorized to resolve situations left in question by this definition.]

21      **[9]** "Nonurban infrastructure projects" includes all those projects which do not meet the definition  
22      of urban infrastructure projects.]

23      **SECTION 27a.** ORS 285B.413 is amended to read:

24      285B.413. (1) The Legislative Assembly finds that:

25      (a) The improvement, expansion and new construction of the state's sewage treatment works,  
26      water supply works, **telecommunications infrastructure**, roads and public transportation  
27      [provides] **provide** the basic framework for continuing and expanding economic activity in this state,  
28      thereby providing jobs and economic opportunity for the people of Oregon.

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

30      (2) Since municipalities in this state often suffer from a lack of available financing **and technical capacity** for such projects, it is the purpose of ORS 285B.410 to 285B.479 to provide financial  
31      **or other** assistance in order that they may construct, improve and repair those facilities that are  
32      essential for supporting continuing and expanded economic activity. It is the intent of the Legisla-  
33      tive Assembly, by providing that assistance, to stimulate industrial growth and commercial enter-  
34      prize and to promote employment opportunities in Oregon.

35      (3) The money in the Special Public Works Fund shall be used primarily to provide loans to  
36      municipalities for infrastructure projects. Grants shall be given only when loans are not feasible due  
37      to the economic need of the applicant municipality and special circumstances of the project. The  
38      Director of the Economic and Community Development Department is authorized to determine the  
39      level of grant or loan funding, if any, on a case-by-case basis.

40      **SECTION 28.** ORS 285B.416 is amended to read:

41      285B.416. (1) For purposes of ORS 285B.410 to 285B.479, the total project costs of an  
42      infrastructure project may include costs for preliminary planning or legal, fiscal and economic in-  
43      vestigations, reports and studies to determine the economic and engineering feasibility of the  
44      project. [Such planning] **These** costs may be paid for with a loan or grant from the Special Public

1 Works Fund, by technical assistance grants or loans awarded to eligible municipalities, or by a  
2 municipality itself.

3 (2) The engineering and architectural reports, studies, surveys, designs, plans, working drawings  
4 and specifications, **and the direct project management costs** necessary in the construction of the  
5 infrastructure project shall be eligible for financial **or other** assistance under ORS 285B.410 to  
6 285B.479. Proposals for technical assistance grants shall be processed under ORS 285B.419, 285B.428  
7 (2)(a), 285B.437 (2) and 285B.440 (2) in the same manner as other project proposals.

8 **SECTION 29.** ORS 285B.419 is amended to read:

9 285B.419. (1) The Economic and Community Development Department shall adopt rules and  
10 policies for the administration of the Special Public Works Fund. Insofar as practicable, the de-  
11 partment's rules shall provide that infrastructure projects that meet the following criteria receive  
12 priority for *[financial]* assistance:

13 (a) Provide for the establishment or enlargement of economically viable industries, with rea-  
14 sonable long term growth prospects, including opportunities for innovative new industries or for  
15 continuance of existing basic industries.

16 (b) Result in a net benefit to the state in the long term and not require continuing state subsi-  
17 dies.

18 (c) Utilize existing public and private assets, including infrastructure, human resources and  
19 plant and equipment.

20 (d) Improve the conditions of the economically disadvantaged and increase the number of jobs  
21 that increase average incomes.

22 (e) Support the development of businesses owned by women and members of minority groups.

23 (f) Harness Oregon's comparative advantage with emphasis on the growth and development of  
24 existing, in-state businesses, especially small businesses.

25 (g) Direct assistance to projects that assist businesses selling goods and services in markets for  
26 which national or international competition exists and prohibit assistance to infrastructure projects  
27 that primarily focus on relocating business or economic activity from one part of the state to an-  
28 other.

29 (h) Result in the economic revitalization of communities.

30 (i) Are funded and otherwise supported to the maximum extent possible by private resources.

31 (j) Result in business growth or expansion which would not occur in Oregon without an invest-  
32 ment from the Special Public Works Fund.

33 (2)(a) The Economic and Community Development Department shall manage the Special Public  
34 Works Fund and any expenditures from its accounts and transfers between its accounts so that the  
35 fund value shall be equal to at least 50 percent of lottery revenues actually transferred to the fund  
36 plus interest on such amounts compounded annually at five percent. *[The fund value shall be deter-  
37 mined by summing the cash reserves and the outstanding principal amount of loans to municipalities.  
38 Any principal amounts of loans forgiven shall be subtracted from the value of the fund. The value of  
39 the fund shall include moneys in the fund that are pledged to the repayment of state bonds.]*

40 *[(b) The department shall quarterly certify the value of the fund to the State Treasurer.]*

41 *[(c)] (b) If necessary to [insure] ensure repayment of bonds issued under ORS 285B.410 to  
42 285B.479, the Economic and Community Development Department is authorized to reduce the value  
43 of the fund to less than the limit provided in paragraph (a) of this subsection if the department:*

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

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

3       (3) Not more than 100 percent of the total cost of any infrastructure project shall be financed  
4 from the Special Public Works Fund.

5       (4) The department may commit moneys in the Special Public Works Fund or reserve future in-  
6 come to the fund for disbursal in future years under ORS 285B.440 (4). The department shall commit  
7 or reserve moneys under this subsection only after:

8       (a) Allowing for contingencies;  
9       (b) Finding that there will be sufficient unobligated net income to the fund to make such future  
10 payments. Such a finding shall be based on financial plans which are consistent with the financial  
11 requirements of subsections (2) and (4) of this section; and

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

14       (5) In assisting local governments with infrastructure projects, the department shall cooperate  
15 to the maximum extent possible with other state agencies financing infrastructure projects, includ-  
16 ing but not limited to the Department of Environmental Quality, the Water Resources Department  
17 and the Department of Transportation.

18       (6) The department shall notify the Housing and Community Services Department of any pro-  
19 posed Special Public Works Fund project with a related workforce increase at the time the depart-  
20 ment receives the completed application for the project.

21       **SECTION 30.** ORS 285B.422 is amended to read:

22       285B.422. (1) The Economic and Community Development Department may provide financial **or**  
23 **other** assistance to municipalities for infrastructure projects that are community facilities projects  
24 as described in ORS 285B.410 [(2)(d)].

25       (2) Before providing financial assistance for a community facilities project, the Economic and  
26 Community Development Department must find that:

27       (a) The municipality has demonstrated that the community facilities project will provide long  
28 term benefits to the municipality;  
29       (b) The community facilities project will benefit a broad cross-section of the municipality;  
30       (c) There is a substantial local commitment to the community facilities to be financed; and  
31       (d) There is a need for the proposed community facilities project, and the municipality's financial  
32 resources are adequate to provide the working capital needed to ensure success of the project.

33       [(3) *Notwithstanding any other provision of ORS 285B.410 to 285B.479, community facilities*  
34 *projects shall be eligible only for loans made with moneys derived from the sale of revenue bonds is-*  
35 *sued under ORS 285B.467 or for loans made from the Special Public Works Fund.*]

36       **(3)(a) As provided in this subsection and ORS 285B.455 (5), but notwithstanding any other**  
37 **provision of ORS 285B.410 to 285B.479, community facilities projects are not eligible for**  
38 **grants made from the Special Public Works Fund.**

39       **(b) Grants from the Special Public Works Fund may be made for a community facilities**  
40 **project that is an essential community facilities project, as determined in accordance with**  
41 **rules adopted by the department after consultation with the League of Oregon Cities, the**  
42 **Association of Oregon Counties, the Oregon Public Ports Association and Special Districts**  
43 **Association of Oregon.** [No grants shall be made from the Special Public Works Fund for the costs

44 of a community facilities project.] Loans or grants from the Special Public Works Fund and loans from  
45 the proceeds of revenue bonds issued under ORS 285B.467 may be used to pay issuance costs and

1 for the funding of any debt service reserve for any revenue bonds issued under ORS 285B.467 to fi-  
2 nance community facilities.

3 **(c) The department shall determine the maximum amount of a grant to a municipality  
4 from the Special Public Works Fund for an essential community facilities project. However,  
5 a grant may not exceed 85 percent of the total project costs.**

6 (4) ORS 285B.413 (1) and (2), 285B.419 (1), [285B.434 (2), (4) and (5),] **285B.434 (2), (3), (4) and  
7 (5), 285B.443 (1)(b)**, 285B.464 and 285B.467 (2) and (8) do not apply to a municipality applying for  
8 financial assistance for a community facilities project.

9 **SECTION 30a.** ORS 285B.425 is amended to read:

10 285B.425. (1) There is established within the Special Public Works Fund an account to be known  
11 as the Community Facilities Account. All moneys in the Community Facilities Account are contin-  
12 uously appropriated to the Economic and Community Development Department for the purpose of  
13 providing [*financial*] assistance to municipalities for community facilities projects.

14 (2) The Community Facilities Account shall consist of:

15 (a) Moneys appropriated to the Community Facilities Account by the Legislative Assembly.  
16 (b) Moneys transferred to the Community Facilities Account from the federal government, other  
17 state agencies or local governments.

18 (c) Repayment of financial assistance provided to municipalities.

19 (d) Earnings on moneys in the Community Facilities Account.

20 (e) Any gifts or donations made to the State of Oregon for deposit in the Community Facilities  
21 Account.

22 (3) Moneys in the Community Facilities Account shall be used to provide financial **or other**  
23 assistance to municipalities for community facilities projects by means of loans, **grants**, the pur-  
24 chase of the bonds or other obligations of municipalities or the guaranty of all or any portion of the  
25 obligations of a municipality that are issued to finance a community facilities project, **or by other**  
26 **means.**

27 **SECTION 30b.** ORS 285B.428 is amended to read:

28 285B.428. (1) Any municipality may file an application with the Economic and Community De-  
29 velopment Department to obtain financial **or other** assistance from the Special Public Works Fund.  
30 The application shall be filed in such manner and contain or be accompanied by such information  
31 as the department may require.

32 (2) In addition to other requirements prescribed by the department, an application filed under  
33 this section shall:

34 (a) Describe the nature and purposes of the proposed infrastructure project, including the need  
35 for the project and the reasons why the project is in the public interest.

36 (b) Set forth or be accompanied by a feasibility study of the proposed infrastructure project and  
37 an estimate of the costs of construction.

38 (c) State whether any moneys other than those in the Special Public Works Fund are proposed  
39 to be used for the infrastructure project and whether any other moneys are available or have been  
40 sought for the project.

41 **(d) Provide, if assistance is to be used for telecommunications infrastructure, a reso-  
42 lution, adopted by the governing body of the municipality after a public hearing, that includes  
43 findings and states that the proposed telecommunications infrastructure project is necessary  
44 and would not otherwise be provided by a for-profit entity within a reasonable time and for  
45 a reasonable cost.**

1        **SECTION 30c.** ORS 285B.434 is amended to read:

2        285B.434. The Economic and Community Development Department shall not approve [*financial*]  
3 assistance from the Special Public Works Fund for an infrastructure project proposed in an applica-  
4 tion filed under ORS 285B.428 unless, after investigation, the department finds that:

5        (1) The proposed infrastructure project is feasible, and the municipality has certified to the de-  
6 partment that there will be adequate funds available to repay any loans made to the municipality  
7 under ORS 285B.410 to 285B.479;

8        (2) The proposed infrastructure project is situated in an area in which economic development  
9 is prevented or substantially restricted by a lack of adequate sewage treatment works, solid waste  
10 disposal sites, water supply works, **telecommunications infrastructure**, roads, public transporta-  
11 tion or other facilities that comprise the physical foundation for industrial and commercial activity;

12        (3) The proposed infrastructure project is situated in a city or county with a comprehensive land  
13 use plan that allows industrial and commercial development of a type and scale that is sufficient to  
14 repay the costs of the project;

15        (4) A high probability exists for industrial or commercial development, or both, of the properties  
16 served by the infrastructure project;

17        (5) The municipality has provided as part of the security for repayment of loans or bonds made  
18 available through ORS 285B.410 to 285B.479, provisions for payments from any owners of property  
19 specially benefited by the infrastructure project which are sufficient when considered with other  
20 security to assure repayment of bonds and loans made available through ORS 285B.410 to 285B.479;

21        (6) Moneys in the appropriate accounts of the Special Public Works Fund are or will be avail-  
22 able for the infrastructure project;

23        (7) The municipality is willing and able to enter into a contract with the department for repay-  
24 ment as provided in ORS 285B.437 (1)(a) to [(e)] **(d)**; and

25        (8) The proposed infrastructure project is consistent with rules adopted under ORS 285B.419.

26        **SECTION 30d.** ORS 285B.437 is amended to read:

27        285B.437. (1) If the Economic and Community Development Department approves [*financial*] as-  
28 sistance from the Special Public Works Fund for an infrastructure project, the department, on behalf  
29 of the state, and the municipality may enter into a contract, which shall set forth, among other  
30 matters:

31        (a) An estimate of the reasonable cost of the infrastructure project.

32        (b) An agreement by the municipality to proceed expeditiously with, and complete, the project  
33 in accordance with plans reviewed and approved by the department.

34        [(c) *None of the financial assistance provided by the state shall be used for administrative purposes*  
35 *by the municipality.*]

36        [(d)] **(c)** A statement that the liability of the state under the contract is contingent upon the  
37 availability of moneys in the Special Public Works Fund for use in the infrastructure project.

38        [(e)] **(d)** Such other provisions as the department considers necessary to insure expenditure of  
39 the moneys for the purposes set forth in the approved application.

40        (2) When the department approves financial assistance under ORS 285B.410 to 285B.479 for an  
41 infrastructure project, the department shall pay moneys for the project from the Special Public  
42 Works Fund in accordance with the terms of the contract.

43        (3) The department shall determine and approve a maximum amount of a loan for an  
44 infrastructure project under ORS 285B.410 to 285B.479 based upon a reasonable and prudent expec-  
45 tation of the municipality's ability to repay any amount borrowed.

1        **SECTION 31.** ORS 285B.443 is amended to read:

2        285B.443. (1) Any contract under ORS 285B.437 (1)(a) to [(e)] **(d)** that includes provisions for a  
3        loan of state moneys to a municipality or the purchase of a bond of a municipality by the state shall  
4        include a plan for repayment by the municipality of moneys borrowed from the Special Public Works  
5        Fund for an infrastructure project and interest on those moneys at a rate specified in the contract.  
6        The repayment plan:

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

9            (b) Shall set forth the allocation of special assessments or contractual responsibility among the  
10        owners of benefited properties for repayment to the municipality of the amount of the loan.

11            (c) Shall provide for repayment during a period which shall not exceed the usable life of the  
12        proposed project or 25 years, whichever is less.

13            (2) Notwithstanding any other provision of law, or any restriction on indebtedness contained in  
14        a charter, a municipality may borrow from the Special Public Works Fund by entering into a loan  
15        contract with the Economic and Community Development Department. The contract may be payable:

16            (a) From the revenues of any infrastructure project, including special assessment revenues;

17            (b) From amounts withheld under ORS 285B.449 (1);

18            (c) From the general fund of the municipality;

19            (d) From any combination of paragraph (a), (b) or (c) of this subsection; or

20            (e) From any other sources.

21            (3) The loan contracts under subsection (2) of this section shall be authorized by an ordinance,  
22        **order or resolution** [*which is*] adopted with not less than 14 days' prior notice. Notice shall be  
23        published at least once in a newspaper of general circulation within the municipality.

24        **SECTION 31a.** ORS 285B.440 is amended to read:

25        285B.440. (1) The maximum amount of any grant to a municipality made from the Special Public  
26        Works Fund under ORS 285B.419 shall not exceed \$1 million.

27            (2) No grant to a municipality shall be made for a project in an amount that exceeds 85 percent  
28        of total project costs.

29            (3) The Economic and Community Development Department shall develop standards for deter-  
30        mining the maximum proportion of any project which can be funded by grants. Such standards shall  
31        at a minimum provide grants equaling a larger percentage of total project costs for projects with  
32        greatest economic need.

33            (4) A grant contract under ORS 285B.437 (1)(a) to [(e)] **(d)** and this section may provide for  
34        grants on behalf of the municipality on an annual basis in the form of partial repayment to  
35        bondholders of amounts owed them. In such cases, the contract shall provide that moneys are or  
36        will be available in the Special Public Works Fund for such annual payments.

37        **SECTION 31b.** ORS 285B.452 is amended to read:

38        285B.452. In addition to making loans to municipalities for infrastructure projects and purchas-  
39        ing debt obligations issued to finance an infrastructure project, the Economic and Community De-  
40        velopment Department may provide any other form of financial **or other** assistance that the  
41        department may consider appropriate [*for the financing of* **to assist municipalities with**  
42        infrastructure projects **including the direct purchase by the department of goods or services**  
43        **related to an infrastructure project.**

44        **SECTION 32.** ORS 285B.455 is amended to read:

45        285B.455. (1) There is created the Special Public Works Fund, separate and distinct from the

1 General Fund. All moneys credited to the Special Public Works Fund are appropriated continuously  
 2 and shall be used for the purposes outlined in ORS **285A.075 (9)** and 285B.410 to 285B.479. There  
 3 shall be credited to the Special Public Works Fund, money appropriated to the fund by the Legis-  
 4 lative Assembly, earnings on the fund, repayment of financial assistance and bond proceeds as au-  
 5 thorized under ORS 285B.410 to 285B.479.

6 (2) Moneys in the Special Public Works Fund, with the approval of the State Treasurer, may be  
 7 invested as provided by ORS 293.701 to 293.820 and the earnings from such investments shall be  
 8 credited to the account in the Special Public Works Fund designated by the Economic and Commu-  
 9 nity Development Department.

10 (3) The Economic and Community Development Department shall be the agency for the State  
 11 of Oregon for the administration of the Special Public Works Fund.

12 (4) The department may establish such other accounts within the Special Public Works Fund for  
 13 the payment of project costs, reserves, debt service payments, credit enhancement, administration  
 14 and operation expenses or any other purpose necessary to carry out ORS 285B.410 to 285B.479.

15 (5) Out of moneys in the Special Public Works Fund, the department may make technical as-  
 16 sistance grants and loans to municipalities of less than 5,000 residents. A technical assistance grant  
 17 shall not exceed \$10,000. A technical assistance loan shall not exceed \$20,000. No more than  
 18 [\$250,000] **\$400,000** or one percent of the value of the fund, whichever is less, shall be expended on  
 19 technical assistance grants and loans in any biennium.

20 **SECTION 32a.** ORS 285B.458 is amended to read:

21 285B.458. Not less than [33] **60** percent of the funds disbursed from the **Special Public Works**  
 22 Fund shall be used to provide [*financial*] assistance to **distressed area and** nonurban infrastructure  
 23 projects [*and not less than 33 percent shall be used to provide financial assistance to urban*  
 24 *infrastructure projects*].

25 **SECTION 33.** ORS 285B.461 is amended to read:

26 285B.461. (1) Out of the moneys in the Special Public Works Fund the Economic and Community  
 27 Development Department may expend funds for the purposes of administering ORS 285B.410 to  
 28 285B.479. Administrative expenses of the department[,] that are paid from the Special Public Works  
 29 Fund[, *shall*] **may** not exceed four percent of the [*moneys allocated to the fund in any biennium*] **total**  
 30 **assets of the fund reduced by the bonded debt liabilities in any one year**.

31 (2) As used in this section, "administrative expenses" includes the department's costs for:

32 (a) Investigating, approving and monitoring municipalities that apply for [*funding of*] **assistance**  
 33 **for** infrastructure projects and servicing and collecting outstanding loans and grants made to  
 34 municipalities; **and**

35 (b) **Contracting for planning and technical assistance and other support services for**  
 36 **municipalities.**

37 **SECTION 34.** ORS 285B.467 is amended to read:

38 285B.467. (1) The Economic and Community Development Department shall adopt by rule stan-  
 39 dards by which to determine the eligibility for revenue bond financing under ORS 285B.467 to  
 40 285B.479 of infrastructure projects that have qualified under ORS 285B.419 to 285B.437 and  
 41 285B.449.

42 (2) In adopting rules establishing guidelines or criteria for awarding loans or grants for drinking  
 43 water projects, the department shall coordinate the department's rulemaking process with the Water  
 44 Resources Department and the Health Division of the Department of Human Services in order to  
 45 assure that rules adopted under this subsection are consistent with rules adopted under ORS 431.120

1 and 541.845. The rules adopted under this subsection shall:

2 (a) Require the installation of meters on all new service connections to any distribution lines  
3 funded under ORS 285B.410, 285B.461, 285B.560 to 285B.599, 431.120, 541.700, 541.705, 541.755,  
4 541.765, 541.830, 541.845 and this section; and

5 (b) Require a plan, to be adopted by the municipality, for installation of meters on all service  
6 connections throughout the drinking water system.

7 (3) Upon determining an infrastructure project eligible for revenue bond financing under ORS  
8 285B.467 to 285B.479, the department shall forward the application to the State Treasurer, who shall  
9 determine whether to issue revenue bonds.

10 (4) Notwithstanding ORS 285B.410 [(2)(a)] **(3)(a)** and 285B.416 (1), when an infrastructure project  
11 is determined to be eligible for revenue bond financing under ORS 285B.467 to 285B.479, **direct**  
12 **project management costs and** the costs for preliminary planning or legal, fiscal and economic  
13 investigations, reports and studies to determine the economic and engineering feasibility of the  
14 project are included within the total project costs of the project and may be paid from bond pro-  
15 ceeds.

16 (5) Administrative expenses of the department in processing applications and investigating pro-  
17 posed infrastructure projects and bond sales shall not be derived from bond proceeds.

18 (6) The department may pledge all or any portion of the existing or future assets and receipts  
19 of the Special Public Works Fund to pay debt service on bonds issued pursuant to ORS 285B.410 to  
20 285B.479. Such pledge shall take effect immediately, without delivery of the pledged funds to third  
21 parties, and the lien of the pledge shall be superior to all other liens of any nature.

22 (7) The department is authorized to establish separate accounts within the fund for separate  
23 bond issues.

24 (8) As used in this section, "service connection" does not include fire hydrants, fire sprinkler  
25 system connections, line blow-offs and drains, stand-by emergency interties, valve controlled drink-  
26 ing fountains and other similar intermittently used connections.

27 **SECTION 35.** ORS 285B.479 is amended to read:

28 285B.479. (1) Revenue bonds issued under ORS 285B.467 to 285B.479:

29 (a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the  
30 payment thereof, except as provided in this section, nor shall the state be subject to any liability  
31 thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the  
32 taxing power of the state to pay any such bonds or the interest thereon, nor to enforce payment  
33 thereof against any property of the state except those moneys pledged therefor in the Special Public  
34 Works Fund, under the provisions of ORS 285B.467 to 285B.479.

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

37 [(c) *Shall not exceed, for all bonds outstanding, a total principal amount of \$200 million.*]

38 (2) [No] A bond shall **not** constitute a debt of the state or a lending of the credit of the state  
39 within the meaning of any constitutional or statutory limitation.

40 **SECTION 36.** ORS 285B.560 is amended to read:

41 285B.560. As used in ORS 285B.560 to 285B.599:

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

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

1 **struction phases of the project.**

2 **[(2)] (3)** "Fund" means the Water Fund.

3 **[(3)] (4)** "Municipality" has the meaning given that term in ORS 285B.410.

4 **[(4)] (5)** "Safe drinking water project" means a project for constructing or improving a drinking  
5 water system or a water development project, as defined in ORS 541.700 (6)(a), (b) and (d) to (f), that  
6 is owned and operated by a municipality.

7 **[(5)] (6)** "Waste water system improvement project" means a project for constructing or im-  
8 proving a system for waste water collection or treatment, including storm drainage systems.

9 **[(6)] (7)** "Water project" means a safe drinking water project or a waste water system im-  
10 provement project.

11 **SECTION 37.** ORS 285B.563 is amended to read:

12 285B.563. (1) There is established in the State Treasury, separate and distinct from the General  
13 Fund, the Water Fund. All moneys in the fund are continuously appropriated to the Economic and  
14 Community Development Department to provide financing for water projects, **as described in ORS**  
15 **285B.560 to 285B.599, including the direct project management costs and for the purpose**  
16 **specified in ORS 285A.075 (9).**

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

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

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

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

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

25 (A) Financial hardship to the municipality, as determined by the department, based on consid-  
26 eration of anticipated water service charges or anticipated waste water service charges that exceed  
27 the statewide average for such charges, the per capita income of the municipality and such other  
28 factors as the department by rule may establish; and

29 (B) Special circumstances of the water project.

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

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

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

36 (5) The Water Fund shall consist of:

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

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

40 (c) Moneys transferred to the fund by the Water Resources Commission from the Water Devel-  
41 opment Fund created by Article XI-I(1) of the Oregon Constitution.

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

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

44 (f) Earnings on the fund.

45 (6) The department shall administer the fund.

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

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

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

11     (8)(a) The Economic and Community Development Department shall manage the Water Fund and any expenditures from accounts in the fund and transfers between accounts so that the fund value shall be equal to at least 50 percent of lottery revenues actually transferred to the fund plus interest on such amounts compounded annually at five percent. *[The fund value shall be determined by adding the cash reserves and the outstanding principal amount of loans to municipalities. Any amount of loan principal that is forgiven shall be subtracted from the value of the fund. The value of the fund shall include moneys in the fund that are pledged to the repayment of state bonds.]*

18     **[(b) The department shall certify to the State Treasurer in each quarter the value of the fund.]**

19     **[c] (b)** If necessary to ensure repayment of bonds issued under ORS 285B.560 to 285B.599, the department may reduce the value of the fund to less than the limit established in paragraph (a) of this subsection when the department:

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

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

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

29     **(b) As used in this section, “administrative expenses” includes:**

30     **(A) The direct and administrative costs of [for] processing applications, investigating water projects, monitoring recipients of financing for water projects and servicing and collecting outstanding financial awards made for water projects; and**

33     **(B) The costs of contracting for planning and technical assistance services and other support services for municipalities.**

35     **[(b)] (c)** To the extent permitted by federal law, administrative expenses of the department as limited in *[paragraph (a) of]* this subsection that are paid from the fund shall not exceed four percent of the *[moneys allocated to the fund in any biennium]* **total assets of the fund reduced by the bonded debt liabilities in any one year.** Administrative expenses of the department as limited in *[paragraph (a) of]* this subsection may be paid from bond proceeds.

40     (10) The department may establish other accounts within the Water Fund for the payment of water projects costs, reserves, debt service payments, credit enhancements, costs of issuing revenue bonds, administrative and operating expenses or any other purpose necessary to carry out ORS 285B.560 to 285B.599.

44     (11) There is created within the Water Fund a separate and distinct account for the proceeds from the sale of water development general obligation bonds issued for safe drinking water projects

1 and credited to the special account under this section. Any investment earnings thereon shall be  
2 segregated in and continuously appropriated to a special, separately accounted for subaccount of  
3 this account. Moneys credited to this account shall be maintained separate and distinct from moneys  
4 credited to subaccounts created under subsection (10) of this section. Notwithstanding ORS  
5 285B.566 or subsection (4) of this section, all repayments of moneys loaned from the account created  
6 by this subsection, including interest on such moneys, shall be credited to the Water Development  
7 Administration and Bond Sinking Fund created by ORS 541.830.

8 **SECTION 38.** ORS 285B.578 is amended to read:

9 285B.578. (1) Revenue bonds issued under ORS 285B.575:

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

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

18 [(c) *Shall not exceed, for all bonds outstanding, a total principal amount of \$200 million.*]

19 (2) A revenue bond issued under ORS 285B.575 shall not constitute a debt of the state or a  
20 lending of the credit of the state within the meaning of any constitutional or statutory limitation.

21 **SECTION 39.** ORS 285B.581 is amended to read:

22 285B.581. (1) Any loan of moneys to a municipality by the state shall include a plan for repay-  
23 ment by the municipality of moneys borrowed from the Water Fund for a water project and interest  
24 on those moneys at a rate expressly specified. The repayment plan:

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

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

29 (c) Shall provide for repayment during a period that shall not exceed the usable life of the pro-  
30 posed project or 25 years, whichever is less.

31 (2) Notwithstanding any other provision of law or any restriction on indebtedness contained in  
32 a charter, a municipality may borrow from the fund by entering into a loan contract with the Eco-  
33 nomic and Community Development Department. Moneys borrowed from the fund shall be repaid:

34 (a) From the revenues of any water project, including special assessment revenues;

35 (b) From amounts withheld under ORS 285B.599;

36 (c) From the general fund of the municipality;

37 (d) From any combination of the provisions of paragraphs (a) to (c) of this subsection; or

38 (e) From any other sources.

39 (3) A loan contract under subsection (2) of this section may provide that a portion of the pro-  
40 ceeds of the loan be applied to fund a reserve fund to secure the repayment of the loan or secure  
41 the repayment of revenue bonds issued to fund the loan.

42 (4) A loan contract under subsection (2) of this section shall be authorized by an ordinance,  
43 **order** or resolution that is adopted with prior notice of at least 14 days. Notice shall be published  
44 at least once in a newspaper of general circulation within the municipality.

45 **SECTION 39a.** ORS 285B.590 is amended to read:

1        285B.590. In addition to making loans to municipalities for water projects, the Economic and  
2        Community Development Department may provide any other form of financial **or other** assistance  
3        that the department may consider appropriate [*for the financing of* **to assist municipalities with**  
4        water projects, **including direct purchase by the department of goods and services related to**  
5        **a water project.**

6        **SECTION 39b.** ORS 285B.596 is amended to read:

7        285B.596. Not less than [33] **60** percent of the moneys appropriated to the Water Fund shall be  
8        used to provide [*financial*] assistance to **distressed area and** nonurban water projects [*and not less*  
9        *than 33 percent shall be used to provide financial assistance to urban water projects*].

10        **SECTION 39c.** Section 39d of this 2001 Act is added to and made a part of ORS 285B.650  
11        to 285B.728.

12        **SECTION 39d.** (1) If an eligible business firm completes the refurbishing, retrofitting or  
13        upgrading of real property, machinery or equipment that is located within the enterprise  
14        zone, but was idle during the 18 months immediately preceding the first assessment year for  
15        which application for an enterprise zone tax exemption is made with respect to the property,  
16        the refurbished, retrofitted or upgraded real property, machinery or equipment is qualified  
17        property under ORS 285B.713 and potentially subject to enterprise zone tax exemption for  
18        all of the property's value if the following requirements are satisfied:

19        (a) Prior to the period of idleness, the property was in use within the enterprise zone for  
20        at least 12 consecutive months;

21        (b) The refurbishing, retrofitting or upgrading of the property involved an investment of  
22        at least \$3 million; and

23        (c) As a result of refurbishing, retrofitting or upgrading the property, the value of the  
24        property is at least \$25 million higher than the assessed value for the tax year prior to the  
25        first tax year of the enterprise zone tax exemption.

26        (2) The refurbishing, retrofitting or upgrading of real property, machinery or equipment  
27        described in subsection (1) of this section is a modification of property for purposes of ORS  
28        285B.650 to 285B.728.

29        (3) ORS 285B.698 (5) does not apply to qualified property described in subsection (1) of this  
30        section.

31        (4) ORS 285B.704 (1)(d) does not apply to a business firm applying for or claiming an en-  
32        terprise zone tax exemption for qualified property described in subsection (1) of this section  
33        if the provisions of ORS 285B.704 (2)(b) for zone sponsor approval by resolution of the local  
34        governing body or bodies are satisfied.

35        **SECTION 39e.** Section 39d of this 2001 Act applies only to property for which application  
36        for an enterprise zone tax exemption is made on or prior to April 1, 2004.

37        **SECTION 39f.** ORS 777.195 is amended to read:

38        777.195. A port may, for hire:

39        (1) Acquire, charter, own, **lease, rent, dispose of**, maintain and operate **towboats, barges and**  
40        **other** watercraft for the transportation of all kinds of merchandise, freight and commercial or re-  
41        creational passengers, and engage generally in [*the coastwise*] **maritime** trade and commerce, [*both*  
42        *domestic and foreign*] **within or without the boundaries of this state.**

43        (2) Own, acquire, construct, operate and maintain railroad terminal grounds and yards; and  
44        construct, operate and maintain such line or lines of railroad, with necessary sidetrack, turnouts,  
45        switches and connection and arrangements with other common carriers, as may facilitate water

1 commerce between common carriers and points within the port; and carry and transport freight and  
2 passengers and move passenger trains over the lines.

3 *[(3) Acquire, own, lease, rent, operate, maintain and dispose of towboats, barges and other vessels  
4 for the transportation of cargo or passengers in maritime commerce on the Columbia and Snake Rivers  
5 and their tributaries, within or without the boundaries of this state.]*

6 *[(4)] (3) Acquire, own, lease, rent, operate, maintain and dispose of unit trains and related fa-  
7 cilities for the transportation of bulk commodities to facilities within the port from locations within  
8 or without the port.*

9 **SECTION 40.** ORS 285A.090 is amended to read:

10 285A.090. The Economic and Community Development Department shall:

11 (1) Implement programs consistent with policies of the Oregon Economic and Community De-  
12 velopment Commission.

13 (2) Provide field representatives in the various geographical regions of the state. The field rep-  
14 resentatives shall be in the unclassified service and shall receive such salary as may be set by the  
15 Director of the Economic and Community Development Department, unless otherwise provided by  
16 law. The field representatives shall:

17 (a) Work with local units of government and the private sector to encourage and to assist them  
18 as they establish and carry out economic development plans and programs under ORS 280.500;

19 (b) Promote local awareness of department policy and department programs and services and  
20 of assistance and economic incentives available from government at all levels; and

21 (c) Deliver to local units of government and the private sector the assistance and services  
22 available from the department, including publications, research and technical and financial assist-  
23 ance programs.

24 (3) Process requests received by state agencies and interested parties for information pertaining  
25 to industrial and commercial locations and relocations throughout the state.

26 (4) Consult and advise with, coordinate activities of, and give technical assistance and encour-  
27 agement to, state and local organizations, including local development corporations, county, city,  
28 and metropolitan-area committees, chambers of commerce, labor organizations and similar agencies  
29 interested in obtaining new industrial plants or commercial enterprises.

30 (5) Act as the state's official liaison agency between persons interested in locating industrial  
31 or business firms in the state, and state and local groups seeking new industry or business, main-  
32 taining the confidential nature of the negotiations it conducts as requested by persons contemplating  
33 location in the state.

34 (6) Coordinate state and federal economic development programs.

35 (7) Consult and advise with, coordinate activities of, and give technical assistance and encour-  
36 agement to all parties including, but not limited to, port districts within the state working in the  
37 field of international trade or interested in promoting their own trading activity.

38 (8) Provide advice and technical assistance to Oregon business and labor.

39 (9) Collect and disseminate information regarding the advantages of developing new business  
40 and expanding existing business in the state.

41 (10) Aid local communities in planning for and obtaining new business to locate therein and  
42 provide assistance in local applications for federal development grants.

43 (11) Work actively to recruit domestic and international business firms to those communities  
44 that desire such recruitment.

45 (12) In carrying out its duties under ORS chapters 285A and 285B and ORS 329.905 to 329.975,

1 give priority to assisting small businesses in this state by encouraging the creation of new busi-  
2 nesses, the expansion of existing businesses and the retention of economically distressed businesses  
3 which are economically viable.

4 (13) [Provide managers and other employees for] **Establish and operate** foreign trade offices in  
5 those foreign countries in which the department considers a foreign trade office necessary **using**  
6 **department employees, contracts with public or private persons or a combination of depart-**  
7 **ment employees and contractors.** [Managers and other] **Department** employees, **including man-**  
8 **agers, who are assigned to work in a foreign trade office** shall be in the unclassified service,  
9 and the director shall set the salaries of those persons. Foreign trade offices shall **provide one or**  
10 **more of the following services:**

11 (a) Work with the private sector to assist them in finding international markets for their goods  
12 and services;

13 (b) Work with local units of government to assist them in locating foreign businesses within  
14 their jurisdiction;

15 (c) Promote awareness in foreign countries of department policy, programs and services and of  
16 assistance and economic incentives available from government at all levels; **[and] or**

17 (d) Provide **[all]** other assistance considered necessary by the director.

18 **SECTION 41.** ORS 238.015 is amended to read:

19 238.015. (1) No person may become a member of the system unless that person is in the service  
20 of a public employer and has completed six months' service uninterrupted by more than 30 consec-  
21 utive working days during the six months' period. Every employee of a participating employer shall  
22 become a member of the system at the beginning of the first full pay period of the employee fol-  
23 lowing the six months' period. All public employers participating in the Public Employees Retire-  
24 ment System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of  
25 that chapter, and all school districts of the state, shall participate in, and their employees shall be  
26 members of, the system, except as otherwise specifically provided by law.

27 (2) Any active member of the Public Employees Retirement System who, through the annexation  
28 of a political subdivision employing the member or by change of employment, becomes the employee  
29 of another political subdivision which is participating in the Public Employees Retirement System  
30 and has also a separate retirement system for its employees, shall remain an active member of the  
31 Public Employees Retirement System unless, within 60 days after the effective date of the  
32 annexation or change of employment or April 8, 1953, the member shall by written notice to the  
33 Public Employees Retirement Board and to the administrative body of the new public employer elect  
34 to relinquish membership in the Public Employees Retirement System and become a member of the  
35 separate retirement system of the employer, if eligible for membership in that retirement system, and  
36 the member shall be so carried by the new employer. Immediately upon such annexation of any  
37 political subdivision or such change of employment, the new public employer shall inform such em-  
38 ployee in writing of the right of the employee to exercise an election as in this section provided.

39 (3) A political subdivision (other than a school district) not participating in the retirement sys-  
40 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-  
41 ployees, each of whose position requires 600 hours of service per year, or an agency created by two  
42 or more political subdivisions to provide themselves governmental services, which employs one or  
43 more employees, each of whose position requires 600 hours of service per year, may, through its  
44 governing body, notify the board in writing, that it elects to include its employees in the system  
45 hereby established. Such public employer may request the board to make a study and estimate of the

1 cost of including it and its eligible employees, other than volunteer firefighters, in the system, which  
2 the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon  
3 completion of the study and estimate the employer may apply for admission to the system, where-  
4 upon it shall begin to participate therein and its eligible employees other than volunteer firefighters  
5 shall become members of the system. If the employer is an agency created by two or more political  
6 subdivisions to provide themselves governmental services and ceases thereafter to transmit to the  
7 board current service contributions for any of its eligible employees, the benefits based upon em-  
8 ployer current service contributions to which such employees would otherwise be entitled shall be  
9 reduced accordingly.

10 (4) Except as subsection (7) of this section provides otherwise with reference to volunteer fire-  
11 fighters, no employee whose position with one public employer or concurrent positions with two or  
12 more public employers normally require less than 600 hours of service per year may become a  
13 member of the system.

14 (5) No inmate of a state institution or an alien on a training or educational visa working for  
15 any participating employer, even though the inmate or alien received compensation from a partic-  
16 ipating employer, shall be eligible to become a member of the system. No person employed by a  
17 participating employer and defined by such employer as a student employee is eligible to become a  
18 member of the system for such student employment.

19 (6) A person holding an elective office or an appointive office with a fixed term or an office as  
20 head of a department to which the person is appointed by the Governor may become a member of  
21 the system by giving the board written notice of desire to do so within 30 days after taking the of-  
22 fice or, in the event that the officer is not eligible to become a member of the system at the time  
23 of taking the office, within 30 days after becoming so eligible. Membership so established shall not  
24 be discontinued during the appointive or elective term of the officer except upon separation of the  
25 officer from service.

26 (7) A public employer employing volunteer firefighters may apply to the board at any time for  
27 them to become members of the system. Upon receiving the application the board shall fix a wage  
28 at which, for purposes of this chapter only, they shall be considered to be employed and which shall  
29 be the basis for computing the amounts of the contributions which they pay into, and of the benefits  
30 which they and their beneficiaries receive from, the fund; and if the wage so fixed is satisfactory to  
31 the employer, shall include the firefighters in the system.

32 (8)(a) In the event that an employee enters the service of a public employer which is partic-  
33 ipating in or later begins to participate in the system and in the event that at the time of entering  
34 that service or at the time that the employer begins to participate in the system the employee has  
35 commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems  
36 the annuity adequate for the purposes of this chapter it may enter into an agreement with the em-  
37 ployee and the board pursuant to which the employee may be exempted from contributing to the  
38 Public Employees Retirement Fund, and, if no public funds are being used to purchase the annuity  
39 or a corresponding pension, the employer, in lieu of the contributions which it otherwise would  
40 make to the fund on account of the employee, may make contributions toward the cost of purchasing  
41 the annuity. Such employee otherwise shall be subject to the provisions of this chapter, except that  
42 neither the employee nor any person claiming under the employee shall receive any payments from  
43 the retirement fund as service or disability allowance.

44 (b) An employee who enters into an agreement under paragraph (a) of this subsection may elect  
45 at any time thereafter to start to participate in the system by giving written notice of desire to

1 participate to the board and to the employer. The employee shall receive no retirement credit for  
2 the period during which the employee was exempted from contributing to the fund under the  
3 agreement, but the employee shall be considered to have completed the six months' service required  
4 for membership in the system. When the employee starts to participate in the system the employer  
5 shall start to contribute to the fund on the account of the employee in the same manner as the  
6 employer contributes on the account of other employees who are active members of the system and  
7 the employer shall stop making contributions toward the cost of purchasing the retirement annuity.

8 (9)(a) All new appointees in the Federal Cooperative Extension Service or in any other service  
9 in which participation in the Federal Civil Service retirement program is mandatory, who receive  
10 a federal appointment on or after July 1, 1955, may participate in the Public Employees Retirement  
11 System only by giving written notice of their election to so participate to the Public Employees  
12 Retirement Board within six months after the effective date of their appointment.

13 (b) All persons employed by the Federal Cooperative Extension Service or by any other service  
14 in which participation in the Federal Civil Service retirement program is mandatory, who are under  
15 federal appointment as of July 1, 1955, and who are members of the state retirement system, shall  
16 continue such membership unless, prior to February 1, 1956, they give written notice to the Public  
17 Employees Retirement Board of their desire to cancel their membership.

18 (c) Any person who is an active member of the Public Employees Retirement System, who, on  
19 or after July 1, 1955, is employed by the Federal Cooperative Extension Service or by any other  
20 service in which participation in the Federal Civil Service retirement program is mandatory, and  
21 who is given a federal appointment, shall continue such membership in the Public Employees Re-  
22 tirement System unless, within six months after the effective date of the appointment, the person  
23 gives written notice to the Public Employees Retirement Board of the desire to cancel membership.

24 (d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates mem-  
25 bership in the Public Employees Retirement System and cancels the right to any benefits from, or  
26 claims against, that system. Such cancellation prevents the withdrawing member from claiming  
27 thereafter any retirement credit for any period of employment before the cancellation. Upon receipt  
28 of a notice of cancellation, the Public Employees Retirement Board shall refund to the withdrawing  
29 member, regardless of age, the account balance of the employee in the retirement fund.

30 (10) [Managers and other] Employees, **including managers**, of foreign trade offices of the Eco-  
31 nomic and Community Development Department who live and perform services in foreign countries  
32 under the provisions of ORS 285A.090 (13) shall not be members of the system. However, any person  
33 who is an active member of the system immediately before becoming [a manager or] **an** employee  
34 of a foreign trade office shall continue to be a member of the system during the period of time the  
35 person serves as [a manager or] **an** employee of the foreign trade office.

36 (11) An employee who is an employee of the Oregon Health Sciences University may not be an  
37 active member of the Public Employees Retirement System if that employee is participating in an  
38 alternative retirement program established by the university pursuant to ORS 353.250.

39 **SECTION 42.** ORS 240.205 is amended to read:

40 240.205. The unclassified service shall comprise:

41 (1) One executive officer and one secretary for each board or commission, the members of which  
42 are elected officers or are appointed by the Governor.

43 (2) The director of each department of state government, each full-time salaried head of a state  
44 agency required by law to be appointed by the Governor and each full-time salaried member of a  
45 board or commission required by law to be appointed by the Governor.

1       (3) The administrator of each division within a department of state government required by law  
2 to be appointed by the director of the department with the approval of the Governor.

3       (4) Principal assistants and deputies and one private secretary for each executive or adminis-  
4 trative officer specified in ORS 240.200 (1) and in subsections (1) to (3) of this section. "Deputy"  
5 means the deputy or deputies to an executive or administrative officer listed in subsections (1) to  
6 (3) of this section who is authorized to exercise that officer's authority upon absence of the officer.  
7 "Principal assistant" means a manager of a major agency organizational component who reports  
8 directly to an executive or administrative officer listed in subsections (1) to (3) of this section or  
9 deputy and who is designated as such by that executive or administrative officer with the approval  
10 of the Director of the Oregon Department of Administrative Services.

11       (5) Employees in the Governor's office and the principal assistant and private secretary in the  
12 Secretary of State's division.

13       (6) The deans, professors, principals, instructors and teachers in facilities operated under ORS  
14 346.010.

15       (7) Apprentice trainees only during the prescribed length of their course of training.

16       (8) Licensed physicians and dentists employed in their professional capacities and student  
17 nurses, interns, and patient or inmate help in state institutions.

18       (9) Lawyers employed in their professional capacities.

19       (10) All members of the Oregon State Police appointed under ORS 181.250 and 181.265.

20       (11) Deputy superintendents and associate superintendents in the Department of Education.

21       (12) Temporary seasonal farm laborers engaged in single phases of agricultural production or  
22 harvesting.

23       (13) Any individual employed and paid from federal funds received under the Emergency Job and  
24 Unemployment Assistance Act of 1974 (United States Public Law 93-567) or any other federal pro-  
25 gram intended primarily to alleviate unemployment. However, persons employed under this sub-  
26 section shall be treated as classified employees for purposes of ORS 243.650 to 243.782.

27       (14) Managers, department heads, directors, producers and announcers of the state radio and  
28 television network.

29       (15) *[Managers and other]* Employees, **including managers**, of the foreign trade offices of the  
30 Economic and Community Development Department located outside the country.

31       (16) Any other position designated by law as unclassified.

32       **SECTION 43. The amendments to ORS 285B.410 by section 27 of this 2001 Act apply to**  
33 **an application for infrastructure assistance made on or after July 1, 2001.**

34       **SECTION 44. This 2001 Act takes effect on the 91st day after the date on which the**  
35 **regular session of the Seventy-first Legislative Assembly adjourns sine die.**