

Enrolled House Bill 2833

Sponsored by COMMITTEE ON REVENUE

CHAPTER

AN ACT

Relating to the exemption of property in enterprise zones; amending ORS 285C.140, 285C.165, 285C.175, 285C.185, 285C.200, 285C.203, 285C.210, 285C.220, 285C.225, 285C.240 and 285C.412; and prescribing an effective date.

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

SECTION 1. ORS 285C.140 is amended to read:

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

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

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

(2) The application shall contain the following information:

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

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

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

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

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

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

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

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

(4) If an application for authorization appears to be complete and the proposed investment appears to be eligible for authorization, the sponsor and the business firm shall conduct a preauthorization *[consultation]* **conference**. The *[county]* assessor **of the county in which the property will be located** shall be timely notified and have the option to participate in the *[consultation]* **conference**. The *[consultation]* **conference** shall:

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

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

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

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

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

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

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

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

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

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

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

(11) Notwithstanding subsection (1) of this section, if an eligible business firm has begun or completed the construction, addition, modification or installation of property that meets the qualifications of ORS 285C.180, and the property has not yet been subject to property tax **after having**

been placed in service, then, for purposes of ORS 285C.050 to 285C.250, the firm shall be authorized under this section if the firm files an application that is allowed under subsection (12) of this section and is otherwise authorized under this section.

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

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

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

SECTION 2. ORS 285C.165 is amended to read:

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

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

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

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

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

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

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

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

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

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

(5) This section applies only until the enterprise zone is terminated. Following zone termination, ORS 285C.245 applies.

SECTION 3. 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) Except as otherwise provided in ORS 285C.203:

[2)(a)] (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)] (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] **subparagraph (A) of this paragraph**, if authorized by the written agreement entered into by the firm and the sponsor under ORS 285C.160.

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

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

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

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

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

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

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

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

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

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

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

(c) An exemption may not be granted for any qualified property that was in service within the zone for more than 12 months by January 1 of the first assessment year for which an exemption claim is made, or 24 months, in the case of a late claim under ORS 285C.220 [(10)] (9).

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

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

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

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

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

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

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

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

SECTION 4. ORS 285C.185 is amended to read:

285C.185. (1) In order for property to be qualified property under ORS 285C.180, the property must cost:

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

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

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

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

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

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

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

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

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

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

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

(a) Located and in service in an enterprise zone [*for which the*] **of a sponsor or in the jurisdiction of a restricted city or county cosponsor that** has elected under ORS 285C.070 to treat a business firm engaged in hotel, motel or destination resort operations as an eligible business firm;

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

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

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

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

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

SECTION 5. ORS 285C.200 is amended to read:

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

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

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

(c) **Except as otherwise provided in ORS 285C.203**, the employment of the firm, [*no later than the date the exemption is claimed under ORS 285C.220 or April 1 following the year in which the investment in qualified property is made, whichever is earlier*] **on or before the earlier of April 1 or the date on which the initial exemption claim is filed under ORS 285C.220, following the year**

in which the qualified property is first placed in service in the enterprise zone, is not less than the greater of:

- (A) 110 percent of the annual average employment of the firm; or
- (B) The annual average employment of the firm plus one employee;
- (d) The firm does not diminish employment outside the enterprise zone as [described in subsections (5) and (6)] **provided in subsection (4) or (5)** of this section;
- (e) The firm does not substantially curtail operations within the enterprise zone as described in ORS 285C.210; and
- (f) The firm complies in all material respects with local, Oregon and federal laws applicable to the firm's operations inside the enterprise zone since the application for authorization and throughout the period of exemption, as prescribed by rule.

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

- (a) The firm is authorized subject to ORS 285C.155 and the firm satisfies those requirements; and
- (b)(A) The firm completes an investment of \$25 million or more in qualified property; or
- (B) The firm fulfills the requirements of ORS 285C.205 and the employment of the firm does not decrease below the annual average employment of the firm.

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

- (a) The firm is authorized under ORS 285C.140;*
- (b) The zone sponsor has taken the actions and the firm has satisfied the requirements specified in ORS 285C.203; and*
- (c) The firm completes an investment of \$4 million or more in qualified property if it is in a rural enterprise zone or \$8 million or more in qualified property if it is in an urban enterprise zone.*

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

- (a) The eligible operations of the firm under ORS 285C.135 meet the qualifications of this section; and
- (b) The employees of the firm work a majority of their time in eligible operations within the enterprise zone.

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

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

[7] **(6)** For purposes of subsection (1)(f) of this section, the Oregon Business Development Department shall adopt rules that define the effect of noncompliance on an eligible business firm's continuing exemption in an enterprise zone and that indicate what is necessary to establish the noncompliance in terms of materiality of the relevant violation, the finality of applicable legal or

regulatory proceedings and judgments involving the firm, the failure by the firm to perform or submit to remedial or curative actions and similar factors.

[(8)] (7) As used in this section:

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

(b) Except as provided in subsection [(6)] (5) of this section, "employment of the firm" means:

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

(B) In the case of a firm described in ORS 285C.135 (5)(b), the number of employees working a majority of their time at the facility in the enterprise zone for which authorization was obtained.

SECTION 6. ORS 285C.203 is amended to read:

285C.203. [*For purposes of ORS 285C.200 (3):*]

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

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

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

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

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

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

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

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

[(5) *An eligible business firm authorized under ORS 285C.140 does not lose its status as an authorized business firm solely because the zone sponsor has taken the actions specified in subsection (1) of this section.*]

(1)(a) The sponsor of an enterprise zone may suspend the obligation of a qualified business firm to meet the employment requirements of ORS 285C.200 for a period not to exceed two consecutive years if:

(A) For two or more consecutive calendar quarters in the previous 12 months, as defined by the most recently available data published or officially provided and verified by the United States Government or the Employment Department:

(i) There has been a decline statewide in seasonally adjusted nonfarm payroll employment; and

(ii) The unemployment rate of the county in which the qualified property of the firm is located has been at least two percentage points greater than the comparable unemployment rate for this state; and

(B) The qualified business firm has completed an investment in qualified property of at least:

(i) \$4 million if the qualified property is in a rural enterprise zone; or

(ii) \$8 million if the qualified property is in an urban enterprise zone.

(b) At the time a period of suspension is granted, the sponsor must specify a minimum number of employees greater than zero that the qualified business firm is required to employ during the period of suspension.

(2)(a) The granting of a period of suspension under subsection (1) of this section does not affect an eligible business firm's status as an authorized business firm under ORS 285C.140.

(b) During the period of suspension:

(A) The qualified business firm is not exempt from taxation under ORS 285C.175; and

(B) Notwithstanding subparagraph (A) of this paragraph, the qualified business firm must file an exemption claim as required under ORS 285C.220 and 285C.225.

(c) The period of suspension does not count toward the total period of time for which exemption from taxation is allowed under ORS 285C.175.

(d)(A) After the period of suspension has ended, the qualified business firm is eligible to resume exemption from taxation for the period of time remaining under ORS 285C.175.

(B) To resume exemption under subparagraph (A) of this paragraph, the qualified business firm must satisfy the requirements of ORS 285C.200 for the remaining period of exemption, including, but not limited to, any reduced employment level pursuant to subsection (4) of this section, which must also be met on or before April 1 preceding the first tax year after the period of suspension if the qualified business firm received at least one year of exemption under ORS 285C.175 before the period of suspension began.

(3)(a) The sponsor's actions under subsection (1) of this section are not effective unless set forth in a resolution adopted by the governing body of the sponsor no later than the earlier of:

(A) Sixty days after the date on which the sponsor notifies the qualified business firm that the sponsor intends to act pursuant to subsection (1) of this section; or

(B) August 31 of the first year of suspension.

(b) A resolution adopted under this subsection may be revoked or amended by the sponsor at any time during the period of suspension.

(4) A resolution adopted under subsection (3) of this section may reduce the employment level required under ORS 285C.200 (1)(c) after the period of suspension.

(5) A sponsor shall promptly provide to the county assessor:

(a) A copy of a resolution adopted under subsection (3)(a) of this section;

(b) A copy of a resolution as amended under subsection (3)(b) of this section; and

(c) Notice that a resolution has been revoked under subsection (3)(b) of this section.

SECTION 7. ORS 285C.210 is amended to read:

285C.210. (1) For purposes of ORS 285C.175, 285C.200 and 285C.240, **except as provided in subsection (3) of this section**, operations of a business firm **within the enterprise zone** are substantially curtailed when:

(a) **Pursuant to the initial claim of exemption and satisfaction of ORS 285C.200 (1)(c)**, the number of employees of the firm [*within the enterprise zone*]:

(A) Is reduced by more than 85 percent from the highest number of employees of the firm [*within the enterprise zone*]; **or**

[(b)] (B) [*The number of employees of a firm within the enterprise zone*] Has been reduced by more than 50 percent from the highest number of employees of the firm [*within the enterprise zone for a period of time that is equal to or more than nine months*] **over two consecutive annual filing periods under ORS 285C.220 (1)**; or

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

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

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

(2) For the purposes of this section:

(a) **Except as provided in paragraph (c)(A) of this subsection**, the number of employees of [*a firm within the enterprise zone*] **the firm** is the employment of the firm, as defined in ORS 285C.200 **(7)(b)**, on the earlier of the date a claim for exemption is filed under ORS 285C.220 or April 1, of each assessment year for which an exemption under ORS 285C.175 is claimed, and for the year immediately following the last assessment year for which an exemption is claimed] **of the year in which the exemption is initially claimed under ORS 285C.175 and following each assessment year of the exemption, including after the last such assessment year.**

(b) [*Except as specified in subsection (1)(c) of this section, the annual average number of employees of the firm is the number of firm employees within the enterprise zone averaged over*] **Except as provided in paragraph (c)(B) of this subsection, the annual average number of employees of the firm is the number of employees of the firm averaged over the course of** each assessment year in which an exemption under ORS 285C.175 is allowed, using employment figures for no fewer than four equivalent periods during the year.

(c) For the first assessment year for which an authorized business firm that qualifies under ORS 285C.200 [(6)] **(5)** claims an exemption under ORS 285C.175, substantial curtailment under subsection (1)(a)**(A)** or [(c)] **(b)** of this section shall be determined by:

(A) Combining the number of employees of the firm [*within the enterprise zone*] and the number of employees at [*all other sites of the firm within the area described in ORS 285C.200 (6)*] **any applicable site of the firm outside the enterprise zone;** and

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

(3) [*Notwithstanding subsections (1) and (2) of this section, it is not a substantial curtailment of*] Operations of a business firm [*for purposes of ORS 285C.175, 285C.200 and 285C.240 if the sponsor of an enterprise zone has taken the actions and the firm has satisfied the requirements specified*] **are not substantially curtailed under this section during a period of suspension as otherwise provided** in ORS 285C.203.

SECTION 8. ORS 285C.220 is amended to read:

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

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

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

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

(a) A statement that:

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

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

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

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

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

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

(C) The annual average number of employees of the firm within the enterprise zone, averaged over the 12-month period preceding the date of the application for authorization.

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

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

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

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

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

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

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

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

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

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

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

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

(7)(a) Notwithstanding subsection (1) **or (9)** of this section, a claim may be filed under this section on or before June 1 of the assessment year if:

(A) The claim [*includes*] **consists of** qualified property that, pursuant to ORS 285C.225, is required to be listed on a property schedule included with the claim form [*because the year for which the claim is being filed is the first year for which the property is exempt under ORS 285C.175*]; and

(B) The claim is accompanied by a late filing fee equal to the greater of \$200 or one-tenth of one percent of the [*real market value*] **total investment cost** of the qualified property listed on the property schedule accompanying the claim **that is subject to the exemption.**

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

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

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

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

(i) \$200; or

(ii) One-fiftieth of one percent of the [*real market value*] **total investment cost** of the qualified property of the business firm **that was exempt as of the current assessment date** multiplied by

the number of 30-day periods from April 1 of the assessment year until the date the claim is filed. A period of less than 30 days shall constitute a 30-day period for purposes of this subparagraph.

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

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

[(10)(a)] (9)(a) Notwithstanding subsection (1) of this section, a claim **for qualified property required to be listed on a property schedule included with the claim form pursuant to ORS 285C.225** may be filed under this section **after January 1 and** on or before April 1 following the assessment year after the year in which the qualified property was placed in service, **if the authorized business firm demonstrates that it was otherwise qualified by April 1 of the previous year but for the failure to file a timely claim.**

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

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

[(12)] (11) A claim may be filed under this section as of the dates prescribed in subsections (7), (8) *[and (10)]* **or (9)** of this section, regardless of any grounds for hardship under ORS 307.475.

SECTION 9. ORS 285C.225 is amended to read:

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

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

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

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

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

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

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

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

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

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

(5) The county assessor may allow the business firm to amend the property schedule to include any other item of qualified property described in subsection *[(2)]* **(4)** of this section that was not listed on the original property schedule included in the claim filed for the assessment year. An amendment to the property schedule may not be made after June 1 of the assessment year.

SECTION 10. ORS 285C.240 is amended to read:

285C.240. (1) The county assessor of [*any county in which an enterprise zone is situated or the sponsor*] **the county in which a qualified business firm is situated and the sponsor** shall be notified in writing by the qualified business firm or by the owner of the qualified property leased by the qualified business firm not later than July 1 following the assessment year for which the exemption is claimed and in which one of the following events occurs:

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

(b) The qualified business firm closes or so reduces eligible operations that the reduction constitutes a substantial curtailment of operations under ORS 285C.210, unless a substantial curtailment of operations is permitted under ORS [285C.200 (2)] **285C.203**;

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

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

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

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

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

(3)(a) When an assessor receives written notice under subsection (1) or (2) of this section, the assessor shall:

(A) Disqualify the property for the assessment [*year*] **years, if any, for which exemption under ORS 285C.175 is otherwise allowable** following the disqualifying event; and

(B) **Impose** 100 percent of the additional taxes calculated under ORS 285C.175 [*shall be assessed*] against the property for each year for which the property had been granted exemption under ORS 285C.175.

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

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

(4) If the qualified business firm or owner fails to give the notice on time or at all as required by subsection (1) of this section, upon discovering the property no longer qualifies for the exemption due to a circumstance described in subsection (1) of this section, the assessor shall:

(a) Disqualify the property from exemption;

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

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

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

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

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

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

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

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

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

(7) An assessor may not disqualify property under this section for failure by a qualified business firm or an owner of qualified property leased by the qualified business firm to notify the assessor or the enterprise zone sponsor that the qualified business firm does not meet requirements under ORS 285C.150, 285C.155, 285C.160 or 285C.205, without having received written communication from the sponsor that demonstrates that the qualified business firm does not meet the requirements.

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

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

SECTION 11. ORS 285C.412 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The business firm hires or will hire a total of at least 100 full-time employees at all of the firm's facilities by the end of the fifth calendar year following the year in which the first such facility is placed in service.

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

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

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

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

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

SECTION 12. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House April 6, 2017

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 8, 2017

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

.....
Dennis Richardson, Secretary of State