Chapter 280

1979 REPLACEMENT PART

Financing of Public Projects and Improvements; Economic Development

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280.010 Towns, cities and counties authorized to aid in highways and river improvements. An incorporated town or city, or an organized county, may aid in the construction and repair of any public highway or river improvement in the manner prescribed in ORS 280.020 and 280.030, but all such improvements so aided shall be for the use of all citizens of this state without charge.

280.020 Petition or vote to authorize tax and appropriation of money. It shall be lawful and competent for the municipal authorities of the town or city, or the commissioners of the county, to act under ORS 280.030 if a majority of the legal voters of the town, city or county, as shown by the poll books of the last preceding election:

(1) Petition the municipal authorities of the town or city, or the commissioners of the county, in favor of any proposition to aid in the construction or repair of any public highway or river improvement; or

(2) Decide in favor of so aiding such public works at any special or regular election under the direction of such authorities.

280.030 Levy of tax and appropriation of money. In pursuance of the proposition petitioned for or decided in favor of by the voters pursuant to ORS 280.020, it shall be lawful and competent for the municipal authorities of the town or city, or the commissioners of the county, as the case may be, to:

(1) Enact, order and levy an annual tax, running through one or more years, providing a separate fund for the purpose of aiding and constructing the public work petitioned for or decided in favor of by the voters.

(2) Provide funds by such annual tax.

(3) Make annual payments for such purpose.

(4) Order and appropriate the funds or money of the annual tax for such annual payments.

280.040 "Subdivision" defined. As used in ORS 280.040 to 280.140, "subdivision" includes only such counties, municipal corporations, quasi-municipal corporations and civil or political corporations or subdivisions as are empowered by law to levy ad valorem taxes.

280.050 Providing funds for financing cost of services, projects, property and equipment. Funds may be obtained as prescribed in ORS 280.040 to 280.140 for the purpose of financing the cost of any service, project, property or equipment which a subdivision has lawful power to perform, construct or acquire, and of repairs and improvements thereto and of maintenance and replacement thereof. [Amended by 1967 c.203 §4]

280.055 Obtaining and advancing of funds to county service districts. Funds may be obtained by a county as prescribed by ORS 280.040 to 280.140 for the purpose of advancing funds to a district established under ORS 451.410 to 451.600 to finance the cost of any service facility which the district is authorized to construct, maintain and operate. [1969 c.646 §17]

280.060 Levy of taxes outside constitutional limitation; approval of electors. (1) Upon approval of a majority of the electors of a subdivision voting at any election regularly called and held therein for the purpose or purposes named in ORS 280.050, a subdivision may levy taxes serially outside the limitation imposed by section 11, Article XI, Oregon Constitution, over such period of time as is authorized by the electors. The amount levied each year shall be:

(a) Uniform, or substantially so, throughout the period during which the taxes are levied; or

(b) Computed annually at the same dollar rate per thousand dollars true cash value in the subdivision, such rate to be declared in and made a part of the ballot measure to be submitted to the electorate.

(2) (a) If paragraph (a) of subsection (1) of this section applies, the period of time authorized by the electors shall not exceed three years if the levy is for operating purposes or 10 years if the levy is for any other purpose.

(b) If paragraph (b) of subsection (1) of this section applies, the period of time authorized by the electors shall not exceed three years if the levy is for operating purposes or any other purpose.

(3) (a) All levies authorized by ORS 280.040 to 280.140 which are submitted to the people for the purpose of capital construction or the combined purpose of capital construction and other operations shall be separately submitted to the voters.

(b) For purposes of this subsection, "capital construction" means the acquisition of land upon which to construct a building, the acquisition of a building, the acquisition of an

addition to a building which increases the square footage of the building, the construction of a building, the construction of an addition to an existing building which increases the square footage of the building or the acquisition of and installation of machinery and equipment which will become an integral part of a building or an addition to a building, or a combination of those items. [Amended by 1953 c 134 §2, 1977 c 730 §1; 1979 c.241 §24]

Note: Section 26, chapter 241, Oregon Laws 1979, provides:

Sec. 26. The amendments to ORS 280.060 and 280.090 by sections 24 and 25 of this Act apply to serial levies approved on or after the effective date of this Act.

280.070 Manner of holding elections. (1) Elections held within counties for the purpose of approving a tax levy under ORS 280.060 shall be called by the county court or board of county commissioners and shall be held in the same manner and at the same times at which elections may be called and held under the provisions of ORS 370.120 and related sections.

(2) Elections held within other subdivisions for the purpose of approving such tax levy shall be called and held in the manner in which bond elections may be called and held in such subdivisions. The voting requirements, if any, that apply to the bond elections shall apply equally to elections held under authority of this section.

280.080 Contents of order, resolution or ordinance calling election. The order, resolution or ordinance, as the case may be, pursuant to which the election required by ORS 280.060 is called and held, shall set forth:

(1) The purpose for which the funds to be provided by the tax levies are to be expended.

(2) The estimated total outlay for such purpose.

(3) The period of time authorized by the electors pursuant to subsection (2) of ORS 280.060.

(4) Whether or not the proposed taxes are outside the limitation imposed by section 11, Article XI, Oregon Constitution. [Amended by 1977 c 730 §2]

280.090 Submission of several propositions. If more than one proposition is submitted to the voters at the same election, the several propositions shall be voted upon separately; but not more than two separate propositions for purposes of capital construction as defined in paragraph (b) of subsection (3) of ORS 280.060 or capital construction combined with other operations, and not more than two separate propositions for other than capital construction or capital construction combined with other operations may be submitted to the electors under the provisions of ORS 280.040 to 280.140 within a single year. [Amended by 1979 c.241 §25]

Note: See note under 280.060.

280.100 Financial reserve or special fund may be established without vote; unexpended balances. Any city, town or port, by ordinance, and any other subdivision, by resolution, may establish a financial reserve or special fund or funds for the purposes specified in ORS 280.050, without submitting the question to a vote of the electors, if the taxes levied or other funds used for the purpose of establishing the fund or funds are within the limitation imposed by section 11, Article XI, Oregon Constitution. The annual increments to such funds shall be limited to a period of not to exceed 10 years. Should unexpended balances remain after disbursement of the funds referred to in this section for the purposes for which they were provided, such balances upon approval of the governing body of the subdivision duly entered into the minutes of its proceedings may be transferred to the general fund of the subdivision.

280.110 Keeping funds; limitation on expenditure. All funds received by any subdivision pursuant to the authority of ORS 280.040 to 280.140 shall be:

(1) Kept by the treasurer or other financial officer thereof in a fund or funds separate and distinct from other funds of the subdivision.

(2) Retained or expended only for the purpose for which the funds were created.

280.120 Action when further accumulation becomes unnecessary. If at any time conditions arise which dispense with the necessity of further accumulation or expenditure from a fund referred to in ORS 280.110 for the purpose for which it was voted, the governing body by vote of two-thirds of the members of such body may so declare by an appropriate resolution adopted and spread upon the minutes of such body, after which the balances in such funds and future receipts from tax levies and penalties and interest thereon,

if any, which otherwise would have been credited thereto, shall be transferred to the general fund of the subdivision and the tax levies thereafter shall be discontinued.

280.130 Transfer of balance of fund after 12 years. Any balance in a fund referred to in ORS 280.110 that is not expended or obligated by definite commitments within 12 years from the date of the election or of the adoption of the ordinance or resolution pursuant to which the fund was established shall automatically revert to and become a part of the general fund of the subdivision and shall be transferred thereto by the treasurer or other financial officer thereof.

280.140 Unauthorized expenditure or deficit prohibited. No member of the governing body of a subdivision through his vote shall cause to be made an unauthorized expenditure or a deficit in a fund originating pursuant to the provisions of ORS 280.040 to 280.130.

280.150 Appropriating money and issuing bonds to construct, operate and maintain joint facilities. Incorporated cities, school districts and counties of this state may jointly, in such manner as they shall agree upon, construct, acquire, own, equip, operate and maintain facilities which will directly aid each participating governmental unit in performing a duty or duties imposed upon it or aid in exercising a power or powers conferred upon it, and may appropriate money and may issue bonds therefor.

ECONOMIC DEVELOPMENT PROJECTS
(State)

280.310 Policy. The Legislative Assembly finds that by use of the powers and procedures described in ORS 280.310 to 280.390 for the assembling and sale or lease of lands for industrial and commercial uses and for the construction and leasing of facilities for such uses, financed through the issuance of revenue bonds secured soley by the properties and rentals thus made available, the state may be able to reduce substantially in various counties the occurrence of economic conditions requiring more expensive remedial action. It is the purpose of ORS 280.310 to 280.390 to authorize the exercise of powers granted by ORS 280.310 to 280.390 by this state in addition to and not in lieu of any other powers it may possess. [1975 c.316 §1]

280.315 Definitions for ORS 280.310 to 280.390. As used in ORS 280.310 to 280.390 unless the context requires otherwise:

(1) "Economic development project" includes any properties, real or personal, used or useful in connection with a revenue producing enterprise. "Economic development project" shall not include any facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy.

(2) "Eligible project" means an economic development project found by the Economic Development Commission to meet standards of the commission adopted by rule pursuant to ORS 280.310 to 280.390. [1975 c 316 §2]

280.320 Eligibility of projects for financing. (1) The Economic Development Commission shall adopt by rule standards by which to determine the eligibility of economic development projects for bond financing pursuant to ORS 280.310 to 280.390. In determining such standards, the commission shall consider all relevant data without giving priority to one factor over others. The commission shall meet the standards under ORS 184.025. In addition, the commission may consider but is not limited to the following:

(a) Population density and potential population impact in affected areas;

(b) Areas' abilities to support other needed services resulting from economic development projects;

(c) Effect of economic development projects on balanced economic development of the state;

(d) Employment opportunities;

(e) Suitability of various areas in the state for particular types of economic development projects; and

(f) Economic impact of particular economic development project in other states and on world trade.

(2) Upon determining an economic development project an "eligible project," the Economic Development Commission shall forward the application to the State Treasurer, who shall determine whether to issue the revenue bonds. [1975 c.316 §3, 1977 c.147 §1; 1979 c 182 §8]

280.325 Review by Economic Development Commission. The state, acting through the State Treasurer, shall not undertake to finance any economic development project pursuant to ORS 280.310 to 280.390 before the Economic Development Commission has reviewed the project pursuant to standards adopted under ORS 280.320. [1975 c 316 §4]

280.330 Request by county governing body. (1) The undertaking of any eligible project must be requested by official action of the governing body of the county taken at a regular or duly called special meeting thereof by the affirmative vote of a majority of its members.

(2) The governing body of any Oregon county is encouraged to forward appropriate prospective development projects to the Economic Development Commission for processing pursuant to ORS 280.320. [1975 c.316 §10]

280.335 Powers of State Treasurer. In addition to any other powers granted by law or by charter, in relation to an eligible project, the state, acting through the State Treasurer or his designee may:

(1) Lease and sublease eligible projects to any person, firm or public or private corporation or federal or state governmental subdivision or agency in such manner that rents to be charged for the use of such projects shall be fixed, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued under this section when due, and the lease shall also provide that the lessee shall be required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease, during which term ad valorem taxes in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project;

(2) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the revenues of one or more eligible projects owned or to be acquired by the state, and define and segregate such revenues or provide for the payment thereof to a trustee;

(3) Mortgage or otherwise encumber eligible projects in favor of the holders of such bonds or a trustee therefor. However, in creating any such mortgages or encumbrances the state can not obligate itself except with respect to the project;

(4) Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; including a contract entered into prior to the construction, acquisition and installation of the eligible project authorizing the lessee, subject to such terms and conditions as the state shall find necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee and in the manner determined by the lessee, and without advertisement for bids as may be required for the construction, acquisition or installation of other public facilities;

(5) Enter into and perform such contracts and agreements with political subdivisions and state agencies as the respective governing bodies of the same may consider proper and feasible for or concerning the planning, construction, installation, lease, or other acquisition, and the financing of such facilities, which contracts and agreements may establish a board, commission or such other body as may be deemed proper for the supervision and general management of the facilities of the eligible project; and

(6) Accept from any authorized agency of the Federal Government loans or grants for the planning, construction, acquisition, leasing, or other provision of any eligible project, and enter into agreements with such agency respecting such loans or grants. [1975 c 316 §7]

280.340 Powers of Economic Development Commission. In carrying out its duties under ORS 280.310 to 280.390, the Economic Development Commission, acting for and in behalf of the state as its duly authorized agency, may:

(1) Acquire, construct and hold in whole or in part any lands, buildings, easements, water and air rights, improvements to lands and buildings and capital equipment to be located permanently or used exclusively on such lands or in such buildings, which are deemed necessary in connection with an eligible project to

be situated within the state, and construct, reconstruct, improve, better and extend such projects, and enter into contracts therefor; and

(2) Sell and convey all properties acquired in connection with eligible projects, including without limitation the sale and conveyance thereof subject to any mortgage and the sale and conveyance thereof under an option granted to the lessee of the eligible project, for such price, and at such time as the state may determine. However, no sale or conveyance of such properties shall ever be made in such manner as to impair the rights of interests of the holder, or holders, or any bonds issued under the authority of ORS 280.310 to 280.390. [1975 c 316. §8]

280.345 Limitation on state power. Except as provided in subsection (2) of ORS 280.340, the state shall not have power to operate any eligible project as a business or in any manner whatsoever, and nothing in ORS 280.310 to 280.390 authorizes the state to expend any funds on any eligible project, other than the revenues of such projects, or the proceeds of revenue bonds issued hereunder, or other funds granted to the state for the purposes of an eligible project. [1975 c 316 §9]

280.350 Authority to issue bonds. (1) If the State Treasurer determines that revenue bonds should be issued:

(a) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by revenues from eligible economic development projects to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project and issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance such revenue bonds.

(b) The State Treasurer shall designate the underwriter, trustee and bond counsel and enter into appropriate agreements with each to carry out the provisions of ORS 280.310 to 280.390.

(2) Any trustee designated by the State Treasurer to carry out all or part of the powers specified in ORS 280.335 must agree to furnish financial statements and audit reports for each bond issue. [1975 c 316 §6]

280.355 Issuance of bonds; determining factors. In determining whether to issue revenue bonds under ORS 280.310 to 280.390, the State Treasurer shall consider:

(1) The bond market for the types of bonds proposed for issuance.

(2) The terms and conditions of the proposed issue.

(3) Such other relevant factors as the State Treasurer considers necessary to protect the financial integrity of the state. [1975 c 316 §5, 1977 c.147 §2]

280.360 Method of issuing bonds. Bonds authorized under ORS 280.310 to 280.390 shall be issued in accordance with the provisions of ORS 456.574 to 456.720 relating to bonds payable from income of revenue producing facilities, the bonds to be sold at public or private sale, and the bonds may mature at any time or times within 30 years from date of issue and may be sold at a price equal to such percentage of the par value thereof, plus accrued interest, and bearing interest at such rate or rates, may be agreed upon by the lessee, the purchaser, and the state, notwithstanding any limitation of interest rate or cost of the amounts of annual maturities contained in any other law. [1975 c 316 §11]

280.365 Administration expenses. The administrative expenses of the State Treasurer shall be charged against bond proceeds or project revenues. [1975 c.316 §12]

280.370 Refunding bonds. The State Treasurer shall have the power, whenever he deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured. The refunding bonds may be exchanged for bonds to be refunded and the proceeds applied to the purchase, redemption or payment of such bonds. [1975 c.316 §13]

280.375 Validity of bonds. The validity of bonds issued under ORS 280.310 to 280.390 shall not be dependent on nor be affected by the validity or regularity of any proceeding relating to the acquisition, purchase, construction, installation, reconstruction, improvement, betterment or extension of the eligible project for which the bonds are issued. The official action authorizing such bonds may provide that the bonds shall contain a recital that they are issued pursuant to ORS 280.310 to 280.390 and such recital shall be conclusive evidence of their validity and of the regularity of their issuance. [1975 c.316 §14]

280.380 Covenants in bonds. The official action authorizing the issuance of bonds under ORS 280.310 to 280.390 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 280.310 to 280.390 in the following respects and in such other respects as the state, acting through the State Treasurer, or his designee may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 280.310 to 280.390;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the eligible project and replacement of properties depreciated, damaged, destroyed or condemned;

(5) The purpose or purposes to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the eligible project made in favor of the holder or holders of such bonds or a trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of any bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the eligible project;

(9) The insurance to be carried upon the eligible project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions or obligations;

(13) The appointing of and vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of his or its liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 280.310 to 280.390;

(15) A procedure by which the terms of any official action authorizing bonds or of any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which may consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued under ORS 280.310 to 280.390 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the state, to other bonds or obligations of the state issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered. [1975 c.316 §15]

280.385 Limitations of bonds; recitals. (1) Revenue bonds issued under ORS 280.310 to 280.390:

(a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the state except those projects or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of ORS 280.310 to 280.390.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those eligible projects, or portions thereof, mortgaged or otherwise encumbered, under the provisions and for the purposes of ORS 280.310 to 280.390.

(2) Each bond issued under ORS 280.310 to 280.390 shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof. No such bond shall constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. However, nothing in ORS 280.310 to 280.390 is intended to impair the rights of holders of bonds to enforce covenants made for the security thereof as provided in ORS 280.390. [1975 c.316 §16]

280.390 Powers and rights of bondholders. Subject to any contractual limitation binding upon the holders of any issue of revenue bonds, or a trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) By action or proceeding for legal or equitable remedies, enforce their rights against the state and any of its officers, agents and employes, and may require and compel the state or any such officers, agents or employes to perform and carry out its and their duties and obligations under ORS 280.310 to 280.390 and its and their covenants and agreements with bondholders;

(2) By action require the state to account as if it was the trustee of an express trust;

(3) By action enjoin any acts or things which may be unlawful or in violation of the right of the bondholders;

(4) Bring action upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of ORS 280.310 to 280.390 and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by ORS 280.310 to 280.390 without exhausting and without regard to any other right or remedy conferred by ORS 280.310 to 280.390 or any other law of this state, none of which rights and remedies is intended to be exclusive of any other, and each is cumulative and in addition to every other right and remedy. [1975 c.316 §17, 1979 c.284 §130]

(Major Cities)

280.410 Definitions for ORS 280.410 to 280.485. As used in ORS 280.410 to 280.485 unless the context requires otherwise:

(1) (a) "Economic development project" includes any properties, real or personal used or useful in connection with a revenue producing enterprise.

(b) "Economic development project" also includes multiple unit residential housing development on land having an assessed valuation of $8 per square foot or more on September 13, 1975, land within a designated urban renewal or redevelopment area formed pursuant to ORS chapter 457, or land within an area designated as a Housing and Community Development Target Neighborhood pursuant to the 1974 Housing and Community Development Act.

(c) "Economic development project" shall not include any facility or facilities designed primarily for the operation, transmission, sale or distribution of electrical energy.

(2) "Eligible project" means an economic development project found by the city to meet standards adopted pursuant to ORS 280.410 to 280.485.

(3) "City" means any city with a population of 300,000 or more.

(4) "Cost" as applied to any project includes:

(a) The cost of construction and reconstruction;

(b) The cost of acquisition of property, including rights in land and other property, both real and personal and improved and unimproved and the cost of site improvements;

(c) The cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated;

(d) The cost of eligible machinery and equipment and related financing charges;

(e) The cost of engineering and architectural surveys, plans and specifications;

(f) The cost of financing charges and interest prior to and during construction, and if deemed advisable by the city for a period not exceeding one year after completion of construction; and

(g) The cost of consultant and legal services, other expenses necessary or incident to determining the feasibility or practicability of constructing a project, administrative and other expenses necessary or incident to the construction of the project, including, but not limited to, costs of relocation and moving expenses according to a project plan developed by the city, and the financing of the construction of the project thereof, including reimbursement to any state or other governmental agency or any lessee of such project for the expenditures made with the approval of the city that would be costs of the project under ORS 280.410 to 280.485 had they been made directly by the city. [1977 c 772 §2; 1979 c 865 §1]

280.415 Policy. The Legislative Assembly finds that:

(1) Cities with a population of 300,000 or more should be granted the powers granted to the state by ORS 280.310 to 280.390 in order to reduce substantially within their boundaries the occurrence of economic conditions requiring more expensive remedial action. There exist in Oregon's larger cities substantial adverse economic conditions requiring immediate remedial action. Such conditions include decreasing opportunities for gainful employment and lack of sites and facilities for orderly and necessary industrial growth. To meet the needs of these cities it is necessary to grant them full authority to issue industrial revenue bonds. It is the purpose of ORS 280.410 to 280.485 to authorize the exercise of such powers by cities with a population of 300,000 in addition to and not in lieu of any other powers such cities may possess.

(2) The lack of residential housing in the core and inner areas of Oregon's larger cities also is a cause of adverse economic conditions. Development of housing in such areas can be a factor which contributes to orderly economic growth by providing decent housing for workers necessary to attract and promote desirable industrial growth. Therefore it is also the purpose of ORS 280.410 to 280.485 to permit cities with a population of 300,000 or more authority to issue revenue bonds for housing purposes. The Legislative Assembly, in granting this authority, intends to increase Oregon's available housing stock. In exercising options under that authority, preference should be given by cities to those projects which add housing units through new construction or rehabilitation of nonresidential buildings.

(3) Cities with a population of 100,000 or more suffer from a lack of available mortgage financing for the purchase of multiple unit homes in such cities. There is a need for a low-cost mortgage financing for multiple unit home purchasers in order to prevent urban decay and blight and to promote the economic well-being of those cities. [1977 c.772 §1; 1979 c.865 §2]

280.417 Certain cities authorized to issue bonds for certain housing purposes. Notwithstanding subsection (3) of ORS 280.410, cities with a population of 100,000 or more may exercise the powers under ORS 280.410 to 280.485 to issue revenue bonds for the purposes of subsection (3) of ORS 280.425 and subsection (5) of ORS 280.430. [1979 c.865 §2b]

280.420 Eligibility of projects for financing; standards; ordinance for applications. Prior to exercising any power granted by ORS 280.410 to 280.485 the governing body of a city shall:

(1) Adopt by ordinance standards to determine the eligibility of economic development projects. In determining such standards, the governing body shall consider all relevant data without giving priority to one factor over others. The governing body may consider but is not limited to the following:

(a) Density of use and potential impact in the area affected by the proposed project;

(b) City's ability to support other needed services resulting from economic development projects;

(c) Effect of economic development projects on balanced economic development of the city;

(d) Employment opportunities; and

(e) Suitability of various areas in the city for particular types of economic development projects.

(2) Adopt by ordinance procedures for the acceptance and processing of applications for consideration of the eligibility of economic development projects. The ordinance shall state what city officers shall receive such applications and shall provide for the content of any application form. [1977 c.772 §3]

280.425 City powers concerning property. In carrying out the provisions of ORS 280.410 to 280.485 a city may:

(1) Acquire, construct and hold in whole or

in part any lands, buildings, easements, water and air rights, improvements to lands and buildings and capital equipment to be located permanently or used exclusively on such lands or in such buildings, which are deemed necessary in connection with an eligible project to be situated within the city and construct, reconstruct, improve, better and extend such projects, and enter into contracts therefor.

(2) Sell and convey all properties acquired in connection with eligible projects, including without limitation the sale and conveyance thereof subject to any mortgage and the sale and conveyance thereof under an option granted to the lessee of the eligible project, for such price, and at such time as the city may determine. However, no sale or conveyance of such properties shall ever be made in such manner as to impair the rights of interests of the holder, or holders, of any bonds issued under the authority of ORS 280.410 to 280.485.

(3) Make or participate in the making of mortgage loans for multiple unit residential housing to housing sponsors qualified under standards adopted by the city pursuant to ORS 280.410 to 280.485 to provide for the construction, substantial rehabilitation or permanent financing of multiple unit residential housing development and undertake commitments to make those mortgage loans.

(4) For mortgage loans under subsection (3) of this section and subsection (5) of ORS 280.430, purchase and sell those mortgage loans at public or private sale; modify or alter such mortgages; foreclose on any such mortgage or security interest or commence any action to protect or enforce any right conferred upon the city by any law, mortgage, security, agreement, contract or other agreement and bid for and purchase property that is subject to such mortgage or security interest at any foreclosure or other sale; acquire or take possession of any such property and complete, administer, pay the principal and interest on any obligations incurred in connection with such property and dispose of such property in such a manner as the city determines necessary to protect its interest under ORS 280.410 to 280.485. [1977 c 772 §5; 1979 c 865 §3]

280.430 Contractual powers of city; requirements for project leases. In addition to any other powers granted by law or charter, a city may:

(1) Lease and sublease eligible projects to any person, firm or public or private corporation or federal or state governmental subdivision or agency. Such agreement shall provide that:

(a) The lessee shall operate, repair and maintain the project which is leased;

(b) Rents to be charged for the use of the projects shall be fixed, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment when due of principal of, and interest on, all bonds issued under ORS 280.410 to 280.485;

(c) The lease shall terminate not earlier than the date on which all bonds and all other obligations incurred by the local agency in connection with the project or projects leased shall be paid in full, including interest, principal and redemption premiums, if any, or adequate funds for such payment is deposited in trust;

(d) The lessee's obligation to pay rent shall not be subject to cancellation, termination or abatement by the lessee until payment of the bonds or provision for payments is made;

(e) The lessee shall be required to provide adequate insurance in the project and insurance against all liability for injury to persons or property arising from its operation; and

(f) The lessee shall pay all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease, during which term ad valorem taxes shall be assessed in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project;

(2) Acquire, sell and enter into instalment sale contracts for eligible projects and land sale contracts for eligible projects;

(3) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the revenues of one or more eligible projects owned or to be acquired by the city and define and segregate such revenues or provide for the payment thereof to a trustee;

(4) Mortgage or otherwise encumber eligible projects in favor of the holders of such bonds or a trustee therefor. However, in creating any such mortgages or encumbrances the city can not obligate itself except with respect to the project;

(5) Purchase, service, sell and make commitments to purchase, service and sell mort-

gage loans originated by private lending institutions for residential housing for owner-occupied dwelling units in the form of condominium or cooperative interests in multiple unit housing projects located within the areas specified in paragraph (b) of subsection (1) of ORS 280.410 to persons whose income does not exceed 150 percent of the prevailing median income for families within the city, whether or not the projects are financed in whole or in part pursuant to ORS 280.410 to 280.485. A city shall equitably allocate the origination and servicing of mortgages under this subsection to private lending institutions in accordance with standards adopted by the city;

(6) Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds, including a contract entered into prior to the construction, acquisition and installation of the eligible project authorizing the lessee, subject to such terms and conditions as the city shall find necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee and in the manner determined by the lessee, and without advertisement for bids as may be required for the construction, acquisition or installation of other public facilities;

(7) Perform any other duties that the city considers necessary in carrying out ORS 280.410 to 280.485, including but not limited to, efforts to minimize the effects of displacement of residents resulting from projects financed under subsection (3) of ORS 280.425;

(8) Enter into and perform such contracts and agreements with political subdivisions and state agencies as the respective governing bodies of the same may consider proper and feasible for or concerning the planning, construction, installation, lease, or other acquisition, and the financing of such facilities, which contracts and agreements may establish a board, commission or such other body as may be deemed proper for the supervision and general management of the facilities of the eligible project; and

(9) Accept from any authorized agency of the Federal Government loans or grants for the planning, construction, acquisition, leasing, or other provision of any eligible project, and enter into agreements with such agency respecting such loans or grants. [1977 c.772 §4; 1979 c.865 §4]

280.432 Limitations on housing loans from bond proceeds; discrimination; relocation; conversion. (1) Cities, in purchasing or servicing or making commitments to purchase or service residential mortgage loans under subsection (5) of ORS 280.430, shall not participate in the refinancing of housing by existent owners or purchasers of that housing and shall not allow the assumption of those loans by persons not eligible for them.

(2) No owner-purchaser shall have more than one mortgage loan under subsection (5) of ORS 280.430 outstanding at any time.

(3) No city shall make or participate in the making of a mortgage loan to a multiple unit residential housing project under subsection (3) of ORS 280.425 unless the housing sponsor has agreed to not discriminate against any dwelling unit purchaser or tenant who is a parent or legal guardian with whom a child resides or is expected to reside. This subsection shall not apply to housing projects occupied exclusively by households, the heads of which are 62 years of age or older.

(4) Regardless of the ownership of property used for a multiple unit housing project financed under subsection (3) of ORS 280.425, a city shall, in financing the project, provide a plan for relocation of displaced persons.

(5) A city shall not finance projects under subsection (3) of ORS 280.425 which result in the conversion of existing occupied residential rental units to cooperative or condominium projects. [1979 c.865 §2d]

280.435 Limitation on city power. Except as provided in subsection (2) of ORS 280.425, the city shall not have power to operate any eligible project as a business or in any manner whatsoever, and nothing in ORS 280.410 to 280.485 authorizes the city to expend any funds on any eligible project, other than the revenues of such projects, or the proceeds of revenue bonds issued hereunder, or other funds granted to the city for the purposes of an eligible project. [1977 c.772 §6]

280.440 Authority to issue revenue bonds. (1) A city may authorize and issue revenue bonds secured by revenues from eligible economic development projects to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improve-

ment or extension of projects. The bonds shall be identified by project.

(2) A city may also authorize and issue revenue bonds secured by revenues from mortgage payments by purchasers of units within multiple unit housing projects. Such housing bonds need not be identified by project but may include more than one project or purpose within a single bond issue.

(3) In issuing bonds under this section, the city shall designate an underwriter, trustee and bond counsel and enter into appropriate agreements with each to carry out the provisions of ORS 280.410 to 280.485. The bonds shall be issued in the manner prescribed by law and refunding bonds may be issued to refinance such revenue bonds. [1977 c.772 §7; 1979 c.865 §5]

280.442 Limitations on amount of bonds for certain housing purposes. (1) The total amount of bonds issued by a city with a population of 300,000 or more for the purposes of permanent financing of projects under subsection (3) of ORS 280.425 and for the purposes of subsection (5) of ORS 280.430 shall not exceed $25 million.

(2) The total amount issued by each city with a population of more than 100,000 but less than 300,000 for the purposes of permanent financing of projects under subsection (3) of ORS 280.425 and for the purposes of subsection (5) of ORS 280.430 shall not exceed $12 million. [1979 c.865 §2c]

280.445 Determining factors in bond issuance. In determining whether to issue revenue bonds under ORS 280.410 to 280.485, the governing body of the city shall consider:

(1) The bond market for the types of bonds proposed for issuance.

(2) The terms and conditions of the proposed issue.

(3) Whether the lessee or purchaser is financially responsible and fully capable and willing to fulfill its obligations under the agreement of lease, or contract, including the obligation to pay rent in the amounts and at the times required, the obligation to operate, repair and maintain at its own expense the project leased, or sold, and to serve the purposes of ORS 280.410 to 280.485 and such other responsibilities as may be imposed under the lease or contract. In determining financial responsibility of the lessee or purchaser, consideration shall be given to the lessee's or purchaser's ratio of current assets to current liabilities, net worth, earning trends, coverage of all fixed charges, the nature of the industry or business involved, its inherent stability, any guarantee of the obligations by some other financially responsible corporation, firm or person, and other factors determinative of the capability of the lessee or purchaser, financially and otherwise, to fulfill its obligations consistently with the purposes of ORS 280.410 to 280.485.

(4) Such other relevant factors as the governing body considers necessary to protect the financial integrity of the city. [1977 c.772 §8]

280.450 Issuance of bonds. Bonds authorized under ORS 280.410 to 280.485 shall be issued in accordance with the provisions of the charter of the city relating to bonds payable from income of revenue producing facilities. Bond issues may mature at any time within 40 years from the date of issue, may be sold at public or private sale and shall be sold in accordance with the provisions of ORS 288.510. [1977 c.772 §9; 1979 c.865 §6]

280.455 Administrative expenses. The administrative expenses of the city with respect to bonds issued under ORS 280.410 to 280.485 shall be charged against bond proceeds or project revenues. [1977 c.772 §10]

280.460 Refunding bonds. The city shall have the power, whenever it deems refunding expedient, to refund any bonds issued under ORS 280.410 to 280.485 by the issuance of new bonds, whether the bonds to be refunded have or have not matured. The refunding bonds may be exchanged for bonds to be refunded and the proceeds applied to the purchase, redemption or payment of such bonds. [1977 c.772 §11]

280.465 Validity of bonds. The validity of bonds issued under ORS 280.410 to 280.485 shall not be dependent on or be affected by the validity or regularity of any proceeding relating to the acquisition, purchase, lease, construction, installation, reconstruction, improvement, betterment or extension of the eligible project for which the bonds are issued. The official action authorizing such bonds may provide that the bonds shall contain a recital that they are issued pursuant to ORS 280.410 to 280.485 and such recital shall be conclusive evidence of their validity and of the regularity of their issuance. [1977 c.772 §12]

280.470 Covenants in bonds. The official action authorizing the issuance of bonds under ORS 280.410 to 280.485 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 280.410 to 280.485 in the following respects and in such other respects as the city may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 280.410 to 280.485;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the eligible project and replacement of properties depreciated, damaged, destroyed or condemned;

(5) The purpose or purposes to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the eligible project made in favor of the holder or holders of such bonds or a trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of any bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the eligible project;

(9) The insurance to be carried upon the eligible project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions or obligations;

(13) The appointing of and vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of his or its liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 280.410 to 280.485;

(15) A procedure by which the terms of any official action authorizing bonds or of any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which may consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued under ORS 280.410 to 280.485 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the city, to other bonds or obligations of the city issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered. [1977 c.772 §13]

280.475 Limitations of bonds; recitals. (1) Revenue bonds issued under ORS 280.410 to 280.485:

(a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the city be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the city to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the city except those projects or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of ORS 280.410 to 280.485.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city, except those eligible projects, or portions thereof, mortgaged or otherwise encumbered, under the provisions and for the purposes of ORS 280.410 to 280.485.

(2) Each bond issued under ORS 280.410 to 280.485 shall recite in substance that the

bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof, and that no such bond shall constitute a debt of the city or a lending of the credit of the city within the meaning of any constitutional or statutory limitation. However, nothing in ORS 280.410 to 280.485 is intended to impair the rights of holders of bonds to enforce covenants made for the security thereof as provided in ORS 280.480. [1977 c 772 §14]

280.480 Powers and rights of bondholders. Subject to any contractual limitation binding upon the holders of any issue of revenue bonds, or a trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) By action or proceeding for legal or equitable remedies, enforce their rights against the city and any of its officers, agents and employes, and may require and compel the city or any such officers, agents or employes to perform and carry out its and their duties and obligations under ORS 280.410 to 280.485 and its and their covenants and agreements with bondholders;

(2) By action, require the city to account as if it was the trustee of an express trust;

(3) By action, enjoin any acts or things which may be unlawful or in violation of the right of the bondholders;

(4) Bring action upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of ORS 280.410 to 280.485 and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by ORS 280.410 to 280.485 without exhausting and without regard to any other right or remedy conferred by ORS 280.410 to 280.485 or any other law of this state, none of which rights and remedies is intended to be exclusive of any other, and each is cumulative and in addition to every other right and remedy. [1977 c.772 §15; 1979 c 284 §131]

280.482 Report required; content. A city shall report to the State Housing Council and the Legislative Assembly, not later than February 1 of each odd-numbered year on the disposition within that city of the proceeds of bonds issued for the purposes of subsection (3) of ORS 280.425 and subsection (5) of ORS 280.430. The report shall, as a minimum, identify the population, income levels and areas served by the housing program, the length of residence in dwellings purchased under the program and the degree to which the city considers the program's initial objectives have been achieved. The report shall be reviewed by the State Housing Council and the council shall make its comments on the report known to the city and the Legislative Assembly. [1979 c 865 §7]

280.485 Effect of ORS 280.410 to 280.485 on powers of city. ORS 280.410 to 280.485 is additional, alternative and supplemental authority for cities with a population of 300,000 or more and shall not abrogate any power, right or authority otherwise granted by law or charter to such cities. [1977 c 772 §16]

(Counties)

280.500 County economic development plan; criteria. In addition to, and not in lieu of, any of the powers granted counties under the laws of this state, a county may develop and implement a program of economic development. To do so, a county shall have the power to:

(1) Following public hearings, adopt an economic development plan, either through its own efforts or in combination with other public bodies and advisory committees, which plan, if adopted, shall:

(a) Recognize and reflect the need for adequate employment and income for residents, considering both present and expected future population levels.

(b) Clearly state community economic goals and provide a detailed program to carry out those goals.

(c) Be based on an analysis of the present and expected future economic base, which analysis shall consider, but not be limited to, natural resources, human resources, industrial and commercial structure, land use and ownership, public facilities and services, transportation, housing, availability of capital and regional economic interactions.

(d) Provide industrial and commercial sites suitable for the expected future amount and type of growth and expansion and appropriate for their intended purpose, site size and

site distribution, transportation access and available services.

(e) Stress cost-effectiveness and the need for a timely government response to private sector development efforts.

(f) Set forth the boundaries the economic development plan encompasses, if different from county boundaries.

(2) Assemble, hold and develop sites and facilities for industrial and commercial activities as provided in ORS 271.510 to 271.540, with the power to make available real property to private or public entities at a value determined by the county to be its fair market value. [1979 c 182 §1]

280.505 Coordination of plan with other local governments and plans. In developing and implementing a plan of economic development under ORS 280.500, a county shall:

(1) Provide that each city within the plan boundaries may by resolution of the city governing body become a part of, or exclude itself from, the economic development plan within the city.

(2) Assure that all city governing bodies wishing to participate are fairly represented in the development of an economic development plan.

(3) Assure that an economic development plan considers and is coordinated with the economic development programs of cities, port districts and other public entities.

(4) Assure that the economic development plan considers and is coordinated with all relevant local comprehensive plans and planning efforts. [1979 c.182 §2]

ECONOMICALLY LAGGING AREAS

280.610 Definitions for ORS 280.620 to 280.670. As used in ORS 280.620 to 280.670, unless the context requires otherwise:

(1) "Commission" means the Economic Development Commission.

(2) "Department" means the Economic Development Department.

(3) "Director" means the Director of the Economic Development Department.

(4) "Eligible area" means an economically lagging area certified by the Governor pursuant to ORS 280.630.

(5) "Qualified investment" means an investment made for the acquisition, construction, reconstruction or improvement of any depreciable real or tangible personal property situated within an eligible area if the acquisition, construction, reconstruction or improvement is reasonably expected to create new jobs and is consistent with the economic development plans adopted by local governments having jurisdiction within the eligible area. [1977 c.839 §1; 1979 c.182 §9]

280.620 Policy. (1) There exists in the state a great and growing need for balanced economic and community development which will provide and maintain orderly economic growth and the preservation and enhancement of all facets of Oregon's environment. A great imbalance exists presently in the degree of economic health among various regions of the state. Balanced development opportunities must be made available to bring about the geographical distribution of business and industry necessary to a healthy economy and environment for all Oregonians. Oregon cannot offer an attractive future to its youth unless additional jobs are made available. Without new payrolls and expansion of existing payrolls, the state will suffer a loss of its young people, resulting in a decline in our quality of life. Assistance to and encouragement of balanced industrial, commercial and community development are important functions of the state. The welfare of the state, its people and its institutions depends upon a unified and coordinated program to achieve this development and enhancement on an orderly basis.

(2) For the reasons described in subsection (1) of this section, it is the policy of the State of Oregon to encourage investments in job-producing projects in certain economically lagging areas of the state by providing tax relief with respect to such investments. [1977 c.839 §2]

280.630 Determination of economically lagging areas. (1) The commission shall prepare a preliminary list of economically lagging areas in the state. The areas may be counties, cities or areas certified by the federal Economic Development Administration as a special impact area. The list shall contain only areas which are part of, or which have, a comprehensive economic development plan acceptable to the commission. The commission shall select areas for inclusion in the list

using criteria which may include, but need not be limited to, the following:

(a) High unemployment rate.

(b) Low per capita income.

(c) Out-migration due to lack of economic opportunity.

(d) Closure or announced closure of a major employer.

(2) Upon completion of a preliminary list of economically lagging areas as required under subsection (1) of this section, the commission shall give written notice of the preliminary list to the governing body of each city or county included in such list. Within 45 days of the receipt of such notice, the governing body of the city or county shall review and notify the commission of its approval or disapproval of the inclusion of such city or county in the list. Unless the governing body of the city or county disapproves the inclusion of such city or county in the list, the commission may select a city or county for inclusion in the final list of economically lagging areas required to be submitted to the Governor under subsection (3) of this section.

(3) The commission shall periodically submit to the Governor a final list of economically lagging areas prepared in accordance with the provisions of subsections (1) and (2) of this section, together with its recommendations that areas included in such list be certified as eligible areas. Taking such recommendations into consideration, the Governor may certify any or all of the areas as eligible areas.

(4) The commission shall annually review the final list prepared under this section to determine whether sufficient economic recovery has occurred in any area to warrant its removal from the list and decertification by the Governor. After such review, the commission shall submit to the Governor the names of any areas removed from the list and recommendations that such areas be decertified. Taking the recommendations of the commission into consideration, the Governor may decertify any or all of the eligible areas certified pursuant to this section.

(5) Decertification of an eligible area shall not affect the certification of a qualified investment in the eligible area if:

(a) The qualified investment is certified prior to decertification of the eligible area; or

(b) The qualified investment receives preliminary approval prior to decertification of the eligible area, and is certified within 180 days immediately following the area's decertification. [1977 c.839 §3, 1979 c.412 §3]

280.640 Application for certification of qualified investment; form. (1) Any person may apply to the department under ORS 280.650 for certification of a qualified investment.

(2) Applications for certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the applicant proposes to acquire, construct, reconstruct or improve depreciable real or tangible personal property, a description of the property and the area within which it is situated;

(b) A statement that the acquisition, construction, reconstruction or improvement is reasonably expected to create a specified number of new jobs and is consistent with an economic development plan approved by the commission;

(c) The estimated cost of the acquisition, construction, reconstruction or improvement; and

(d) The estimated useful life of the property.

(3) The director may require such further information as he considers necessary prior to the issuance of a certificate. [1977 c.839 §4]

280.645 Preliminary qualified investment approval authorized; letter of intent required. (1) The director may grant preliminary approval of a qualified investment prior to receipt of an application for certification of a qualified investment if based upon a "letter of intent."

(2) For the purposes of this section "letter of intent" means a letter to the director from an investor stating the investor's intent to apply for certification of the qualified investment and describing:

(a) Location of the investment;

(b) Type of business activity in which the investment will be made;

(c) Estimated amount of investment;

(d) Estimated number of new jobs to be created;

(e) Estimated date of construction or acquisition of investment; and

(f) Such other information as the director may require prior to granting preliminary approval. [1979 c 412 §2]

280.650 Certification; certification prohibited January 1, 1982, and after. (1) Within 30 days of the receipt of an application for certification filed pursuant to ORS 280.640, the director may require the submission of plans and specifications and, after examination thereof, may request revisions of the plans and specifications.

(2) The director shall act on an application for certification before the 120th day after filing of the application under ORS 280.640. Under extraordinary circumstances, an additional 30-day period may be allowed for the director to act on an application, in which case the director shall so notify the applicant. Such notice shall include a finding setting forth the extraordinary circumstances.

(3) In taking action on an application for certification the director shall meet the standards required of the commission under subsections (1) to (4) of ORS 184.025.

(4) If the director rejects an application for certification, the director shall cause written notice of his action, together with a statement of the findings and reasons therefor, to be sent by registered or certified mail to the applicant.

(5) If the application is rejected for any reason, then, within 60 days after the date of mailing of the notice under subsection (4) of this section, the applicant may appeal the rejection pursuant to the provisions of ORS 183.310 to 183.500 governing contested cases.

(6) If the director approves an application for certification of a qualified investment, he shall certify the qualified investment.

(7) A certificate issued under this section shall be effective for purposes of tax relief in accordance with ORS 316.093 and 317.077.

(8) Notwithstanding any other provision of ORS 280.610 to 280.670, 316.093 and 317.077, no qualified investment shall be certified under the provisions of ORS 280.610 to 280.670, 316.093 and 317.077 on or after January 1, 1982.

(9) If the person receiving the certificate is an electing small business corporation as defined in section 1371 of the Internal Revenue Code, and if the corporation elects to take tax credit relief, such election shall be on behalf of the corporation's shareholders. Each shareholder shall be entitled to take tax credit relief as provided in ORS 316.093, based on that shareholder's pro rata share of the certified cost of the qualified investment.

(10) The director may certify a qualified investment in an eligible area within 180 days immediately following the area's decertification so long as preliminary approval has been granted prior to decertification of the area.
[1977 c.839 §5; 1979 c 182 §10; 1979 c 412 §4a]

Note: Section 6, chapter 412, Oregon Laws 1979, provides:

Sec. 6. The amendments to ORS 280.650 and 316.093 by sections 4 and 5, or 4a and 5a if applicable, of this Act respecting Subchapter S corporations apply to tax years beginning on or after January 1, 1978. Except that no interest shall be paid on the refund, any amount that was overpaid on a 1978 tax return due solely to the effective date of the amendments to ORS 280.650 and 316.093 by sections 4 and 5, or 4a and 5a if applicable, of this Act respecting Subchapter S corporations, shall be refunded in the manner provided in and subject to the provisions of ORS chapters 305 and 314 relating to income tax refunds.

280.660 Revocation of certificate; collection of taxes. (1) Pursuant to the procedures for a contested case under the provisions of ORS 183.310 to 183.500, the director may order the revocation of the certificate issued under ORS 280.650 if the director finds that:

(a) The certification was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to acquire, construct, reconstruct or improve the property in compliance with the plans, specifications and procedures specified in such certificate; or

(c) The holder of the certificate closes or permanently curtails operations in another part of the state, and such closure or permanent curtailment is reasonably expected to diminish jobs within a time period including the tax years before, during and after the tax year in which the qualified investment is placed in service.

(2) As soon as the order of revocation under this section becomes final, the director shall notify the Department of Revenue of such order.

(3) If the certification of a qualified investment is ordered revoked pursuant to subsection (1) of this section, all prior tax relief provided to the holder of the certificate by virtue of such certificate shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the certificate holder as a result of the tax relief provided to the holder under ORS 316.093 and 317.077.
[1977 c.839 §6]

280.670 Rules. The commission shall adopt such rules as necessary to carry out the provisions of ORS 280.610 to 280.660. [1977 c.839 §6a]

PENALTIES

280.990 Penalties. Any unlawful diversion or over-expenditure of the fund referred to in ORS 280.140 as the result of the vote by any public official having charge, control or administration of the fund shall render the official civilly liable for the return of the money in the amount over-expended or diverted, with interest thereon at the legal rate until repaid, by action of any taxpayer of the subdivision concerned or by action of the district attorney of the county, or the attorney for the subdivision, wherein the offense was committed. The action shall be tried as an action not triable by right to a jury and more than one alleged unauthorized diversion, misuse of or overdraft from the fund, by vote or direction of the defendant, may be pleaded in the same action. [Amended by 1979 c.284 §132]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979.

Thomas G Clifford
Legislative Counsel