

Enrolled
House Bill 3143

Sponsored by Representative BRUUN; Representatives DALLUM, FARR, FLORES, HUNT,
NELSON, THATCHER

CHAPTER

AN ACT

Relating to enterprise zones; creating new provisions; amending ORS 285C.050, 285C.065, 285C.075, 285C.080, 285C.085, 285C.090, 285C.105, 285C.115, 285C.250 and 285C.306; repealing section 3, chapter 94, Oregon Laws 2005 (Enrolled House Bill 2446); and prescribing an effective date.

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

SECTION 1. ORS 285C.050 is amended to read:

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

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

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

(3) "Business firm" means a person operating or conducting one or more trades or businesses but does not include any governmental agency, municipal corporation or nonprofit corporation.

(4) "County average annual wage" means:

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

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

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

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

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

(8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the [17] areas designated by the Director of the Economic and Community Development Department under ORS 285C.080, a federal enterprise zone area designated under ORS 285C.085, an area designated under ORS 285C.250 or a reservation enterprise zone designated under ORS 285C.306.

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

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

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

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

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

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

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

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

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

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

(14) "Nonurban enterprise zone" means:

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

(b) A reservation enterprise zone designated under ORS 285C.306.

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

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

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

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

(19) "Sponsor" means:

(a) The city [or], county **or port**, or any combination of cities [or], counties **or ports**, that received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS 285C.065 and 285C.075, under ORS 285C.085 or under ORS 285C.250;

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

(c) A city [or], county **or port** that joined the enterprise zone through a boundary change under ORS 285C.115 (7) **or a port that joined the enterprise zone under section 14 of this 2005 Act.**

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

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

(22) "Year" has the meaning given that term in ORS 308.007.

SECTION 2. ORS 285C.080 is amended to read:

285C.080. (1) **As provided in ORS 285C.065 and 285C.075**, the Director of the Economic and Community Development Department may approve the designation of:

(a) Up to 17 areas as nonurban enterprise zones [*as provided in ORS 285C.065 and 285C.075*];
and

(b) **Up to 10 areas as urban or nonurban enterprise zones.**

(2) Areas designated as enterprise zones under this section shall be in addition to the 30 areas designated or redesignated as enterprise zones by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, areas redesignated under ORS 285C.250, areas designated under ORS 285C.085 and areas designated under ORS 285C.306.

SECTION 2a. If House Bill 2446 becomes law, section 3, chapter 94, Oregon Laws 2005 (Enrolled House Bill 2446) (amending ORS 285C.080), is repealed and ORS 285C.080, as amended by section 2 of this 2005 Act, is amended to read:

285C.080. (1) As provided in ORS 285C.065 and 285C.075, the Director of the Economic and Community Development Department may approve the designation of:

- (a) Up to 17 areas as [*nonurban*] **rural** enterprise zones; and
- (b) Up to 10 areas as urban or [*nonurban*] **rural** enterprise zones.

(2) Areas designated as enterprise zones under this section shall be in addition to the 30 areas designated or redesignated as enterprise zones by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, areas redesignated under ORS 285C.250, areas designated under ORS 285C.085 and areas designated under ORS 285C.306.

SECTION 2b. The amendments to ORS 285C.080 by section 2a of this 2005 Act become operative on January 1, 2006.

SECTION 3. ORS 285C.306 is amended to read:

285C.306. (1) Trust land of an Indian tribe that meets all of the following requirements is designated as a reservation enterprise zone for the purposes of ORS 285C.300 to 285C.320:

- (a) The Indian tribe is a federally recognized Indian tribe;
- (b) The reservation of the Indian tribe is entirely within the boundaries of this state;
- (c) The land for which zone designation is sought is land held in trust by the United States for the benefit of the Indian tribe and is located entirely within the boundaries of the reservation;
- [(d) As of January 1, 2002, the population density of the reservation, as measured by the most recent federal decennial census, does not exceed 15 persons per square mile;]*
- [(e)]* (d) Fifty percent or more of the households within the boundaries of the reservation have incomes below 80 percent of the median income of this state, as defined by the most recent federal decennial census; and

[(f)] (e) The unemployment rate within the reservation for all enrolled members of the tribe is at least 2.0 percentage points greater than the comparable unemployment rate for this state, as defined by the most recently available data published or officially provided and verified by the United States Government, the Employment Department, the Portland State University Center for Population Research and Census or a special study conducted under a contract with a regional academic institution.

(2) At the request of a tribal government, the Economic and Community Development Department shall determine if trust land is designated as a reservation enterprise zone under this section.

SECTION 4. ORS 285C.065 is amended to read:

285C.065. (1) Any city [*or*], county **or port** may apply to the Director of the Economic and Community Development Department for designation of an area within that city [*or*], county **or port** as an enterprise zone. **A port shall obtain the consent of the governing body of the county prior to applying to the Economic and Community Development Department for designation of an area as an enterprise zone.** With the prior consent of the governing body of the city **or port**, a county may apply to the [*Economic and Community Development*] department on behalf of a city **or port** for designation of any area within that city **or port** as an enterprise zone. **With the prior consent of the governing body of a city, a port may apply to the department on behalf of a city for designation of any area that is wholly or partially shared territory of both the port and city as an enterprise zone. With the prior consent of the governing body of a port, a city may apply to the department on behalf of a port for designation of any area that is wholly or partially shared territory of both the city and port as an enterprise zone.**

(2) One or more cities [*and*], counties **and ports** may apply to the director for designation of an area situated partly within each city and partly in unincorporated territory within the counties **or ports** as an enterprise zone.

(3) An application for designation of an enterprise zone shall be in the form and contain such information as the department, by rule, may require. However, the application shall:

(a) Be submitted on behalf of one or more local government units as described in subsections (1) and (2) of this section by resolution of the governing body of each applicant;

(b) Contain a description of the area sought to be designated as an enterprise zone;

(c) Contain information sufficient to allow the department to determine if the criteria established in ORS 285C.090 are met;

(d) State that the applicant will give priority to the use in the proposed enterprise zone of any economic development or job training funds received from the federal government; and

(e) Declare that the applicant will comply with ORS 285C.105 and perform any other duties of the sponsor under ORS 285C.050 to 285C.250.

(4) When applying for designation of an enterprise zone within its boundaries under this section, the applicant may include in the application:

(a) Proposals to enhance the level or efficiency of local public services within the proposed enterprise zone including, but not limited to, fire-fighting and police services; and

(b) Proposals for local incentives and local regulatory flexibility to authorized business firms.

(5) In the case of joint applications by more than one local government unit, each city [or], county **or port** joining in the application may include proposals for enhanced local public services, local incentives or local regulatory flexibility to be effective within the boundaries of that local government unit.

(6) Proposals under subsection (4) or (5) of this section for enhanced local public services, local incentives or local regulatory flexibility included in the application by a city [or], county **or port** for an enterprise zone are binding upon the city [or], county **or port** if an enterprise zone is designated wholly or partly within its boundaries.

SECTION 5. The Economic and Community Development Department may adopt rules related to the consent required from a city, county or port under ORS 285C.065 in order for a city, county or port to apply for enterprise zone designation under ORS 285C.065.

SECTION 6. (1) A city, county or port that seeks to apply to the Director of the Economic and Community Development Department for enterprise zone designation under ORS 285C.065 shall consult with all local taxing districts with territory in the proposed zone prior to filing the application.

(2) The Economic and Community Development Department may adopt rules on the consultations required under subsection (1) of this section and procedures related to the consultations.

SECTION 7. ORS 285C.075 is amended to read:

285C.075. (1) The Economic and Community Development Department shall review each application for designation of an enterprise zone, and shall secure any additional information that the department considers necessary for the purpose of determining whether the area described in the application qualifies for designation as an enterprise zone.

(2) The department shall complete review of the application within 60 days of the last date designated for receipt of an application. After review of the applications, the department shall forward those qualified applications to the Director of the Economic and Community Development Department. The director shall determine which applications have the greatest potential for accomplishing the purposes of ORS 285C.050 to 285C.250.

(3) As authorized under ORS 285C.080 or 285C.250, the director may approve the designation of one or more enterprise zones. The determination by the director as to the areas designated enterprise zones shall be final.

(4) If an application for enterprise zone designation is denied, the governing body of the cities [or], counties **or ports** submitting the application shall be informed of that fact together with the reasons for the denial. Cities [or], counties **or ports** may reapply to the department for designation of an area as an enterprise zone.

SECTION 8. ORS 285C.085 is amended to read:

285C.085. (1) The Economic and Community Development Department shall be the lead agency for state participation in a federal enterprise zone program. The Director of the Economic and

Community Development Department may take action necessary for such participation to the extent allowed by state law.

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

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

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

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

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

(5) The termination under federal law of a federal enterprise zone does not affect the existence or dimensions of a state enterprise zone, except when, as determined by the director, the termination is for nonperformance or for violations of federal guidelines.

SECTION 9. ORS 285C.090 is amended to read:

285C.090. (1) A proposed enterprise zone must be located in a local area in which:

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

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

(c) The Economic and Community Development Department determines on a case-by-case basis using evidence provided by the cities *[or]*, counties **or ports** applying for designation of the proposed enterprise zone that there exists a level of economic hardship at least as severe as that described in paragraph (a) or (b) of this subsection. *[Such]* **The** evidence shall be based on the most recently available data from official sources and may include, but is not limited to, a contemporary decline of the population in the proposed enterprise zone, the percentage of persons in the proposed enterprise zone below the poverty level relative to the percentage of the entire population of this state below the poverty level or the unemployment rate for the county or counties in which the proposed enterprise zone is located.

(2) An enterprise zone must consist of a total area of not more than 12 square miles in size. The area of the zone shall be calculated by excluding that portion of the zone that lies below the ordinary high water mark of a navigable body of water.

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

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

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

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

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

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

(5) This section does not apply to the designation or redesignation of a reservation enterprise zone.

SECTION 10. ORS 285C.105 is amended to read:

285C.105. (1) The sponsor of an enterprise zone shall:

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

(b) Provide enhanced local public services, local incentives and local regulatory flexibility included in the application for designation of the enterprise zone or in the resolution under ORS 285C.115 (7) to authorized or qualified business firms and assist authorized or qualified business firms in using enhanced local public services, local incentives and local regulatory flexibility.

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

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

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

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

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

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

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

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

(2) If more than one city [or], county **or port** sponsors an enterprise zone, the jurisdictions shall act jointly in performing the duties imposed on a sponsor under ORS 285C.050 to 285C.250.

SECTION 11. ORS 285C.115 is amended to read:

285C.115. (1) The sponsor of an enterprise zone may submit a request to the Economic and Community Development Department to change the boundary of the enterprise zone. A request shall include:

(a) A copy of the resolution of the governing body of the sponsor requesting the change;

(b) If subsection (7) of this section applies, a copy of the resolution described in subsection (7) of this section;

(c) A map clearly indicating the existing boundary and the proposed change thereto;

(d) A legal description of each area to be withdrawn from or added to the existing enterprise zone; and

(e) Other information required by the department.

(2) The amended enterprise zone shall:

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

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

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

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

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

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

(4) A request under subsection (1) of this section may include a proposal to:

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

(b) Change the name of the enterprise zone.

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

(6) A request to modify the boundary of a nonurban enterprise zone to include land located outside an urban growth boundary shall satisfy the requirements of subsections (1) and (2) of this section and shall satisfy any other criteria that the department may adopt by rule.

(7) If an area to be added to an enterprise zone is under the jurisdiction of a city [or], county **or port** that is not a sponsor of the enterprise zone, the governing body of that city [or], county **or port** shall submit a resolution requesting the change and requesting that the city [or], county **or port** become a sponsor, **or shall submit a resolution consenting to the change, as provided under ORS 285C.065 (1)**. The resolution of the joining city [or], county **or port** shall be submitted jointly with the resolution adopted by the governing body of the existing sponsor. The **joining** resolution of the city [or], county **or port** may:

(a) Include a binding proposal for enhanced local public services, local incentives or local regulatory flexibility to be effective within the portion of the enterprise zone to be under the jurisdiction of that city [or], county **or port**; or

(b) Include a restriction described in ORS 285C.070 (4). A restriction made under this paragraph may be made without regard to the time limitation described in ORS 285C.070 (4)(c) and becomes final on the effective date of the boundary change.

(8) The department shall review the request for a boundary change. If the request is incomplete or does not satisfy the requirements of this section, the department shall seek additional information as necessary or shall return the request to the sponsor. If the request is returned, the sponsor may submit a revised request at any time. If the request is complete and does satisfy the requirements of this section, the Director of the Economic and Community Development Department shall order a change in the boundary of an enterprise zone based on the request of the sponsor and specify the effective date of the boundary change, which may not be earlier than the receipt of a completed request.

(9) A change in the boundary of an enterprise zone under this section does not change the termination date of the enterprise zone under ORS 285C.245 (2).

SECTION 12. ORS 285C.250 is amended to read:

285C.250. (1) Within a reasonable period of time prior to the termination of enterprise zones under ORS 285C.245 (2), the Director of the Economic and Community Development Department shall competitively designate the same number of enterprise zones effective immediately after termination of the previous enterprise zones. The determination by the director as to the areas designated as enterprise zones shall be final.

(2) When an enterprise zone is terminated under ORS 285B.686 (4) to (6), the director may competitively designate a new enterprise zone. The sponsor of the enterprise zone terminated under ORS 285C.245 (4) or (5) is not eligible to apply for a new enterprise zone, except for a county government when the terminated zone was also jointly sponsored by one or more cities **or ports**.

(3) Sponsors of existing enterprise zones that are due to terminate may reapply for designation under subsection (1) of this section.

(4) Any city [or], county **or port** may apply to the director for designation of an enterprise zone in accordance with the criteria set forth in ORS 285C.065 and 285C.090. In addition, the Economic and Community Development Department by rule shall determine the minimum level of economic hardship in any area to be included within an enterprise zone, any other criteria necessary to evaluate the need for the enterprise zone and the potential for accomplishing the purposes of ORS 285C.050 to 285C.250.

(5) All enterprise zones designated under this section shall terminate in accordance with ORS 285C.245 (2).

(6) When the director designates enterprise zones under this section, there is no limit on the relative number of urban or nonurban enterprise zones designated.

(7) The director may determine when to accept applications for any enterprise zone that terminates under subsection (2) of this section or is not designated under subsection (1) of this section for lack of qualified applicants.

SECTION 13. Section 14 of this 2005 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 14. (1) A port located in whole or in part within an existing enterprise zone may submit a request to the Economic and Community Development Department to be a cosponsor of the enterprise zone. The request shall include:

(a) A copy of the resolution of the governing body of the port approving the request for designation as cosponsor of the enterprise zone;

(b) A copy of the resolution of the governing body of each current sponsor of the enterprise zone approving the addition of the port as a cosponsor; and

(c) Other information required by the department.

(2) The department shall review the request for addition of the port as a cosponsor of the enterprise zone. If the request is incomplete or does not satisfy the requirements of this section, the department shall seek additional information as necessary or shall return the request to the port. If the request is returned, the port may submit a revised request at any time. If the request is complete and does satisfy the requirements of this section, the Director of the Economic and Community Development Department shall approve the request.

(3) The addition of a port as a cosponsor of an existing enterprise zone under this section does not change the termination date of the enterprise zone under ORS 285C.245 (2).

SECTION 15. (1) Notwithstanding ORS 285C.240 (3) and (5), if a county assessor or sponsor receives notice from a qualified business firm under ORS 285C.240 (1)(b), additional taxes calculated under ORS 285C.175 may not be assessed or collected if:

(a) The closure or reduction in eligible operations is a direct result of fire that has physically destroyed qualified property and that was beyond the control of the firm; and

(b) The destruction occurred on or after July 1, 2005, and before August 1, 2005.

(2) The definitions in ORS 285C.050 apply to this section.

SECTION 16. Section 15 of this 2005 Act is repealed January 2, 2008.

SECTION 17. This 2005 Act takes effect on the 91st day after the date on which the regular session of the Seventy-third Legislative Assembly adjourns sine die.

Passed by House June 6, 2005

Repassed by House July 26, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate July 7, 2005

Repassed by Senate July 27, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State