

**SENATE MINORITY REPORT
AMENDMENTS TO
B-ENGROSSED HOUSE BILL 2299
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

June 23

President Courtney:

A minority of your Committee on Revenue, to whom was referred B-engrossed House Bill 2299, having had the same under consideration, respectfully reports it back with the recommendation that it do pass with the following amendments:

1 On page 1 of the printed B-engrossed bill, line 7, after "1999" insert ", and section 2, chapter
2 _____, Oregon Laws 2003 (Enrolled Senate Bill 858)".

3 On page 2, after line 3, insert:

4 “(4) ‘Large city’ means an incorporated city with a population of 60,000 or more, as of the most
5 recent federal decennial census.”.

6 In line 4, delete “(4)” and insert “(5)”.

7 In line 6, delete “(5)” and insert “(6)”.

8 After line 8, insert:

9 “(7) ‘Small city’ means a city with a population of less than 60,000, as of the most recent federal
10 decennial census.”.

11 On page 3, delete lines 9 through 45 and insert:

12 “**SECTION 9.** ORS 285B.386 is amended to read:

13 “285B.386. (1) [*The undertaking of any eligible project*] **A determination under ORS 285B.383**
14 **(1) by the Oregon Economic and Community Development Commission that a project shall**
15 **be exempt from property taxation under ORS 307.123:**

16 “(a) Must be requested by official action of the governing body of the county taken at a regular
17 or duly called special meeting thereof by the affirmative vote of a majority of its members; **or**

18 “(b) **If the proposed project will be located within the boundaries of a large city, must**
19 **be requested by official action of the governing bodies of the large city and the county taken**
20 **at regular or duly called special meetings thereof by affirmative votes of a majority of each**
21 **governing body.**

22 “(2) [*The governing body of*] Any Oregon county, **independently or acting jointly with a large**
23 **city located in the county**, is encouraged to forward appropriate prospective eligible projects to
24 the Economic and Community Development Department for processing.

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

28 “(4) The county [*shall*] **may not make the request** [*an eligible project to be determined to be el-*
29 *igible for a tax exemption under ORS 307.123*] **under subsection (1) of this section** unless, after a
30 public hearing:

31 “(a) The county and, if the proposed eligible project will be located within a **large city or small**

city, the city have *[approved the special provisions related to the property tax exemption]* **entered into an agreement with the business firm, as described in this subsection.**

“(b) As consideration for the county requesting determination that the eligible project is eligible for a property tax exemption under ORS 307.123, the business firm that will be benefited by the eligible project enters into an agreement with the county for payment to the county of an annual fee for community services support in an amount equal to 25 percent of the property taxes exempted in each assessment year, but not exceeding \$2 million in any year. The fee shall be paid annually during the tax exemption period. For purposes of this paragraph, the property tax exempted in a year shall be calculated as the effective tax rate after any constitutional limits on the taxable portion of the value of the project multiplied by the assessed value of the exempt portion of the project.”

“(b) The agreement provides for the payment of a fee by the business firm, as follows:

“(A) The fee shall be for community services support that relates to the direct impact of the eligible project on public services.

“(B) The fee shall be in an amount equal to 25 percent of the property taxes that would, but for the exemption, be due on the exempt property in each assessment year, but not exceeding \$2 million in any year or, if the eligible project is located in a rural area, \$500,000 in any year.

“(C) The fee shall be paid annually during the tax exemption period, as of a date set forth in the agreement.

“(c) The agreement provides for the refunding or crediting of overpayments, for interest on late payments or underpayments and for the manner in which the appeal of the assessed value of the property included in the project will affect the fee.

*“(c) (5) The *[applicant has reached]* agreement *[with the county on]* described in subsection (4) of this section may provide for any other requirements related to the project. *[The agreement shall include provisions for the date of payment of the fee required under paragraph (b) of this subsection, for refunding or crediting overpayments, for interest on late payments or underpayments and for the manner in which an appeal of the assessed value of the property included in the project will affect the payment of the fee.]**

*“(5) (6)(a) The fee collected under subsection (4)(b) of this section shall be distributed by the county based on an agreement entered into at the time of application *[between the county and the city, if any, in which the eligible project is located]*. An agreement entered into under this paragraph is effective only if:*

“(A) The county and the large city or small city, if any, in which the eligible project is located have entered into the agreement; and

“(B) Local taxing districts listed in ORS 198.010 or 198.180 that constitute at least 75 percent of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180 in the code area in which the eligible project is located have entered into the agreement.

“(b) If an effective agreement is not entered into under paragraph (a) of this subsection within three months after the date of the determination by the commission under ORS 285B.383 (1), the commission shall, by official action, establish a formula for distributing the fee collected under subsection (4)(b) of this section.”.

On page 4, delete lines 1 through 18.

Delete lines 34 through 39 and insert:

“SECTION 10a. Section 10 of this 2003 Act (amending ORS 285B.389) is repealed and ORS

1 **285B.389, as amended by section 9, chapter 167, Oregon Laws 2003 (Enrolled Senate Bill 215),**
2 **is amended to read:**

3 “285B.389. (1) The Oregon Economic and Community Development Commission shall collect the
4 fees set forth in subsection (2) of this section from an applicant that seeks to have the real and
5 personal property constituting the eligible project declared eligible for the tax exemption provided
6 in ORS 307.123. The fee may be collected even though the project has not been determined to be
7 eligible for the tax exemption.

8 “(2) The fees described in subsection (1) of this section are as follows:

9 “(a) \$10,000, **or \$5,000 if the project is located in a rural area**, upon application to the com-
10 mission; and

11 “(b) \$50,000, **or \$10,000 if the project is located in a rural area**, when the eligible project is
12 determined by the commission to be eligible for the tax exemption provided in ORS 307.123. The
13 commission shall pay 50 percent of this fee to the Department of Revenue for the purpose of ad-
14 ministration of ORS 307.123.

15 “(3) The fees collected under subsection (2) of this section shall be deposited in the Oregon
16 Community Development Fund created under ORS 285A.227.

17 **“SECTION 10b. The repeal of section 10 of this 2003 Act (amending ORS 285B.389) by**
18 **section 10a of this 2003 Act and the amendments to ORS 285B.389 by section 10a of this 2003**
19 **Act become operative on January 1, 2004.**

20 **“SECTION 11. ORS 285B.392 is amended to read:**

21 “285B.392. Notwithstanding ORS 192.410 to 192.505, the identity of an applicant for an eligible
22 project [*designation*] **determination** under ORS 285B.383, the application form submitted to the
23 county governing body **or, if applicable, to the governing bodies of the large city and the**
24 **county** and the Oregon Economic and Community Development Commission and the negotiations
25 conducted between the applicant and the county **or the large city** shall be confidential, until the
26 county [*governing body gives*] **or the county and the large city jointly give** notice of [*its*] intent
27 to take official action on the application.”.

28 In line 40, delete “11” and insert “11a”.

29 On page 6, line 45, before “12” insert “10a, 11, 11a and”.

30 On page 26, line 40, after “308.665” insert a semicolon and delete the rest of the line and line
31 41.

32 On page 27, delete lines 16 through 45.

33 On page 28, delete lines 1 through 19 and insert:

34 **“SECTION 34c. Section 34b of this 2003 Act applies to tax years beginning on or after July**
35 **1, 2003.”.**

36 On page 30, line 6, delete “or 34c”.

37 On page 36, after line 34, insert:

38 **“SECTION 39a. If Senate Bill 858 becomes law, section 2, chapter _____, Oregon Laws 2003**
39 **(Enrolled Senate Bill 858), is amended to read:**

40 **“Sec. 2. (1) Notwithstanding ORS 285B.704 [(1)(d), (e) or (h) or (3)] (1)(c) or (e) or (2), an eligible**
41 **business firm is a qualified business firm if:**

42 **“(a) The firm completes an investment of \$20 million or more in qualified property on or before**
43 **December 31 preceding the first assessment year for which exemption under ORS 285B.698 is sought;**

44 **“(b) The zone sponsor approves the extension of property tax benefits to the firm; and**

45 **“(c) The firm was precertified on or after January 1, 2000, and before January 1, 2001.**

1 “(2) The approval of the zone sponsor to extend property tax benefits to the firm shall be doc-
2 umented by resolution of the governing body of the sponsor. The resolution may:

3 “(a) Modify or waive minimum employment requirements specified in a prior resolution adopted
4 by the sponsor under ORS 285B.704 [(3)] (2); and

5 “(b) Specify application to past, current or future tax years.

6 “(3) A resolution described in subsection (2) of this section must be adopted by the governing
7 body of the zone sponsor on or before June 30, 2004.

8 “(4) An eligible business firm that satisfies the requirements of subsection (1) of this section
9 shall be deemed to satisfy the requirements of ORS 285B.704.

10 “(5) Upon satisfying the requirements of subsection (1) of this section, the qualified property of
11 the business firm shall be exempt from tax for the years specified in the resolution of the zone
12 sponsor and in which the qualified property of the firm meets the requirements for exemption under
13 ORS 285B.698.”.

14 On page 50, line 29, delete “34c.”.

15 After line 36, insert:

16 “**SECTION 53a.** If Senate Bill 858 becomes law, section 53 of this 2003 Act is amended to read:

17 “**Sec. 53.** The enactments and amendments of statutes and laws by sections 14 to 34a, [and] 35
18 to 39 and 40 to 51 of this 2003 Act apply to enterprise zone designation, management and termi-
19 nation on or after the effective date of this 2003 Act, to administration of ORS 285B.650 to 285B.728
20 on or after the effective date of this 2003 Act, to applications for authorization made on or after the
21 effective date of this 2003 Act and to claims for exemption filed for tax years beginning on or after
22 July 1, 2004.”.

23 On page 51, after line 2, insert:

24 “**SECTION 55a.** Notwithstanding section 76, chapter _____, Oregon Laws 2003 (Enrolled
25 House Bill 2188) (amending section 4, chapter 460, Oregon Laws 1999), if House Bill 2188 be-
26 comes law, section 4, chapter 460, Oregon Laws 1999, is repealed.”.

27 In line 33, delete “or 34c”.

28 On page 53, delete lines 40 through 45.

29 Delete page 54.

30 On page 55, delete lines 1 through 6 and insert:

31 “**SECTION 64.** ORS 315.507, as amended by section 1, chapter 65, Oregon Laws 2003 (Enrolled
32 House Bill 2622), is amended to read:

33 “315.507. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
34 taxpayer is a corporation, under ORS chapter 317 or 318, shall be allowed to a taxpayer that is:

35 “(a) A business firm engaged or preparing to engage in electronic commerce in an enterprise
36 zone that has been approved for electronic commerce designation under ORS 285B.672; or

37 “(b) A business firm engaged **or preparing to engage** in electronic commerce in a city that has
38 been designated for electronic commerce under ORS 285B.673.

39 “(2) The credit shall equal 25 percent of the investments made by the business firm in capital
40 assets:

41 “(a) Located in the area designated for electronic commerce;

42 “(b) Used or constructed, installed or otherwise prepared for use in electronic commerce oper-
43 ations within the area designated for electronic commerce that are related to electronic commerce
44 sales, customer service, order fulfillment, broadband infrastructure or other electronic commerce
45 operations; and

1 “(c)(A) During the period that commences when the firm becomes [*a precertified*] **an authorized**
2 business firm under ORS 285B.719 and ends on the last day of the income or corporate excise tax
3 year in which begins the first property tax year in which qualified property of the firm used in eli-
4 gible electronic commerce activities is exempt from property taxation under ORS 285B.698; or

5 “(B) During any income or corporate excise tax year in which begins a property tax year in
6 which qualified property of the firm used in eligible electronic commerce operations is exempt from
7 property taxation under ORS 285B.698.

8 “(3) Except as provided in subsection (5) of this section, the credit must be claimed for the in-
9 come or corporate excise tax year that is:

10 “(a) The year in which the investment for which a credit is being claimed is made; and

11 “(b) A year, all or part of which is described in subsection (2)(c) of this section.

12 “(4) A credit allowed under this section for any one tax year may not exceed the lesser of \$2
13 million or the tax liability of the taxpayer.

14 “(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
15 a particular year may be carried forward and offset against the taxpayer’s tax liability for the next
16 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
17 forward and used in the second succeeding tax year, and likewise any credit not used in that second
18 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
19 credit not used in that third succeeding tax year may be carried forward and used in the fourth
20 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
21 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
22 thereafter.

23 “(6) The credit allowed under this section is not in lieu of any depreciation or amortization de-
24 duction to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or 318 for the
25 tax year.

26 “(7) The taxpayer’s adjusted basis for determining gain or loss may not be further decreased by
27 any amount of credit allowed under this section.

28 “(8)(a) A nonresident shall be allowed the credit under this section in the proportion provided
29 in ORS 316.117.

30 “(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
31 resident occurs, the credit allowed under this section shall be determined in a manner consistent
32 with ORS 316.117.

33 “(c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
34 Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit al-
35 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

36 “(9) As used in this section, ‘**authorized business firm**,’ ‘business firm,’ ‘electronic
37 commerce[,]’ [*precertified business firm*] and ‘qualified property’ have the meanings given those
38 terms in ORS 285B.650.”.

39 After line 34, insert:

40
41 **“RURAL RENEWABLE ENERGY DEVELOPMENT ZONES**

42
43 **“SECTION 68. Sections 69 to 75 of this 2003 Act are added to and made a part of ORS**
44 **chapter 285B.**

45 **“SECTION 69. As used in sections 69 to 75 of this 2003 Act:**

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

3 “(2) ‘Renewable energy’ means electricity that is generated through use of a renewable
4 energy resource, as defined in ORS 469.185.

5 “(3) ‘Rural county’ means a county with a population of 100,000 or less.

6 “SECTION 70. (1) A rural county, a city in a rural county or a combination of contiguous
7 rural counties may apply to the Director of the Economic and Community Development De-
8 partment for designation of the entire territory of the applicant as a rural renewable energy
9 development zone.

10 “(2) An application for designation of a rural renewable energy development zone shall
11 be in such form and shall contain such information as the Economic and Community Devel-
12 opment Department prescribes by rule. The application shall include copies of the resolution
13 of the governing body of each city or rural county that constitutes the applicant that states
14 that the city or county seeks rural renewable energy development zone designation.

15 “(3) The director shall approve designation of the territory of the applicant as a rural
16 renewable energy development zone if:

17 “(a) The area consists of territory in a rural county or is two or more contiguous rural
18 counties; and

19 “(b) The area would qualify for enterprise zone designation, without regard to any appli-
20 cable limitation under ORS 285B.653 or 285B.662.

21 “(4) If an application for designation was made by one city or county, that city or county
22 shall serve as sponsor of the rural renewable energy development zone. If the application for
23 designation was made by two or more rural counties, the application shall identify which
24 county shall serve as the sponsor of the zone.

25 “SECTION 71. (1) Following designation of a rural renewable energy development zone,
26 an eligible business firm seeking an exemption under section 73 of this 2003 Act may apply
27 for authorization under ORS 285B.719.

28 “(2) The firm shall include a written description of the locations and extent of the pro-
29 posed renewable energy development project.

30 “(3) The firm shall be authorized if the firm would otherwise be authorized under ORS
31 285B.719, but the authorization is limited to investments in the renewable energy develop-
32 ment project described in the application submitted by the firm.

33 “SECTION 72. Property shall qualify for exemption under section 73 of this 2003 Act if
34 the property meets all of the following requirements:

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

37 “(2) The property is newly constructed or installed in the rural renewable energy devel-
38 opment zone; and

39 “(3) The property meets all other qualifications to be qualified under ORS 285B.713.

40 “SECTION 73. (1) Property of an authorized business firm is exempt from ad valorem
41 property taxation if:

42 “(a) The property is qualified property under section 72 of this 2003 Act;

43 “(b) The firm meets the qualifications under ORS 285B.704; and

44 “(c) The firm has entered into a first-source hiring agreement under ORS 285B.710.

45 “(2) The exemption allowed under this section applies to the first tax year for which, as

1 of January 1 preceding the tax year, the qualified property is in service. The exemption shall
2 continue for the next two succeeding tax years if the property continues to be owned or
3 leased by the business firm, operated to generate renewable energy or to support or maintain
4 renewable energy facilities, and located in the rural renewable energy development zone.

5 “(3)(a) The property may be exempt from property taxation under this section for up to
6 two additional tax years consecutively following the tax years described in subsection (2) of
7 this section if authorized by a written agreement entered into by the firm and the sponsor
8 under section 34 of this 2003 Act.

9 “(b) Notwithstanding section 34 of this 2003 Act, a contiguous county that applied for a
10 rural renewable energy development zone designation may elect to not participate in a two-
11 year extension of the exemption under this subsection. The election shall be made by resol-
12 ution of the governing body of the contiguous county on or before execution of the written
13 agreement between the firm and the sponsor under section 34 of this 2003 Act.

14 “SECTION 74. Except where inconsistent with the provisions of sections 69 to 75 of this
15 2003 Act, the provisions of ORS 285B.650 to 285B.728 apply to rural renewable energy devel-
16 opment zones as if rural renewable energy development zones were enterprise zones, and to
17 the exemption or disqualification from exemption of property located in rural renewable en-
18 ergy development zones.

19 “SECTION 75. The Economic and Community Development Department may adopt rules
20 for implementing and administering sections 69 to 75 of this 2003 Act, including rules that
21 define terms.”.

22 In line 38, delete “68” and insert “76”.

23 In line 44, delete “69” and insert “77”.

24 /s/ Ted Ferrioli
25 Senator

26 /s/ Bruce Starr
27 Senator
28 _____
29