



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: June 20, 2018

Department: Community Services Agenda Planning Date: June 14, 2018 Time required: 10 min

Audio/Visual aids

Contact: Thomas Hogue Phone: 503-589-3277

Department Head Signature: [Signature]

TITLE Consider second reading approval of an ordinance allowing property tax exemptions for rural industrial investments.

Issue, Description & Background Shall Marion County enact a tax exemption program to encourage rural industrial investments? Approval will allow local property owners to apply through the Marion County Assessor's Office. Each application requires a supporting resolution from the Board of Commissioners and the concurrence of 75% of the taxing value entities. It is the applicant's responsibility to acquire supporting resolutions from the other taxing entities. If successful, eligible new property and improvements will be exempt from property taxes for 3 years. The rural industrial exemption program is very similar to Oregon's enterprise zone program which grants tax exemptions in designated geographic zones which are typically in cities. There are several enterprise zones in Marion County, including in Salem, Donald, Hubbard, Stayton and others. The proposed ordinance will allow Marion County to grant similar tax exemptions on a site and project specific basis. The locations must be outside the Urban Growth Boundary of cities with a population of 40,000 or more, and within the county's jurisdiction. New industrial investments and improvements are eligible. There are employment increase and anti-poaching performance requirements. The proposed ordinance is designed to keep administration as similar to enterprise zones as possible. The primary difference is that the applicant has to gather the concurrence of other taxing districts. The 2016 Oregon legislature enacted SB1565 which allowed local governments to exempt from property taxes eligible industrial investments and improvements. In 2018, the Oregon legislature adopted language to clarify SB1565 definitions of eligible locations and property. Marion County supported both legislative efforts.

Financial Impacts: New eligible industrial investments and improvements will not be taxed for the 3-year exemption period. For example, an eligible \$1 million investment in a representative location (Levy Code Area 560180) would receive a \$13,000 annual exemption, including \$3,000 of county taxes. It is unknown how many applicants will be interested, and how many will be able to gather the concurrence of the other taxing districts.

Impacts to Department & External Agencies The Marion County Assessor's office already manages the enterprise zone program. They will process applications for this new program and forward eligible applications to the Board of Commissioners for adoption of a supporting resolution. If the resolution is approved, and subsequent concurrence of the other taxing districts is secured, then the exemption must be managed and monitored. Other taxing districts will not receive taxes on new investments until after the exemption period.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Options for
Consideration:

Approve the ordinance. Deny the ordinance.

Recommendation:

Adopt the ordinance as proposed.

List of attachments:

Ordinance xxxx clean copy. Ordinance xxxx annotated copy. SB 1565

Presenter:

Tom Hogue, Scott Norris, Tom Rohlring.
--

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

--

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

An ordinance authorizing property tax)
exemptions for rural industrial)
property pursuant to chapter 112,)
Oregon Laws 2016 (Senate Bill 1565)
(2016)).)

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this ordinance is to create a process for the consideration of applications for exemption of qualifying rural industrial property pursuant to chapter 112, Oregon Laws 2016 (Senate Bill 1565 (2016) (codified as a note following ORS 307.340)).

Comment [SAN1]: Pursuant to section 3 of SB 1565, the governing body may grant either an exemption or a deferral.

SECTION 2. Definitions

The following definitions shall be used in considering applications for property tax exemptions pursuant to this ordinance:

- A. "Annual average employment of the applicant" means the average employment of the applicant, calculated over the 12 months preceding the date of application.
- B. "Eligible location" means land and improvements that are located in a rural area. "Eligible location" includes a location that has not formerly been used for industrial purposes.
- C. "Eligible property" means improvements classified as industrial under rules established by the Oregon Department of Revenue ("DOR") pursuant to ORS 308.215 (1)(a)(C), and associated personal property whether appraised by the county or by the DOR, that:
 - 1. Are newly constructed or installed at an eligible location; and

2. Have a cost of initial investment to the purchaser of at least \$1 million and not more than \$25 million.
- D. "Employment of the applicant" means the number of employees working for the applicant a majority of their time in eligible operations at locations in this state.
- E. "First-source hiring agreement" means an agreement between an applicant 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.
- F. "Qualified property" means eligible property for which an application has been approved.
- G. "Rural area" means an area located in unincorporated territory that is located entirely outside of the urban growth boundaries of any and all cities with populations of 40,000 or more, as the urban growth boundaries are acknowledged on the date on which an applicant submits an application for eligible property.

SECTION 3. GRANT AND SCOPE OF AUTHORITY

- A. The Marion County Board of Commissioners may adopt a resolution granting a property tax exemption for eligible property located within the unincorporated areas of Marion County.
- B. The terms of the exemption must conform to the provisions of this ordinance.
- C. Qualified property must be:
 1. Owned or leased by the applicant filing the application.
 2. Used through the final year of exemption for the purpose, and at the location, identified in the application.
- D. The exemption:

1. May be granted to eligible property only if the first assessment year to which the application relates is the first assessment year that begins after the eligible property was first placed in service; and
 2. Shall be granted only for qualified property that was first placed in service after the resolution was adopted.
- E. The exemption shall be equal to 100 percent of the real market value of the qualified property for the next three consecutive property tax years following the tax year in which an exemption is granted. If an application is filed for the current property tax year pursuant to section 4C below and the application is granted, the exemption shall be for the current plus the next two consecutive property tax years.
- F. An exemption does not become effective unless the rates of taxation of the taxing districts whose governing bodies agree to grant the exemption, when combined with the rate of taxation of the county, equal 75 percent or more of the total combined rate of taxation on the qualified property.
1. Upon the taking effect of an exemption, the exemption shall apply to all property tax levies of all taxing districts in which qualified property is located.
 2. The decisions of the taxing districts under this subsection may not be changed but are not binding with respect to a resolution adopted pursuant to section 3G or a new resolution adopted pursuant to section 3A.
 3. All qualified property shall be granted exemption on the same terms provided in the resolution adopted or amended by the county and in effect on the date the application is submitted.

Comment [SAN2]: Under section 1(4)(a) of SB 1565, the board can issue an exemption for "any three out of five consecutive property tax years" but this language can be altered pursuant to section 1(4)(b)(B) for "any number of years not greater than five." So I read this to mean that the county can grant any number of years between 1 and 5, and can require the years be taken consecutively, and can require the years be taken all up front.

Comment [SAN3]: SB 1565 allows a resolution to alter an exemption in four ways: 1. Minimum cost > \$1 million; 2. # years no greater than 5; 3. % of RMV which can be exempt; and 4. Differing schedules for the % by year.

- G. The county may adopt at any time a resolution amending the terms of an exemption previously granted, subject to approval of the taxing districts under section 3F, or terminating the exemption. However, qualified property that has been granted an exemption shall continue to receive the exemption under the terms in effect at the time the exemption was first granted.
- H. Qualified property granted an exemption is not eligible for any other property tax exemption or special assessment. Otherwise eligible property that has received another property tax exemption or special assessment is not eligible for this exemption. However, this subsection does not apply to the exemption granted under ORS 307.330.

SECTION 4. APPLICATION

- A. The board hereby delegates to the Assessor the responsibility for processing applications pursuant to this ordinance.
- B. The Assessor shall prescribe exemption application forms and the information required to be included in the application.
 - 1. If eligible property is located in a city and county, each of which has adopted an ordinance or resolution under chapter 112, Oregon Laws 2016 (Senate Bill 1565 (2016)), the applicant shall elect the exemption the applicant wishes to receive for the eligible property by submitting the application to the city or county, as applicable.
 - 2. If the initial cost of investment of the eligible property exceeds \$25 million, the applicant shall specify in the application the items of eligible property having a total cost of initial investment of \$25 million for which the exemption is sought.

3. An application must be accompanied by an application fee fixed by the board by order in an amount determined to compensate the county for the actual costs of processing the application.
- C. An application must be submitted for review to the county on or before March 1 preceding the property tax year to which the application relates. However, an application may be filed under this section for the current property tax year:
1. On or before December 31 of the property tax year, if the application is accompanied by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value as of the most recent assessment date of the eligible property to which the application relates.
 2. On or before April 1 of the property tax year, if the application is accompanied by a late filing fee of \$200 and the applicant demonstrates good and sufficient cause, as defined in ORS 307.162, for failing to file a timely application or is a first-time filer, as defined in ORS 307.162.
 3. A late filing fee collected under this subsection must be deposited in the general fund of the county.
 4. An application may be filed as provided in this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.
 5. If the ownership of all property included in the application for a prior year remains unchanged, a new application is not required.
- D. Upon receipt of an application the Assessor shall determine as soon as practicable:

1. Whether the property to which the application relates is eligible property located within the unincorporated area of the county;
 2. The cost of initial investment of the eligible property to the purchaser; and
 3. The date on which the eligible property was first placed in service.
- E. If any determination made pursuant to section 4D renders the property ineligible for the exemption, the application shall be rejected.
- F. An application for exemption may not be approved unless the applicant and the board have agreed to, and the applicant has complied with, the conditions of this subsection.
1. The following standards apply to the imposition of conditions under this ordinance:
 - a. The Assessor may propose conditions to the board. The board may direct the Assessor to communicate the proposed conditions to the applicant as proposed or modify conditions proposed by the Assessor. In addition, the board may establish other reasonable conditions related to economic development, including, but not limited to, greater employment requirements than those required by subsection 4F(1)(d)(ii).
 - b. The Assessor shall communicate the proposed conditions to the applicant after the assessor has discussed proposed conditions with the board. The Assessor shall communicate any feedback from the applicant to the board, until a set of conditions have been agreed upon by the applicant and the board.

- c. All conditions must be satisfied within 90 days of the date of the board's resolution granting an exemption unless a greater period is granted in the resolution.
- d. Each resolution granting a property tax exemption under this ordinance shall contain the following terms as conditions:
 - i. The applicant must agree to enter into a first-source hiring agreement with the board for the period of the exemption.
 - ii. No later than the date on which the application is submitted, the employment of the applicant may not be less than the greater of:
 - a. 110 percent of the annual average employment of the applicant; or
 - b. The annual average employment of the applicant plus one employee.
 - iii. The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is more than 30 miles from the eligible location. This subsection applies to the transfer of any of the applicant's operations to an eligible location from another part of the state, if the closure or permanent curtailment in the other part of the state decreased the applicant's employment in the other part of the state.

- iv. The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is 30 miles or less from the eligible location unless the employment of the applicant at the eligible location and at the other locations from which employees were transferred has been increased to not less than 110 percent of the annual average employment of the firm at the eligible location and the other locations from which the employees were transferred.
 - v. The applicant must agree to the procedures for monitoring and verifying compliance with the conditions as set forth in section 5 below. The board may impose as a condition the applicant's consent to annual inspections of either the subject property or specific documentation in order to substantiate applicant's compliance with any conditions.
 - e. The board may make the conditions required by section 4F(1)(d) more stringent, but cannot make them less stringent.
2. The conditions established under this subsection may be modified at the request of the applicant at any time before the beginning of the first property tax year for which the exemption is granted.

3. The conditions established under this subsection shall be set forth in the resolution adopted under section 4G and shall remain in effect throughout the period for which the exemption is granted.
- G. If the property is eligible for exemption under section 4D, the application meets the requirements of this ordinance, and the board and the applicant have agreed to conditions under section 4F, the Assessor shall present a resolution to the board:
1. Approving the application;
 2. Stating the conditions; and
 3. Notifying the Assessor and, if the qualified property is state-appraised industrial property, the DOR of the approval and including with the notification such information as is necessary for the Assessor and the DOR to perform their respective duties with respect to the qualified property.
- G. Provided all other requirements of ORS 305.275 are met, the cost of initial investment of the qualified property as determined under this section may be appealed pursuant to ORS 305.275 even if, for purposes of ORS 305.275(1)(a), the board makes the determination of the cost. The rejection of an application on any basis other than the cost of initial investment may not be appealed.
- H. For each property tax year that qualified property is granted exemption, the Assessor:
1. Shall enter on the assessment and tax roll the notation "potential additional tax liability"; and

2. May impose and collect a fee in an amount determined by the Assessor to compensate the Assessor for the actual costs of administering the exemption for the qualified property.

SECTION 5. PROCEDURES FOR MONITORING AND VERIFYING COMPLIANCE

- A. By April 1 of each tax year subject to exemption, the applicant shall provide a written report to the Assessor detailing how the applicant has remained in compliance with all the conditions during the previous tax year. The applicant shall attach all documentation necessary to the report in order to substantiate compliance with all conditions.
- B. The Assessor shall review the report for compliance with all the conditions during the previous tax year. The Assessor may request additional documentation from the applicant in order to verify compliance with all the conditions.
- C. At any point while the property is subject to exemption, the Assessor may request an inspection of the subject property or any documents which would substantiate compliance with any conditions imposed upon the grant of exemption.
- D. Upon the Assessor's conclusion that the applicant has failed to comply with any conditions at any point while the property is subject to exemption, the Assessor shall comply with the disqualification process in section 6 below.

SECTION 6. DISQUALIFICATION

- A. The Assessor shall immediately disqualify the property for this exemption, and the disqualified property shall be assessed and taxed in the same manner as other property is assessed and taxed, if, in any year through the final assessment year of the exemption:

1. The qualified property is not used for the purpose, or at the location, identified in the application; or
 2. The applicant fails to comply with the conditions established and agreed to in the resolution.
- B. Upon disqualification, additional taxes shall be assessed against the property for the first property tax year following the disqualification in an amount equal to the difference between the taxes assessed against the property and the taxes that would have been assessed against the property without the exemption, for the number of years that the exemption was granted.

SECTION 7. SUNSET

Sections 1 to 6 of this ordinance are repealed on January 2, 2024. However, newly constructed or installed industrial improvements that are granted exemption shall continue to receive the exemption under the provisions of the resolution granting the exemption.

SECTION 8. REPORTING TO DOR

If the county has granted an exemption under this ordinance, then as soon as practicable after December 1 of each year, the county shall submit the following information from the current property tax year to the DOR:

- A. The kind and value of the qualified property;
- B. The name of the owner or lessee that submitted an approved application;
- C. The real market value of the qualified property;
- D. The amount of ad valorem property taxes that were not imposed on the property because of the exemption;
- E. The number of years and the percentage of real market value for which the exemption was granted; and

F. A copy of the employment and other conditions established for the property.

SECTION 9. SEVERABILITY

Should any section or portion of this ordinance be held unlawful or unenforceable by any court of competent jurisdiction, that decision shall apply only to the specific section, or portion thereof, directly specified in the decision. All other sections or portions of this ordinance shall remain in full force and effect.

Adopted this _____ day of _____ 20____.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

An ordinance authorizing property tax)
exemptions for rural industrial)
property pursuant to chapter 112,)
Oregon Laws 2016 (Senate Bill 1565)
(2016)).)

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this ordinance is to create a process for the consideration of applications for exemption of qualifying rural industrial property pursuant to chapter 112, Oregon Laws 2016 (Senate Bill 1565 (2016) (codified as a note following ORS 307.340)).

SECTION 2. Definitions

The following definitions shall be used in considering applications for property tax exemptions pursuant to this ordinance:

- A. "Annual average employment of the applicant" means the average employment of the applicant, calculated over the 12 months preceding the date of application.
- B. "Eligible location" means land and improvements that are located in a rural area. "Eligible location" includes a location that has not formerly been used for industrial purposes.
- C. "Eligible property" means improvements classified as industrial under rules established by the Oregon Department of Revenue ("DOR") pursuant to ORS 308.215 (1)(a)(C), and associated personal property whether appraised by the county or by the DOR, that:
 - 1. Are newly constructed or installed at an eligible location; and

2. Have a cost of initial investment to the purchaser of at least \$1 million and not more than \$25 million.
- D. "Employment of the applicant" means the number of employees working for the applicant a majority of their time in eligible operations at locations in this state.
- E. "First-source hiring agreement" means an agreement between an applicant 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.
- F. "Qualified property" means eligible property for which an application has been approved.
- G. "Rural area" means an area located in unincorporated territory that is located entirely outside of the urban growth boundaries of any and all cities with populations of 40,000 or more, as the urban growth boundaries are acknowledged on the date on which an applicant submits an application for eligible property.

SECTION 3. GRANT AND SCOPE OF AUTHORITY

- A. The Marion County Board of Commissioners may adopt a resolution granting a property tax exemption for eligible property located within the unincorporated areas of Marion County.
- B. The terms of the exemption must conform to the provisions of this ordinance.
- C. Qualified property must be:
 1. Owned or leased by the applicant filing the application.
 2. Used through the final year of exemption for the purpose, and at the location, identified in the application.
- D. The exemption:

1. May be granted to eligible property only if the first assessment year to which the application relates is the first assessment year that begins after the eligible property was first placed in service; and
 2. Shall be granted only for qualified property that was first placed in service after the resolution was adopted.
- E. The exemption shall be equal to 100 percent of the real market value of the qualified property for the next three consecutive property tax years following the tax year in which an exemption is granted. If an application is filed for the current property tax year pursuant to section 4C below and the application is granted, the exemption shall be for the current plus the next two consecutive property tax years.
- F. An exemption does not become effective unless the rates of taxation of the taxing districts whose governing bodies agree to grant the exemption, when combined with the rate of taxation of the county, equal 75 percent or more of the total combined rate of taxation on the qualified property.
1. Upon the taking effect of an exemption, the exemption shall apply to all property tax levies of all taxing districts in which qualified property is located.
 2. The decisions of the taxing districts under this subsection may not be changed but are not binding with respect to a resolution adopted pursuant to section 3G or a new resolution adopted pursuant to section 3A.
 3. All qualified property shall be granted exemption on the same terms provided in the resolution adopted or amended by the county and in effect on the date the application is submitted.

- G. The county may adopt at any time a resolution amending the terms of an exemption previously granted, subject to approval of the taxing districts under section 3F, or terminating the exemption. However, qualified property that has been granted an exemption shall continue to receive the exemption under the terms in effect at the time the exemption was first granted.
- H. Qualified property granted an exemption is not eligible for any other property tax exemption or special assessment. Otherwise eligible property that has received another property tax exemption or special assessment is not eligible for this exemption. However, this subsection does not apply to the exemption granted under ORS 307.330.

SECTION 4. APPLICATION

- A. The board hereby delegates to the Assessor the responsibility for processing applications pursuant to this ordinance.
- B. The Assessor shall prescribe exemption application forms and the information required to be included in the application.
 - 1. If eligible property is located in a city and county, each of which has adopted an ordinance or resolution under chapter 112, Oregon Laws 2016 (Senate Bill 1565 (2016)), the applicant shall elect the exemption the applicant wishes to receive for the eligible property by submitting the application to the city or county, as applicable.
 - 2. If the initial cost of investment of the eligible property exceeds \$25 million, the applicant shall specify in the application the items of eligible property having a total cost of initial investment of \$25 million for which the exemption is sought.

3. An application must be accompanied by an application fee fixed by the board by order in an amount determined to compensate the county for the actual costs of processing the application.
- C. An application must be submitted for review to the county on or before March 1 preceding the property tax year to which the application relates. However, an application may be filed under this section for the current property tax year:
1. On or before December 31 of the property tax year, if the application is accompanied by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value as of the most recent assessment date of the eligible property to which the application relates.
 2. On or before April 1 of the property tax year, if the application is accompanied by a late filing fee of \$200 and the applicant demonstrates good and sufficient cause, as defined in ORS 307.162, for failing to file a timely application or is a first-time filer, as defined in ORS 307.162.
 3. A late filing fee collected under this subsection must be deposited in the general fund of the county.
 4. An application may be filed as provided in this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.
 5. If the ownership of all property included in the application for a prior year remains unchanged, a new application is not required.
- D. Upon receipt of an application the Assessor shall determine as soon as practicable:

1. Whether the property to which the application relates is eligible property located within the unincorporated area of the county;
 2. The cost of initial investment of the eligible property to the purchaser; and
 3. The date on which the eligible property was first placed in service.
- E. If any determination made pursuant to section 4D renders the property ineligible for the exemption, the application shall be rejected.
- F. An application for exemption may not be approved unless the applicant and the board have agreed to, and the applicant has complied with, the conditions of this subsection.
1. The following standards apply to the imposition of conditions under this ordinance:
 - a. The Assessor may propose conditions to the board. The board may direct the Assessor to communicate the proposed conditions to the applicant as proposed or modify conditions proposed by the Assessor. In addition, the board may establish other reasonable conditions related to economic development, including, but not limited to, greater employment requirements than those required by subsection 4F(1)(d)(ii).
 - b. The Assessor shall communicate the proposed conditions to the applicant after the assessor has discussed proposed conditions with the board. The Assessor shall communicate any feedback from the applicant to the board, until a set of conditions have been agreed upon by the applicant and the board.

- c. All conditions must be satisfied within 90 days of the date of the board's resolution granting an exemption unless a greater period is granted in the resolution.
- d. Each resolution granting a property tax exemption under this ordinance shall contain the following terms as conditions:
 - i. The applicant must agree to enter into a first-source hiring agreement with the board for the period of the exemption.
 - ii. No later than the date on which the application is submitted, the employment of the applicant may not be less than the greater of:
 - a. 110 percent of the annual average employment of the applicant; or
 - b. The annual average employment of the applicant plus one employee.
 - iii. The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is more than 30 miles from the eligible location. This subsection applies to the transfer of any of the applicant's operations to an eligible location from another part of the state, if the closure or permanent curtailment in the other part of the state decreased the applicant's employment in the other part of the state.

- iv. The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is 30 miles or less from the eligible location unless the employment of the applicant at the eligible location and at the other locations from which employees were transferred has been increased to not less than 110 percent of the annual average employment of the firm at the eligible location and the other locations from which the employees were transferred.
 - v. The applicant must agree to the procedures for monitoring and verifying compliance with the conditions as set forth in section 5 below. The board may impose as a condition the applicant's consent to annual inspections of either the subject property or specific documentation in order to substantiate applicant's compliance with any conditions.
 - e. The board may make the conditions required by section 4F(1)(d) more stringent, but cannot make them less stringent.
2. The conditions established under this subsection may be modified at the request of the applicant at any time before the beginning of the first property tax year for which the exemption is granted.

3. The conditions established under this subsection shall be set forth in the resolution adopted under section 4G and shall remain in effect throughout the period for which the exemption is granted.
- G. If the property is eligible for exemption under section 4D, the application meets the requirements of this ordinance, and the board and the applicant have agreed to conditions under section 4F, the Assessor shall present a resolution to the board:
1. Approving the application;
 2. Stating the conditions; and
 3. Notifying the Assessor and, if the qualified property is state-appraised industrial property, the DOR of the approval and including with the notification such information as is necessary for the Assessor and the DOR to perform their respective duties with respect to the qualified property.
- G. Provided all other requirements of ORS 305.275 are met, the cost of initial investment of the qualified property as determined under this section may be appealed pursuant to ORS 305.275 even if, for purposes of ORS 305.275(1)(a), the board makes the determination of the cost. The rejection of an application on any basis other than the cost of initial investment may not be appealed.
- H. For each property tax year that qualified property is granted exemption, the Assessor:
1. Shall enter on the assessment and tax roll the notation "potential additional tax liability"; and

2. May impose and collect a fee in an amount determined by the Assessor to compensate the Assessor for the actual costs of administering the exemption for the qualified property.

SECTION 5. PROCEDURES FOR MONITORING AND VERIFYING COMPLIANCE

- A. By April 1 of each tax year subject to exemption, the applicant shall provide a written report to the Assessor detailing how the applicant has remained in compliance with all the conditions during the previous tax year. The applicant shall attach all documentation necessary to the report in order to substantiate compliance with all conditions.
- B. The Assessor shall review the report for compliance with all the conditions during the previous tax year. The Assessor may request additional documentation from the applicant in order to verify compliance with all the conditions.
- C. At any point while the property is subject to exemption, the Assessor may request an inspection of the subject property or any documents which would substantiate compliance with any conditions imposed upon the grant of exemption.
- D. Upon the Assessor's conclusion that the applicant has failed to comply with any conditions at any point while the property is subject to exemption, the Assessor shall comply with the disqualification process in section 6 below.

SECTION 6. DISQUALIFICATION

- A. The Assessor shall immediately disqualify the property for this exemption, and the disqualified property shall be assessed and taxed in the same manner as other property is assessed and taxed, if, in any year through the final assessment year of the exemption:

1. The qualified property is not used for the purpose, or at the location, identified in the application; or
 2. The applicant fails to comply with the conditions established and agreed to in the resolution.
- B. Upon disqualification, additional taxes shall be assessed against the property for the first property tax year following the disqualification in an amount equal to the difference between the taxes assessed against the property and the taxes that would have been assessed against the property without the exemption, for the number of years that the exemption was granted.

SECTION 7. SUNSET

Sections 1 to 6 of this ordinance are repealed on January 2, 2024. However, newly constructed or installed industrial improvements that are granted exemption shall continue to receive the exemption under the provisions of the resolution granting the exemption.

SECTION 8. REPORTING TO DOR

If the county has granted an exemption under this ordinance, then as soon as practicable after December 1 of each year, the county shall submit the following information from the current property tax year to the DOR:

- A. The kind and value of the qualified property;
- B. The name of the owner or lessee that submitted an approved application;
- C. The real market value of the qualified property;
- D. The amount of ad valorem property taxes that were not imposed on the property because of the exemption;
- E. The number of years and the percentage of real market value for which the exemption was granted; and

F. A copy of the employment and other conditions established for the property.

SECTION 9. SEVERABILITY

Should any section or portion of this ordinance be held unlawful or unenforceable by any court of competent jurisdiction, that decision shall apply only to the specific section, or portion thereof, directly specified in the decision. All other sections or portions of this ordinance shall remain in full force and effect.

Adopted this _____ day of _____ 20____.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

Enrolled Senate Bill 1565

Sponsored by Senators BOQUIST, BURDICK, Representatives EVANS, DAVIS; Senators BEYER, DEVLIN, EDWARDS, FERRIOLI, GELSNER, GIROD, HASS, JOHNSON, KNOPP, MONNES ANDERSON, RILEY, ROSENBAUM, SHIELDS, STEINER HAYWARD, THATCHER, THOMSEN, Representatives BARKER, BARRETO, BOONE, DOHERTY, ESQUIVEL, FAGAN, GILLIAM, GOMBERG, HACK, HOYLE, KENNEMER, KRIEGER, NOSSE, OLSON, WHISNANT, WILLIAMSON, WILSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to property tax benefits; creating new provisions; amending ORS 184.484; and prescribing an effective date.

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

SECTION 1. (1) As used in sections 1 to 5 of this 2016 Act:

- (a) "Eligible location" means land and improvements that are located in a rural area.
 - (b) "Eligible property" means improvements classified as industrial under rules established by the Department of Revenue pursuant to ORS 308.215 (1)(a)(C), and associated personal property, that:
 - (A) Are newly constructed or installed at an eligible location; and
 - (B) Have a cost of initial investment to the purchaser of at least \$1 million and not more than \$25 million.
 - (c) "Qualified property" means eligible property for which an application has been approved under section 2 of this 2016 Act.
 - (d) "Rural area" means an area located entirely outside of the urban growth boundary of a city with a population of 40,000 or more, as the urban growth boundary is acknowledged on the date on which an applicant submits an application for eligible property under section 2 of this 2016 Act.
- (2)(a) The governing body of a city or county may adopt an ordinance or resolution granting a property tax exemption for eligible property located within the boundaries of the city or county, respectively.
- (b) The terms of the exemption must conform to the provisions of sections 1 to 5 of this 2016 Act. In addition, an ordinance or resolution adopted under this subsection shall establish standards for the imposition of conditions described in section 2 (4) of this 2016 Act.
- (3)(a) Qualified property must be:
- (A) Owned or leased by the applicant filing the application under section 2 of this 2016 Act.
 - (B) Used through the final year of exemption for the purpose, and at the location, identified in the application filed under section 2 of this 2016 Act.
- (b) The exemption:

(A) May be granted to eligible property only if the first assessment year to which the application filed under section 2 of this 2016 Act relates is the first assessment year that begins after the eligible property was first placed in service; and

(B) Shall be granted only for qualified property that was first placed in service after the ordinance or resolution was adopted.

(4)(a) The exemption shall be granted as a 100 percent exemption of the real market value of the qualified property for any three out of five consecutive property tax years.

(b) Notwithstanding paragraph (a) of this subsection, the city or county may specify in the ordinance or resolution:

(A) A minimum cost of initial investment greater than \$1 million.

(B) Any number of years not greater than five for which the exemption shall be granted.

(C) The percentage of the real market value of the qualified property granted exemption for each year.

(D) Different schedules in each property tax year for the years and percentages described in subparagraphs (B) and (C) of this paragraph, depending on the minimum costs of initial investment of the qualified property.

(5)(a) An ordinance or resolution adopted pursuant to this section may not take effect unless, upon request of the city or county that adopted the ordinance or resolution, the rates of taxation of the taxing districts whose governing bodies agree to grant the exemption, when combined with the rate of taxation of the city or county, equal 75 percent or more of the total combined rate of taxation on the qualified property.

(b) Upon the taking effect of the ordinance or resolution, the exemption shall apply to all property tax levies of all taxing districts in which qualified property is located.

(c) The decisions of the taxing districts under paragraph (a) of this subsection may not be changed but are not binding with respect to an ordinance or resolution adopted pursuant to subsection (6) of this section or a new ordinance or resolution adopted pursuant to subsection (2) of this section.

(d) All qualified property shall be granted exemption under this section, or deferral under section 3 of this 2016 Act, on the same terms provided in the ordinance or resolution adopted or amended by the city or county and in effect on the date the application is submitted under section 2 of this 2016 Act.

(6)(a) A city or county may adopt at any time an ordinance or resolution amending the terms of an exemption granted pursuant to this section or a deferral granted pursuant to section 3 of this 2016 Act, subject to approval of the taxing districts under subsection (5)(a) of this section, or terminating the exemption or deferral.

(b) Notwithstanding an ordinance or resolution adopted under paragraph (a) of this subsection, qualified property that has been granted an exemption pursuant to this section, or a deferral pursuant to section 3 of this 2016 Act, shall continue to receive the exemption or deferral under the terms in effect at the time the exemption or deferral was first granted.

(7) If a city or county proposes an ordinance or resolution providing for an exemption on terms other than the terms provided in subsection (4)(a) of this section, the ordinance or resolution may not take effect unless the governing body of the city or county, as applicable, receives testimony from the county assessor at a public hearing on the question regarding the cost and administration of the proposed terms of the exemption.

(8)(a) Qualified property granted an exemption pursuant to this section, or a deferral pursuant to section 3 of this 2016 Act, is not eligible for any other property tax exemption or special assessment.

(b) Otherwise eligible property that has received another property tax exemption or special assessment is not eligible for the exemption or deferral.

(c) Paragraphs (a) and (b) of this subsection do not apply to the exemption granted under ORS 307.330.

SECTION 2. (1)(a) The governing body of a city or county that adopts an ordinance or resolution pursuant to section 1 of this 2016 Act shall prescribe exemption application forms and the information required to be included in the application.

(b) If eligible property is located in a city and county, each of which has adopted an ordinance or resolution under section 1 of this 2016 Act, the applicant shall elect the exemption the applicant wishes to receive for the eligible property by submitting the application to the city or county, as applicable.

(c) If the initial cost of investment of the eligible property exceeds \$25 million, the applicant shall specify in the application the items of eligible property having a total cost of initial investment of \$25 million for which the exemption is sought.

(d) An application must be accompanied by an application fee fixed by the city or county, as applicable, in an amount determined to compensate the city or county for the actual costs of processing the application.

(2)(a) An application must be submitted for review to the city or county, as applicable, on or before March 1 preceding the property tax year to which the application relates.

(b) Notwithstanding paragraph (a) of this subsection, an application may be filed under this section for the current property tax year:

(A) On or before December 31 of the property tax year, if the application is accompanied by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value as of the most recent assessment date of the eligible property to which the application relates.

(B) On or before April 1 of the property tax year, if the application is accompanied by a late filing fee of \$200 and the applicant demonstrates good and sufficient cause, as defined in ORS 307.162, for failing to file a timely application or is a first-time filer, as defined in ORS 307.162.

(c)(A) An application may be filed as provided in paragraph (b) of this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

(B) A late filing fee collected under paragraph (b) of this subsection must be deposited in the general fund of the city or county, as applicable.

(d) If the ownership of all property included in the application for a prior year remains unchanged, a new application is not required.

(3)(a) Upon receipt of an application submitted pursuant to subsection (2) of this section, the city or county, as applicable, shall determine as soon as practicable:

(A) Whether the property to which the application relates is eligible property located within the boundaries of the city or county;

(B) The cost of initial investment of the eligible property to the purchaser; and

(C) The date on which the eligible property was first placed in service.

(b) If any determination made pursuant to paragraph (a) of this subsection renders the property ineligible for the exemption, the application shall be rejected.

(4) If the property is eligible for the exemption under subsection (3) of this section, the application meets the requirements of the ordinance or resolution of the city or county and the governing body of the city or county and the applicant have agreed to conditions under section 5 of this 2016 Act, the governing body shall adopt a resolution:

(a) Approving the application;

(b) Stating the conditions; and

(c) Notifying the assessor of the county in which the qualified property is located and, if the qualified property is state-appraised industrial property, the Department of Revenue of the approval and including with the notification such information as is necessary for the assessor and department to perform their respective duties with respect to the qualified property.

(5) Provided all other requirements of ORS 305.275 are met, the cost of initial investment of the qualified property as determined under this section may be appealed pursuant to ORS 305.275 even if, for purposes of ORS 305.275 (1)(a), the governing body of the city makes the determination of the cost. The rejection of an application on any basis other than the cost of initial investment may not be appealed.

(6) For each property tax year that qualified property is granted exemption pursuant to this section, the assessor of the county in which the qualified property is located:

(a) Shall enter on the assessment and tax roll the notation “potential additional tax liability”; and

(b) May impose and collect a fee in an amount determined by the assessor to compensate the assessor for the actual costs of administering the exemption for the qualified property.

SECTION 3. (1)(a) The governing body of a city or county that adopts an ordinance or resolution pursuant to section 1 of this 2016 Act may, at the time of adoption, elect to grant the amount of the exemption as computed under section 1 (4) of this 2016 Act as a deferral of property taxes rather than as an exemption. Except as otherwise provided in this section, all provisions of sections 1, 2 and 4 of this 2016 Act apply to a property tax deferral elected in accordance with this section. The election to defer rather than exempt property taxes may be changed only in the manner provided by section 1 (6) of this 2016 Act.

(b) An ordinance or resolution that grants a deferral pursuant to paragraph (a) of this subsection may not take effect unless the governing body of the city or county, as applicable, receives testimony from the county assessor at a public hearing on the question regarding the cost and administration of the proposed terms of the deferral.

(2)(a) For each property tax year that qualified property is granted deferral pursuant to this section, and until the taxes have been added to the assessment and tax roll under subsection (3) of this section, the assessor of the county in which the qualified property is located:

(A) Shall enter on the assessment and tax roll the notation “deferred additional tax liability”; and

(B) May impose and collect a fee in an amount determined by the assessor to compensate the assessor for the actual costs of administering the deferral for the qualified property.

(b) Interest shall not accrue on taxes deferred pursuant to this section during the period of deferral.

(3)(a) Taxes deferred pursuant to this section shall be added to the taxes extended against the qualified property on the assessment and tax roll as follows:

(A) The deferred additional taxes for the first property tax year for which deferral was granted shall be added to the tax extended against the qualified property on the assessment and tax roll for the first property tax year that begins after the period of deferral ends; and

(B) The deferred additional taxes for the second, third, fourth and fifth property tax years, as applicable, shall be added to the tax extended against the qualified property on the assessment and tax roll for the second, third, fourth and fifth property tax years, respectively, that begin after the period of deferral ends.

(b) Deferred additional taxes collected pursuant to this section shall be deemed to be assessed and imposed in the property tax year for which the taxes were imposed and deferred.

(c) Deferred additional taxes added to the tax extended against the qualified property may be paid to the tax collector prior to the completion of the assessment and tax roll to which the tax is to be added, pursuant to ORS 311.370. The tax collector may apply prepayments of deferred additional taxes under this paragraph for one or more future property tax years to the taxes imposed on the next following assessment and tax roll.

(4) If any qualified property granted deferral under this section is sold or otherwise transferred or is moved out of the county, the lien for the deferred additional taxes added under this section shall attach and the deferred additional taxes are due and payable as of

the day before the sale or transfer or, if the qualified property is removed from the county, five days before the removal, whichever is earlier.

SECTION 4. (1) The assessor of the county in which qualified property is located shall immediately disqualify the property for an exemption granted pursuant to section 1 of this 2016 Act, or deferral granted pursuant to section 3 of this 2016 Act, and the disqualified property shall be assessed and taxed in the same manner as other property is assessed and taxed, if, in any year through the final assessment year of the exemption or deferral:

(a) The qualified property is not used for the purpose, or at the location, identified in the application approved under section 2 of this 2016 Act; or

(b) The applicant fails to comply with the conditions established and agreed to under section 5 of this 2016 Act.

(2)(a) If the disqualified property was granted an exemption, additional taxes shall be assessed against the property for the first property tax year following the disqualification in an amount equal to the difference between the taxes assessed against the property and the taxes that would have been assessed against the property without the exemption, for the number of years that the exemption was granted.

(b) If the disqualified property was granted a deferral, deferred additional taxes shall be assessed against the property for the first property tax year following the disqualification in an amount equal to the deferred taxes for all years for which the deferral was granted.

SECTION 5. (1) As used in this section:

(a) "Annual average employment of the applicant" means the average employment of the applicant, calculated over the 12 months preceding the date of the application submitted under section 2 of this 2016 Act.

(b) "Employment of the applicant" means the number of employees working for the applicant a majority of their time in eligible operations at locations in this state.

(c) "First-source hiring agreement" means an agreement between an applicant 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.

(2) An application for exemption may not be approved under section 2 of this 2016 Act unless the applicant and the governing body of the city or county have agreed to, and the applicant has complied with, the conditions of this section.

(3) The applicant must agree to enter into a first-source hiring agreement with the governing body of the city or county for the period of the exemption.

(4) No later than the date on which the application is submitted, the employment of the applicant may not be less than the greater of:

(a) 110 percent of the annual average employment of the applicant; or

(b) The annual average employment of the applicant plus one employee.

(5)(a) The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is more than 30 miles from the eligible location. This subsection applies to the transfer of any of the applicant's operations to an eligible location from another part of the state, if the closure or permanent curtailment in the other part of the state decreased the applicant's employment in the other part of the state.

(b) The applicant or another firm under common control may not close or permanently curtail operations in another part of the state that is 30 miles or less from the eligible location unless the employment of the applicant at the eligible location and at the other locations from which employees were transferred has been increased to not less than 110 percent of the annual average employment of the firm at the eligible location and the other locations from which the employees were transferred.

(6) The governing body of the city or county may establish other reasonable conditions related to economic development with respect to the qualified property, including greater employment requirements under this section.

(7) The conditions established under this subsection may be modified at the request of the applicant at any time before the beginning of the first property tax year for which the exemption is granted.

(8) The governing body of the city or county shall establish procedures for monitoring and verifying the compliance of the applicant with the conditions imposed under this section and shall require the applicant to agree to the procedures as a condition for granting the exemption.

(9) The conditions established under this subsection shall be set forth in the resolution adopted under section 2 (4) of this 2016 Act and shall remain in effect throughout the period for which the exemption is granted.

SECTION 6. (1) Sections 1 to 5 of this 2016 Act are repealed on January 2, 2024.

(2) Notwithstanding the date specified in subsection (1) of this section, newly constructed or installed industrial improvements that are granted exemption or deferral under an ordinance or resolution adopted pursuant to section 1 of this 2016 Act shall continue to receive the exemption or deferral under the provisions of the ordinance or resolution.

SECTION 7. (1) As soon as practicable after December 1 of each year, a city or county that has granted a property tax exemption or deferral pursuant to sections 1 to 5 of this 2016 Act shall submit the following information from the current property tax year to the Department of Revenue:

- (a) The kind and value of the qualified property;
- (b) The name of the owner or lessee that submitted the application approved under section 2 of this 2016 Act;
- (c) The real market value of the qualified property;
- (d) The amount of ad valorem property taxes that were not imposed on the property because of the exemption or deferral;
- (e) The number of years and the percentage of real market value for which the exemption or deferral was granted; and
- (f) A copy of the employment and other conditions established for the property under section 2 (4) of this 2016 Act.

(2) The department shall submit the information in a report to the Chief State Information Officer for posting on the Oregon transparency website under ORS 184.484.

SECTION 8. ORS 184.484 is amended to read:

184.484. (1) For each statute that authorizes a tax expenditure with a purpose connected to economic development and that is listed in subsection (2) of this section, the state agency charged with certifying or otherwise administering the tax expenditure shall submit a report to the State Chief Information Officer. If a statute does not exist to authorize a state agency to certify or otherwise administer the tax expenditure, or if a statute does not provide for certification or administration of the tax expenditure, the Department of Revenue shall submit the report.

(2) This section applies to:

(a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 315.141, 315.331, 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124, 317.391 and 317.394 **and sections 1 to 5 of this 2016 Act.**

(b) Grants awarded under ORS 469B.256 in any tax year in which certified renewable energy contributions are received as provided in ORS 315.326.

(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

(d) ORS 316.116, if the allowed credit exceeds \$2,000.

(3) The following information, if the information is already available in an existing database the state agency maintains, must be included in the report required under this section:

(a) The name of each taxpayer or applicant approved for the allowance of a tax expenditure or a grant award under ORS 469B.256.

(b) The address of each taxpayer or applicant.

(c) The total amount of credit against tax liability, reduction in taxable income or exemption from property taxation granted to each taxpayer or applicant.

(d) Specific outcomes or results required by the tax expenditure program and information about whether the taxpayer or applicant meets those requirements. This information must be based on data the state agency has already collected and analyzed in the course of administering the tax expenditure. Statistics must be accompanied by a description of the methodology employed in the statistics.

(e) An explanation of the state agency's certification decision for each taxpayer or applicant, if applicable.

(f) Any additional information that the taxpayer or applicant submits and that the state agency relies on in certifying the determination.

(g) Any other information that state agency personnel deem valuable as providing context for the information described in this subsection.

(4) The information reported under subsection (3) of this section may not include proprietary information or information that is exempt from disclosure under ORS 192.410 to 192.505 or 314.835.

(5) No later than September 30 of each year, a state agency described in subsection (1) of this section shall submit to the State Chief Information Officer the information required under subsection (3) of this section as applicable to applications for allowance of tax expenditures the state agency approved during the agency fiscal year ending during the current calendar year. The information must then be posted on the Oregon transparency website described in ORS 184.483 no later than December 31 of the same year.

(6)(a) In addition to the information described in subsection (3) of this section, the State Chief Information Officer shall post on the Oregon transparency website:

(A) Copies of all reports that the State Chief Information Officer, the Department of Revenue or the Oregon Business Development Department receives from counties and other local governments relating to properties in enterprise zones that have received tax exemptions under ORS 285C.170, 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone; and

(B) Copies of any annual reports that agencies described in subsection (1) of this section are required by law to produce regarding the administration of statutes listed in subsection (2) of this section.

(b) The reports must be submitted to the State Chief Information Officer in a manner and format that the State Chief Information Officer prescribes.

(7) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the State Chief Information Officer.

(8) The information described in this section must be provided to the Oregon transparency website by posting reports and providing links to existing information systems applications in accordance with standards established by the State Chief Information Officer.

SECTION 9. This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by Senate February 19, 2016

Repassed by Senate March 3, 2016

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House March 2, 2016

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2016

Approved:

.....M,....., 2016

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2016

.....
Jeanne P. Atkins, Secretary of State