

CHAPTER 648

AN ACT

HB 2643

Relating to enterprise zones; creating new provisions; amending ORS 285C.050, 285C.060, 285C.065, 285C.066, 285C.067, 285C.068, 285C.070, 285C.090, 285C.095, 285C.100, 285C.105, 285C.115, 285C.120, 285C.135, 285C.175, 285C.180, 285C.245, 285C.250 and 315.507; repealing ORS 285C.075, 285C.080 and 285C.195; 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, a people's utility district organized under ORS chapter 261 or a joint operating agency formed under ORS chapter 262, but does not include any other governmental agency, municipal corporation or nonprofit corporation.

(4) "County average annual wage" means:

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

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

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

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

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

(8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the areas designated by the Director of the Oregon Business Development Department under ORS 285C.080 **before the effective date of this 2015 Act, an area designated under ORS 285C.065**, a federal enter-

prise zone area designated under ORS 285C.085, an area designated under ORS 285C.250 or a reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306.

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) "Rural enterprise zone" means:

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

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

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

(19) "Sponsor" means:

(a) The city, county or port, or any combination of cities, counties or ports, that received approval of an enterprise zone under ORS 284.150 and 284.160

(1987 Replacement Part), [under ORS 285C.065 and 285C.075,] **under ORS 285C.080 before the effective date of this 2015 Act or under ORS 285C.085 or 285C.250 or that designated an enterprise zone under ORS 285C.065 or 285C.250;**

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

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

(d) A city, county or port that joined the enterprise zone through a boundary change under ORS 285C.115 [(7)] **(6)** or a port that joined the enterprise zone under ORS 285C.068.

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

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

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

SECTION 2. ORS 285C.060 is amended to read: 285C.060. In addition to any other powers granted by law, for the purpose of administering ORS 285C.050 to 285C.250, the Oregon Business Development Department shall:

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

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

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

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

[(5) Process sponsor requests for boundary amendments under ORS 285C.115.]

[(6)] **(5)** Take action necessary to [terminate or designate zones under ORS 285C.245 or 285C.250] **ensure that zones designated by sponsors comply with statutory requirements.**

[(7)] **(6)** Assist in implementing first-source hiring agreements by publicly funded job training providers with authorized business firms and in ensuring compliance with business firm eligibility requirements and with provisions addressing the avoidance of job losses outside of enterprise zones.

SECTION 3. ORS 285C.065 is amended to read: 285C.065. (1) Any city, county or port may [apply to the Director of the Oregon Business Development Department for designation of] **designate** an area within [that] **the** city, 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 Oregon Business Development Department for designation of] **designating** 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 department], on behalf of a city or port [for designation of], **designate** any area within [that] **the** 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], **designate** any area that is wholly or partially shared territory of both the port and city as an enterprise zone. With the prior consent of the governing body of a port, a city may [apply to the department], on behalf of a port [for designation of], **designate** any area that is wholly or partially shared territory of both the city and port as an enterprise zone.

(2) One or more cities, counties and ports may [apply to the director for designation of] **designate** 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, 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, county or port for an enterprise zone are binding upon the city, county or port if an enterprise zone is designated wholly or partly within its boundaries.]

(3) Designation of an enterprise zone under this section shall be made by resolution of the governing body of the city, county or port and is not final until a positive determination in favor of the zone has been made by the Oregon Business Development Department under section 10 of this 2015 Act.

SECTION 4. ORS 285C.066 is amended to read: 285C.066. The Oregon Business Development Department may adopt rules related to:

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

(2) The number of enterprise zones that may be designated within a city or other jurisdiction.

SECTION 5. ORS 285C.067 is amended to read:

285C.067. (1) A city, county or port that seeks to [apply to the Director of the Oregon Business Development Department for] **designate an enterprise zone [designation] under ORS 285C.065 or 285C.250** shall consult with all local taxing districts with territory in the [proposed] zone prior to [filing the application] **designating the zone.**

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

SECTION 6. ORS 285C.068 is amended to read:

285C.068. (1) A port located in whole or in part within an existing enterprise zone may [submit a request to the Oregon Business Development Department to] be **added as a cosponsor of the enterprise zone by resolution of the governing body of the port, subject to the consent of the existing zone sponsor and with notice to the Oregon Business Development Department.** [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 Oregon Business Development Department shall approve the request.]

[(3)] **(2)** The addition of a port as a cosponsor of an existing enterprise zone under this section does

not change the termination date of the enterprise zone under ORS 285C.245 (2).

SECTION 7. ORS 285C.070 is amended to read:

285C.070. (1) The governing body of a city or county that is [seeking] **designating an enterprise zone [designation] under ORS 285C.065 or 285C.250** may elect to permit a business firm operating a hotel, motel or destination resort to be an eligible business firm with respect to those operations.

(2) The election must be made at the time the [application for zone designation under ORS 285C.065 is made] **zone is designated** or any time thereafter and before the expiration of six months following the date the zone is designated.

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

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

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

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

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

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

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

(5) The sponsor may by resolution revoke an election made under this section. If an election is revoked, the sponsor may not make another election under this section.

SECTION 8. ORS 285C.090 is amended to read:

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

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

(b) The unemployment rate is at least 2.0 percentage points greater than the comparable unem-

ployment rate for this entire state, as defined by the most recently available data published or officially provided and verified by the United States Government, the Employment Department, the Portland State University Population Research Center or special studies conducted under a contract with a regional academic institution; or

(c) The Oregon Business Development Department determines on a case-by-case basis using evidence provided by the cities, counties or ports [applying for designation of] **designating** 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. The evidence must be based on the most recently available data from official sources and may include a contemporary decline of the population in the [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)(a) An urban enterprise zone may consist of a total area of not more than 12 square miles in size.

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

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

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

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

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

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

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

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

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

SECTION 9. Section 10 of this 2015 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 10. (1)(a) No sooner than the 45th day following compliance with section 29 (1) of this 2015 Act, a zone sponsor shall submit to the Oregon Business Development Department doc-

umentation of the sponsor's designation of an enterprise zone under ORS 285C.065 or 285C.250.

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

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

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

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

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

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

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

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

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

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

SECTION 11. ORS 285C.095, as amended by section 1, chapter 53, Oregon Laws 2014, is amended to read:

285C.095. (1) A sponsor of an existing enterprise zone may [seek to have] designate the zone [designated] for electronic commerce under this section by resolution of the governing body of the sponsor.

[(2) The sponsor shall file an application to have the zone designated for electronic commerce with the Oregon Business Development Department. The application shall be in the form and contain the information that the department by rule may require.]

[(3) The application shall be accompanied by a copy of a resolution, adopted by the governing body of the sponsor, requesting that the zone be designated for electronic commerce.]

[(4)] (2) [The department shall review applications for electronic commerce designation and shall approve] There may be designated at any time no

more than 15 zones for electronic commerce [*designation*].

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

(4) Designation of a zone for electronic commerce under this section is not final until a positive determination has been made in favor of the zone by the Oregon Business Development Department under section 14 of this 2015 Act.

SECTION 12. ORS 285C.100 is amended to read: 285C.100. (1) Notwithstanding ORS 285C.095, a city shall be designated for electronic commerce if the city:

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

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

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

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

(2) Only one city may be designated for electronic commerce under this section, and that designation shall be made without consideration of the numeric [*limitations*] **limits** imposed by ORS 285C.095.

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

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

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

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

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

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

(4) Designation of a city for electronic commerce under this section is not final until a positive determination in favor of the city has

been made by the Oregon Business Development Department under section 14 of this 2015 Act.

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

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

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

(c) Territory that is added to the urban growth boundary described in paragraph (b) of this subsection, as of the date the urban growth boundary is extended to such territory.

SECTION 13. Section 14 of this 2015 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 14. (1) No sooner than the 31st day following compliance with section 29 (1) of this 2015 Act, the sponsor of an enterprise zone or the governing body of a city shall submit to the Oregon Business Development Department documentation of the sponsor's or city's designation of the zone or city for electronic commerce under ORS 285C.095 or 285C.100, respectively, with sufficient information for the department to make a determination under this section.

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

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

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

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

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

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

(c) The department shall adopt rules necessary to administer this subsection.

SECTION 15. 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 Oregon Business Development Department, the county assessor and the Department of Revenue.

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

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

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

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

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

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

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

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

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

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

SECTION 16. ORS 285C.115 is amended to read:

285C.115. (1) The sponsor of an enterprise zone may *[submit a request to the Oregon Business Development Department to]* change the boundary of the enterprise zone. *[A request shall include:]*

[(a) A copy of the] **by** 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 or a reservation partnership 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]* **boundary change** 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 rural 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)] **(6)** *[If an area to be added to an enterprise zone]* **An area that** is under the jurisdiction of a city, county or port that is not a sponsor of the enterprise zone. *[.]* **may be added to the enterprise zone under this section only if** the governing body of *[that]* **the nonsponsoring** city, county or port *[shall submit]* **adopts** a resolution requesting the change and requesting that the city, county or port become a *[sponsor]* **cosponsor**, or *[shall submit]* a resolution consenting to the change, as provided under ORS 285C.065 (1). *[The resolution of the joining city, county or port shall be submitted jointly with the resolution adopted by the governing body of the exist-*

ing sponsor. The joining resolution of the city, 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, county or port; or]

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

[(8) *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 Oregon Business 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.*]

(8) A boundary change under this section is not final until a positive determination has been made by the Oregon Business Development Department under section 18 of this 2015 Act.

(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 17. Section 18 of this 2015 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 18. (1)(a) **The sponsor of an enterprise zone shall submit to the Oregon Business Development Department documentation of a boundary change under ORS 285C.115.**

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

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

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

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

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

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

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

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

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

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

SECTION 19. ORS 285C.120 is amended to read:

285C.120. (1) If the population density of a county increases to more than 100 persons per square mile, so that the county is no longer a sparsely populated county, any existing rural enterprise zone located wholly or partly within that county [*that was designated or that had its zone boundary changed*] shall continue to exist with that zone boundary until terminated. A boundary change under ORS 285C.115 that is subsequent to the date on which the county ceases to be a sparsely populated county may not add an area to the zone that:

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

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

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

(2) [*An applicant for designation under ORS 285C.065 or a sponsor requesting a change to a rural enterprise zone under ORS 285C.115*] **In designating or changing the boundary of a rural enterprise zone under ORS 285C.065, 285C.115 or 285C.250 in a sparsely populated county, a zone sponsor may seek a waiver of the distance limitations [*imposed on the zone*] under ORS 285C.090 (4) by providing the necessary documentation under section 10 or 18 of this 2015 Act.** The Director of the Oregon Business Development Department shall grant [*all or part of*] the waiver if **the director determines that:**

(a) The [*proposed*] designation [*is to be made*] or the [*proposed*] boundary change satisfies all other **applicable** requirements [*for a boundary change under ORS 285C.115*]; and

(b) [*The director determines,*] Consistent with rules adopted by the Oregon Business Development

Department, [that] designation of a separate enterprise zone is not a practical option under the particular circumstances, that the overall distances involved can be effectively administered and that the waiver will further the goals and purposes of ORS 285C.050 to 285C.250.

SECTION 20. ORS 285C.135 is amended to read:

285C.135. (1) To be an eligible business firm, a business firm must be engaged, or proposing to engage, within the enterprise zone, in the business of providing goods, products or services to businesses or other organizations through activities including, but not limited to, manufacturing, assembly, fabrication, processing, shipping or storage.

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

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

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

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

(4) Two or more business firms that otherwise meet the requirements of this section may elect to be treated as one eligible business firm if 100 percent of the equity interest in the business firms is owned by the same person or persons, or if one of the business firms owns 100 percent of the equity interest of the other or others.

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

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

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

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

(b) A business firm that operates a facility within the enterprise zone that serves statewide, regional, national or global operations of the firm

through administrative, design, financial, management, marketing or other activities, without regard to the relationship of these activities to any otherwise eligible activities within the enterprise zone.

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

(d) A business firm that is engaged in electronic commerce if the enterprise zone has been [approved] **designated** for electronic commerce [designation] under ORS 285C.095.

SECTION 21. ORS 285C.175 is amended to read:

285C.175. (1) Property of an authorized business firm is exempt from ad valorem property taxation if:

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

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

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

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

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

(c) If qualified property of a qualified business firm is sold or leased to an eligible business firm in the enterprise zone during the period the property is exempt under this section, the purchasing or leasing firm is eligible to continue the exemption of the selling or leasing firm for the balance of the exemption period, but only if any effects on employment within the zone that result from the sale or lease do not constitute substantial curtailment under ORS 285C.210.

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

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

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

(B) If the qualified property is an item of reconditioned, refurbished, retrofitted or upgraded real property machinery or equipment, the exemption shall be measured by the increase in the value of the

item that is attributable to the reconditioning, refurbishment, retrofitting or upgrade.

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

(A) Designation of the zone **takes effect under section 10 of this 2015 Act;** or

(B) *[Approval of]* A boundary change for the zone **takes effect under section 18 of this 2015 Act** if the property is located in an area added to the zone.

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

(A) Designation of the zone **takes effect under section 10 of this 2015 Act;** or

(B) *[Approval of]* A boundary change for the zone **takes effect under section 18 of this 2015 Act** if the property is located in an area added to the zone.

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

(d) An exemption may not be granted for any qualified property unless the property is **actually** in use or occupancy before July 1 of the year immediately following the year during which the *[completion of the construction, addition, modification or installation occurred]* **property was first placed in service.**

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

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

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

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

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

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

(c) Indicate on the assessment roll that the property is exempt and is subject to potential additional taxes as provided in ORS 285C.240, by adding the notation "enterprise zone exemption (potential additional tax)."

285C.180. (1) The following types of property are qualified for exemption under ORS 285C.175:

(a) A newly constructed building or structure.

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

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

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

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

[(d) Any property otherwise described in this section that is owned or leased and operated by a business firm that is engaged in electronic commerce, if the enterprise zone in which the property is located is a zone approved for electronic commerce designation under ORS 285C.095.]

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

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

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

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

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

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

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

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

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

(a) Land.

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

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

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

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

SECTION 22. ORS 285C.180 is amended to read:

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

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

(5) For purposes of this section and ORS 285C.175, property includes any portion or incremental unit of property that is newly constructed or installed, or that is a new addition to or modification of an existing building or structure.

SECTION 23. ORS 285C.245 is amended to read:

285C.245. (1) When the termination of an enterprise zone occurs under this section:

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

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

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

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

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

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

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

(b) A business firm that is currently authorized or qualified in the enterprise zone shall be allowed until 10 years after the effective date of the termination of the enterprise zone to apply for authorization under ORS 285C.140 and to subsequently claim the exemption for any qualified property that is constructed, added, modified or installed inside the former enterprise zone boundaries, as those boundaries existed at the time of termination, and entirely outside of the boundaries of any current enterprise zone. Construction, addition, modification or installation of qualified property must commence prior to the end of the final tax year in which qualified property of the firm is exempt under ORS 285C.175 and must be completed within a reasonable time and without interruption of construction, addition, modification or installation activity. The property must meet all other applicable requirements for exemption under ORS 285C.175.

(c) Disqualification under ORS 285C.240 of all exempt property of the business firm after the effective date of the termination of the enterprise zone shall prohibit and terminate all authorizations sought or obtained by the business firm that would not otherwise be allowed except for paragraph (b) of this subsection. Disqualification under ORS 285C.240 of all exempt property of the business firm on or af-

ter the effective date of the termination of the enterprise zone shall cause the assessor to deny any claim for exemption under ORS 285C.175 of qualified property of the business firm made in a subsequent tax year.

(2) An enterprise zone designated [by the Director of the Oregon Business Development Department under ORS 285C.080, 285C.085 or] **under ORS 285C.050 to 285C.250** shall terminate when 10 years plus that number of days necessary to delay the date of termination to the June 30 next following have elapsed since the [enterprise zone was originally designated] **effective date of the designation.**

(3) An enterprise zone designated [by the director under ORS 285C.080, 285C.085 and] **under ORS 285C.050 to 285C.250** shall terminate prior to the time specified in subsection (2) of this section only as provided in subsections (4) [to (6)] **and (5)** of this section.

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

(5) If a sponsor is unable or unwilling to carry out its responsibilities under ORS 285C.105, the director shall order termination of the enterprise zone and shall specify the effective date of the termination. However, in the case of failure to provide enhanced local public services, local incentives or local regulatory flexibility [included in the application for designation as an enterprise zone or in the resolution under ORS 285C.115 (7)] **that the sponsor has established under ORS 285C.105**, termination is not required if the sponsor provides to **any affected** authorized or qualified business firms new enhanced local public services, local incentives or local regulatory flexibility [that is] of comparable value, or makes reasonable corrections of shortcomings in existing local incentives. A sponsor may reduce the time within which it will provide enhanced local public services, local incentives and local regulatory flexibility to a time period equal to the amount of time allowed for an exemption under ORS 285C.175 without causing termination under this section.

[6] *An enterprise zone designated on or after January 1, 2004, shall terminate if no qualified business firm has located within the zone by December 31 following the date that is six years after the date the zone was designated.*

[7] **(6)** A reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306 shall terminate in accordance with subsection (2) of this section, but may be redesignated at any time under ORS 285C.306.

SECTION 24. 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 Oregon Business 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)(a) When an enterprise zone is terminated under ORS 285C.245 (4) to (6), the director may competitively designate a new enterprise zone.]

(1)(a) Within a reasonable period of time prior to the termination of an enterprise zone under ORS 285C.245 (2), the sponsors of the enterprise zone may redesignate the enterprise zone in accordance with ORS 285C.065 and section 10 of this 2015 Act, except that the redesignation shall take effect no sooner than the date of termination.

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

(c) Paragraph (b) of this subsection does not apply to a county government *[when]* **if** 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, 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 Oregon Business 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)] **(2) [All enterprise zones designated under this section shall terminate in accordance with ORS 285C.245 (2)] Enterprise zones redesignated under this section are subject to ORS 285C.245.**

[(6) When the director designates enterprise zones under this section, there is no limit on the relative number of urban or rural 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 25. ORS 285C.075, 285C.080 and 285C.195 are repealed.**SECTION 26.** ORS 315.507 is amended to read:

315.507. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the tax-

payer is a corporation, under ORS chapter 317 or 318, shall be allowed to a taxpayer that is:

(a) A business firm engaged or preparing to engage in electronic commerce in an enterprise zone that has been *[approved]* **designated** for electronic commerce *[designation]* under ORS 285C.095; or

(b) A business firm engaged or preparing to engage in electronic commerce in a city that has been designated for electronic commerce under ORS 285C.100.

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

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

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

(c)(A) During the period that commences *[when the firm becomes]* **with the income or corporate excise tax year in which the firm applied to be** an authorized business firm under ORS 285C.140 and ends on the last day of the income or corporate excise tax year in which begins the first property tax year in which qualified property of the firm used in eligible electronic commerce activities is exempt from property taxation under ORS 285C.175; or

(B) During any income or corporate excise tax year in which begins a property tax year in which qualified property of the firm used in eligible electronic commerce operations is exempt from property taxation under ORS 285C.175.

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

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

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

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

(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

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

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

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

(9) As used in this section, "authorized business firm," "business firm," "electronic commerce" and "qualified property" have the meanings given those terms in ORS 285C.050.

SECTION 27. Section 28 of this 2015 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 28. (1) Before submitting documentation, as required under section 10 or 14 of this 2015 Act, as applicable, of the designation of an enterprise zone under ORS 285C.065 or 285C.250 or a zone or city for electronic commerce under ORS 285C.095 or 285C.100, respectively, the zone sponsor or the governing body of the city shall formally advise the Oregon Business Development Department of the zone sponsor's or the city's intent to make the designation.

(2)(a) As soon as practicable after receipt of a formal advisory required under subsection (1) of this section, the department shall contact the zone sponsor or the governing body of the city to arrange a consultation about the designation.

(b) After the consultation required under this subsection, the zone sponsor or the governing body of the city may submit to the department documentation of the designation, at the time and in the manner required under section 10 or 14 of this 2015 Act, as applicable.

(3) A formal advisory submitted pursuant to subsection (1) of this section does not obligate the zone sponsor or the governing body of the city to make the designation.

SECTION 29. ORS 285C.066 and 285C.067 are added to and made a part of ORS 285C.050 to 285C.250.

SECTION 30. Sections 10, 14, 18 and 29 of this 2015 Act, the amendments to ORS 285C.050, 285C.060, 285C.065, 285C.066, 285C.067, 285C.068, 285C.070, 285C.090, 285C.095, 285C.100, 285C.105, 285C.115, 285C.120, 285C.135, 285C.175, 285C.180, 285C.245, 285C.250 and 315.507 by sections 1 to 8, 11, 12, 15, 16, 19 to 24 and 26 of this 2015 Act and the repeal of ORS 285C.075, 285C.080 and 285C.195 by section 25 of this 2015 Act apply to enterprise zones designated, zones and cities designated for electronic commerce, zone cosponsors added and enterprise zone boundaries changed, on and after the effective date of this 2015 Act.

SECTION 31. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Approved by the Governor July 6, 2015
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