

# Chapter 284

## 1985 REPLACEMENT PART

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**ENTERPRISE ZONES**

**284.110 Definitions for ORS 284.110 to 284.260.** As used in ORS 284 110 to 284 260, unless the context requires otherwise

(1) "Business firm" means a person operating or conducting a trade or business

(2) "Department" means the Economic Development Department

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

(4) "Local governmental unit" means a city or county

(5) "Nonurban enterprise zone" means an area located outside an urbanized portion of a standard metropolitan statistical area

(a) Meeting the requirements of ORS 284 180 and so designated by the Governor under ORS 284 160, or

(b) Designated as an enterprise zone under federal law

(6) "Qualified business firm" means a business firm satisfying the requirements of ORS 284 220 (1) to (7)

(7) "Urban enterprise zone" means an area located in an urbanized portion of a standard metropolitan statistical area

(a) Meeting the requirements of ORS 284 180 so designated by the Governor under ORS 284 160, or

(b) Designated as an enterprise zone under federal law [1985 c 807 §3]

**284.120 "Property" defined.** For the purposes of ORS 284 210 (1) to (5), 284 240 and 284 250, "property" includes only new buildings or structures or additions to buildings or structures and does not include any land [1985 c 807 §13c]

**284.130 Legislative finding.** The Legislative Assembly of Oregon hereby finds and declares that the health, safety and welfare of the people of this state are dependent upon the continued encouragement, development, growth and expansion of employment, business, industry and commerce within the state, and that there are certain depressed areas in the state that need the particular attention of government to help attract private business investment into these areas. Therefore, it is declared to be the purpose of ORS 284 110 to 284 260 to stimulate employment, business and industrial growth in the depressed areas of this state by providing assistance to

businesses and industries and by providing tax incentives in those areas [1985 c 807 §2]

**284.140 Authority of department.** In addition to any other powers granted by law, for the purpose of administering ORS 284 110 to 284 260, the department shall

(1) Assist the governing bodies of cities and counties in which enterprise zones are located in obtaining assistance from any other agency of state government

(2) Assist any employer or prospective employer within an enterprise zone in obtaining the benefits of any incentive or inducement program authorized by Oregon law

(3) Submit an annual written report evaluating the effectiveness of ORS 284 110 to 284 260 to the Governor no later than the first day of March of each year

(4) Notify each legislator whose district includes any portion of an enterprise zone when the Governor designates the zone under ORS 284 160

(5) Adopt rules necessary to administer ORS 284 110 to 284 260 [1985 c 807 §4]

**284.150 Application for designation.**

(1) Any city or county may apply to the director for designation of an area within that city or county as an enterprise zone. With the prior consent of the governing body of the city, a county may apply to the department on behalf of a city for designation of any area within that city as an enterprise zone

(2) Two or more counties may jointly apply to the director for designation of an area situated partly within each of the counties as a single enterprise zone

(3) Two or more cities may apply to the director for designation of an area situated partly within each of the cities as an enterprise zone

(4) One or more cities and a county may apply to the director for designation of an area situated partly within each city and partly in unincorporated territory within the county as an enterprise zone

(5) Any area proposed for designation as an enterprise zone must consist of a contiguous area not greater than 12 square miles in size, excluding that portion of the zone which lies below the ordinary high water mark of a navigable body of water

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

(a) Be submitted on behalf of one or more local governmental units as described in subsections (1) to (4) of this section by action of the governing body of each applicant,

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

(c) Contain information sufficient to allow the department to determine if the criteria established in ORS 284 180 are met,

(d) State whether the applicant has examined the feasibility of creating educational or training opportunities for employers and employes of business firms located in the proposed enterprise zone,

(e) State that the applicant will give priority to the use in the proposed enterprise zone of any economic development or job training funds received from the Federal Government, and

(f) Declare that the applicant will assist the department in evaluating economic progress made in any enterprise zone within its jurisdiction

(7) When applying for designation of an enterprise zone within its boundaries under ORS 284.110 to 284 260, the applicant may include in the application proposals to increase the level or efficiency of local public services within the proposed enterprise zone including, but not limited to, firefighting and police services

(8) When applying for designation of an enterprise zone within its boundaries under ORS 284 110 to 284 260, the applicant may include in the application proposals for local tax incentives and local regulatory flexibility, including but not limited to

(a) Reduction of permit fees,

(b) Reduction of user fees,

(c) Reduction of business, professional and occupational license taxes,

(d) Special zoning districts,

(e) Simplified permit application procedures, and

(f) Exemptions from local ordinances other than regulations relating to land use, health, safety or other working conditions, wage and hour requirements and environmental concerns

(9) In the case of joint applications by more than one local governmental unit, each city or county joining in the application may include proposals for local tax incentives and local regulatory flexibility to be effective within the boundaries of such local governmental unit. Proposals for local tax incentives and local regulatory

flexibility included in the application by a city or county for an enterprise zone are binding upon the city or county if an enterprise zone is designated wholly or partly within its boundaries [1985 c 807 §5]

**284.160 Action on application; designation.** (1) The department shall review each application for designation of an enterprise zone upon receipt, and shall secure any additional information that the department considers necessary for the purpose of determining whether the area described in the application qualifies for designation as an enterprise zone

(2) The department shall complete review of the application within 60 days of the last date designated for receipt of an application. After review of the applications, the department shall forward those qualified applications to the director. The director shall recommend to the Governor within 30 days those applications with the greatest potential for accomplishing the purposes of ORS 284 110 to 284 260

(3) The Governor shall approve the designation of up to 30 areas as enterprise zones for a period of 10 years. No more than 10 zones shall be designated during the first year after January 1, 1986. A zone whose designation has expired can reapply and, upon review by the department and approval by the Governor, be redesignated as an enterprise zone. The determination by the Governor as to the areas designated enterprise zones shall be final

(4) If an application for enterprise zone designation is denied, the governing body of the city or county submitting the application shall be informed of that fact together with the reasons for the denial. A city or county may reapply at any time to the department for designation of an area as an enterprise zone [1985 c 807 §6]

**284.170 Inclusion of federally designated areas.** (1) If any portion of an area designated as an enterprise zone under ORS 284 110 to 284 260 is included in an area designated as an enterprise zone by an agency of the Federal Government, the area designated under ORS 284 110 to 284 260 shall be enlarged, if necessary, to include the area designated by the federal agency

(2) Any area that is designated an enterprise zone under federal law shall automatically and without any additional action by a city or county or the department be designated an enterprise zone under ORS 284 110 to 284 260 without regard to any limitation contained in ORS 284 160 (3) as to the number of enterprise zones or the time period within which the designation of enterprise zones may occur [1985 c 807 §7]

**284.180 Designation in standard metropolitan statistical area.** (1) If the area is located in an urbanized portion of a standard metropolitan statistical area, the Governor may designate it as an enterprise zone only when the area consists of contiguous census tracts in which

(a) Seventy percent or more of the households have incomes below 80 percent of the median income of this state, or

(b) The Economic Development Commission determines that there exists a level of economic hardship at least as severe as that described in paragraph (a) of this subsection, based on available income and employment data

(2) If the area is located outside the urbanized portion of a standard metropolitan statistical area, the Governor may designate it as an enterprise zone only when the area is situated entirely within an economically lagging area certified by the Governor under ORS 280 610

(3) Income, employment and unemployment data required by this section may be based on the most recent information available from state or federal agencies which gather or distribute such information [1985 c 807 §8]

**284.190 Termination of designation.**

(1) Designation of an area as an enterprise zone under ORS 284 110 to 284 260 shall terminate 10 years after the date on which that designation is made by the Governor under ORS 284 160

(2) Notwithstanding subsection (1) of this section, the governing body of the local governmental unit in which an enterprise zone is situated may request termination of the enterprise zone prior to the date of termination fixed under subsection (1) of this section. When the Governor receives such request from the governing bodies of the local governmental units in which the enterprise zone is situated and which originally applied under ORS 284 150 for designation of the area as an enterprise zone, the enterprise zone shall terminate

(3) Upon designation of an area as an enterprise zone, the proposals for regulatory flexibility and local tax incentives included in the application for that zone under ORS 284 150 shall be carried out as provided in the application. If the governing body of a city or county is unable or unwilling at any time to provide tax incentives or regulatory flexibility, the enterprise zone in that city or county shall terminate

(4) A business firm may not become a qualified business firm with regard to a particular enterprise zone after the termination of that enterprise zone

(5) Qualified business firms located in an enterprise zone that expires after 10 years or that is terminated under subsection (2) or (3) of this section shall be eligible to receive the state tax incentives provided in ORS 284 210 after the enterprise zone is terminated [1985 c 807 §15]

**284.200 Availability of government owned property in zone.** Subject to the requirements of the Oregon Constitution and any applicable law, upon designation of an area as an enterprise zone, the State of Oregon and any units of local government that own any real property within the enterprise zone that is not used or designated for some public purpose shall make that real property available for lease or purchase by qualified business firms. Real property shall be leased or sold under this section only upon the condition that the purchaser or lessee promptly develop and use the real property for industrial or commercial purposes within the enterprise zone [1985 c 807 §9]

**284.210 Tax exemption for new construction in zone.** (1) Upon compliance with ORS 284 240 (1), new construction is partially exempt from taxation for the number, not to exceed five, of consecutive assessment years immediately following the completion of the new construction if

(a) The property is being constructed or added to in furtherance of the production of income on January 1 of the assessment year or the property is in use or occupancy on January 1 of the assessment year for the production of income, and

(b) The property is located in an enterprise zone

(2) The exemption allowed under this section shall be allowed only for property of a qualified business firm

(3) The exemption allowed under this section shall be in effect for the assessment year following the calendar year in which the application is made and for the number of consecutive assessment years immediately following, not to exceed four, in which the property is owned by a qualified business firm and located in an enterprise zone

(4) The exemption allowed under this section shall be equal to the following amounts

(a) 100 percent of the true cash value of the property in the first assessment year following the calendar year in which the application is made,

(b) 80 percent of the true cash value of the property in the second following assessment year,

(c) 60 percent of the true cash value of the property in the third following assessment year,

(d) 40 percent of the true cash value of the property in the fourth following assessment year, and

(e) 20 percent of the true cash value of the property in the fifth following assessment year

(5) If property otherwise qualifies for the exemption under subsection (1) of this section, the exemption shall apply to any machinery or equipment located on the property that is or will be installed in or affixed to the property

(6) Subsections (1) to (5) of this section, ORS 284 120, 284 240 and 284 250 apply to new construction beginning on or after the year in which the enterprise zone is established [1985 c 807 §§13, 14]

**284.220 Eligibility for tax incentive.**

(1) The tax incentives described in ORS 284 210 shall be given only to qualified business firms

(2) A business firm in an urban enterprise zone is a qualified business firm for the purposes of ORS 284 110 to 284 260 when

(a) The firm begins the operation of a trade or business within an enterprise zone,

(b) At least 60 percent of the employees employed at facilities of the firm located within the urban enterprise zone are individuals who, at the time of employment, reside within the zone,

(c) During the taxable year the firm has at least 50 percent of its gross receipts attributable to the active conduct of its trade or business within the enterprise zone, and

(d) At least 40 percent of the employees employed at facilities of the firm located within the enterprise zone are individuals who, at the time of employment with the firm

(A) Had incomes below 80 percent of the median income of the county within which the enterprise zone is located,

(B) Were unemployed for not less than six months immediately prior to being employed by the firm,

(C) Had been recipients of some form of public assistance for not less than six months immediately prior to being employed by the firm, or

(D) Are persons disadvantaged by reason of race, color, sex, national origin, age or physical or mental handicap

(3) A business firm located in a nonurban enterprise zone is a qualified business firm for the purposes of ORS 284 110 to 284 260 when

(a) The firm begins the operation of a primarily nonretail trade or business within the enterprise zone,

(b) During the taxable year the firm has at least 50 percent of its gross receipts attributable to the active conduct of its trade or business within the enterprise zone, and

(c) At least 40 percent of the employees employed at facilities of the firm located within the enterprise zone are individuals who, at the time of employment with the firm

(A) Reside within the zone or within two miles of any boundary of the zone,

(B) Had incomes below 80 percent of the median income of the county within which the enterprise zone is located,

(C) Were unemployed for not less than six months immediately prior to being employed by the firm,

(D) Had been recipients of some form of public assistance for not less than six months immediately prior to being employed by the firm, or

(E) Are persons disadvantaged by reason of race, color, sex, national origin, age or physical or mental handicap

(4) A business firm is also a qualified business firm for the purpose of ORS 284 110 to 284 260 when

(a) The firm is actively engaged in the conduct of a trade or business in an area immediately prior to that area being designated an urban enterprise zone,

(b) During the taxable year the firm has at least 50 percent of its gross receipts attributable to the active conduct of its trade or business within the enterprise zone, and

(c) During the taxable year the firm increases the average number of full-time employees at facilities of the firm located within the enterprise zone by at least 10 percent over the preceding year with such increased employment satisfying the requirements of paragraphs (b) and (d) of subsection (2) of this section

(5) A business firm is also a qualified business firm for the purpose of ORS 284 110 to 284 260 when

(a) The firm is actively engaged in the conduct of a primarily nonretail trade or business in an area immediately prior to that area being designated a nonurban enterprise zone,

(b) During the taxable year the firm has at least 50 percent of its gross receipts attributable

to the active conduct of its trade or business within the enterprise zone, and

(c) During the taxable year the firm increases the average number of full-time employees at facilities of the firm located within the enterprise zone by at least 10 percent over the preceding year with not less than 40 percent of such increased employment being employees who, at the time of employment with the firm, meet the requirements of subparagraphs (A) to (E) of paragraph (c) of subsection (3) of this section

(6) Notwithstanding subsections (2) to (5) of this section, a business firm shall not be a qualified firm if the firm or any other firm under common control closes or permanently curtails operations in another part of the state more than 30 miles from the nearest boundary of the enterprise zone in which the firm seeks to be qualified as a qualified business firm in connection with a transfer of any part of its business operations to the enterprise zone, and such closure or permanent curtailment is reasonably expected to diminish employment in such other part of the state

(7) Notwithstanding subsections (2) and (4) of this section, a business firm shall not be a qualified firm if

(a) Its operations within an urban enterprise zone are primarily retail, and

(b) The firm or any other firm under common control closes or permanently curtails operations in another part of the state in connection with a transfer of any part of its business operations to an urban enterprise zone, and such closure or permanent curtailment is reasonably expected to diminish employment in such other part of the state

(8) There shall be no duplication of existing state tax incentives under ORS 284 210 to qualified business firms which operate in an enterprise zone [1985 c 807 §§10, 11]

**284.230 Request for exemption; form.**

(1) After designation of an enterprise zone, each qualified business firm in such zone shall submit annually to the Department of Revenue a statement on a form supplied by the Department of Revenue requesting the tax exemption allowed under ORS 284 210. The statement shall be accompanied by an approved form stating that the business firm meets the definition of a qualified business firm. A copy of the statement submitted by each business firm to the Department of Revenue shall be forwarded to the governing body of the county or city in which the enterprise zone is located

(2) The form referred to in subsection (1) of this section shall be prima facie evidence of the eligibility of a business firm for the tax incentives provided in ORS 284 210 [1985 c 807 §12]

**284.240 Duties of assessor.** (1) On or before January 1 of the first assessment year for which exemption under ORS 284 210 (1) to (5) is claimed, the owner shall file an application for the exemption with the county assessor on a form prescribed by the Department of Revenue

(2) Each year that property is exempt under ORS 284 210 (1) to (5), the assessor shall

(a) Enter on the assessment roll, as a notation, the assessed value of the property as if it were not exempt under ORS 284.210 (1) to (5)

(b) Enter on the assessment and tax roll, as a notation, the amount of additional taxes that would be due if the property was not exempt under ORS 284 210 (1) to (5)

(c) Indicate on the assessment and tax roll that the property is granted exemption under ORS 284 210 (1) to (5) and is subject to potential additional taxes as provided in ORS 284 250, by adding the notation "enterprise zone exemption (potential additional tax)" [1985 c 807 §13a]

**284.250 Disqualification of property for exemption; notice; effect; rules.** (1) If, prior to the expiration of the final assessment year set forth in ORS 284 210 (3) and (4), property granted exemption from taxation under ORS 284 210 (1) to (5) is sold, exchanged, transported or otherwise disposed of for use outside the enterprise zone, or if, prior to the expiration of such final assessment year, the qualified business firm closes or substantially curtails the operation of the trade or business in which such property is used, the owner shall, within 60 days, notify the assessor in writing. Upon receipt of the notice the assessor shall disqualify the property for the exemption for the following tax year and additional property taxes shall be imposed in an amount equal to the proportions indicated in paragraphs (a) to (e) of this subsection together with interest as provided in ORS 311 213. The proportion of property tax referred to in this subsection shall be

(a) 100 percent of the additional taxes calculated under ORS 284 240 if the property is disqualified during the fiscal year following the calendar year in which application is made,

(b) 80 percent of the additional taxes calculated under ORS 284 240 if the property is disqualified during the second fiscal year following the calendar year in which application is made,

(c) 60 percent of the additional taxes calculated under ORS 284 240 if the property is dis-

qualified during the third fiscal year following the calendar year in which application is made,

(d) 40 percent of the additional taxes calculated under ORS 284 240 if the property is disqualified during the fourth fiscal year following the calendar year in which application is made, or

(e) 20 percent of the additional taxes calculated under ORS 284 240 if the property is disqualified during the fifth fiscal year following the calendar year in which application is made

(2) If the owner fails to give the notice required by subsection (1) of this section, upon discovering the property no longer qualifies for the exemption due to a circumstance described in subsection (1) of this section the assessor shall

(a) Compute the amount of taxes, penalty and interest described in subsection (1) of this section as though notice had been given, and shall add to that amount an additional penalty equal to 20 percent of the total amount so computed, and

(b) Add the property to the tax roll without the exemption as if the notice had been given

(3) The amount determined to be due under subsection (1) or (2) of this section

(a) May be paid to the tax collector before completion of the next general property tax roll pursuant to ORS 311 370, and

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

(4) The assessor shall at all times be authorized to demand and receive reports by registered or certified mail from owners of property exempt under ORS 284 210 (1) to (5) as to the use of the same. If the owner shall fail, after 90 days' notice in writing by certified mail to comply with such demand, the assessor may immediately remove the exemption, give written notice to the granting authority of the removal and apply the penalties provided in this section

(5) The Department of Revenue of the State of Oregon shall make such rules consistent with this section, ORS 284 210 (1) to (5) and 284 240 as shall be necessary or desirable to permit its effective administration [1985 c 807 §13b]

**284.260 Short title.** ORS 284 110 to 284 260 shall be known and may be cited as the Oregon Enterprise Zone Act [1985 c 807 §1]

## INFRASTRUCTURE PROJECTS

**284.310 Definitions for ORS 284.310 to 284.530.** As used in ORS 284 310 to 284 530, unless the context requires otherwise

(1) "Division" means the Intergovernmental Relations Division of the Executive Department

(2) "Municipality" means a city, a county, a port incorporated under ORS 777 010 and 777 050, the Port of Portland created by ORS 778 010, a metropolitan service district organized under ORS chapter 268 or a domestic water supply district organized under ORS chapter 264

(3) "Infrastructure project" means

(a) A project for the construction of sewage treatment works, solid waste disposal sites, water supply works, roads, public transportation or other facilities that comprise the physical foundation for industrial and commercial activity

(b) A project, in cooperation with the Department of Transportation, for the acquisition, reconstruction, rehabilitation, operation and maintenance of an abandoned railroad line or railroad line that has been designated by the owner and operator thereof as subject to abandonment within a three-year period pursuant to federal law and regulations governing abandonment of common carrier railroad lines

(c) A project for the construction or improvement of facilities owned by any county fair located in a county having a population of less than 400,000 or owned by those special events described in ORS 462 280 (1)(e)(A) to (H)

(d) An urban center development project

(e) A project to improve the commercial value of timber located on state-owned lands

(4) "Public transportation" includes public depots, public parking, public docks, public wharves, railroads and airport facilities

(5) "Roads" includes

(a) Ways described as streets, highways, thoroughways or alleys,

(b) Road related structures that are in the right of way such as tunnels, culverts or similar structures, and

(c) Structures that provide for continuity of the right of way such as bridges

(6) "Sewage treatment works" includes all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage

(7) "Solid waste disposal site" has the meaning given to the term "disposal site" by ORS 459 005 (8)

(8) "Water supply works" includes all facilities necessary for tapping natural sources of domestic and industrial water, treating and protecting the quality of the water and transmitting it to the point of sale to any public or private

agency for domestic, municipal and industrial water supply service

(9) "Urban infrastructure projects" includes all those located in whole or in part in the urbanized portion of a metropolitan statistical area, as designated by the United States Census Bureau

(10) "Nonurban infrastructure projects" includes all those not located in whole or in part in the urbanized portion of a metropolitan statistical area [1985 c 776 §2]

**284.320 Legislative findings.** (1) The Legislative Assembly finds that the improvement, expansion and new construction of the state's sewage treatment works, water supply works, roads and public transportation provides the basic framework for continuing and expanding economic activity in this state, thereby providing jobs and economic opportunity for the people of Oregon

(2) Since municipalities in this state often suffer from a lack of available financing for such projects, it is the purpose of ORS 284 310 to 284 530 to provide financial assistance in order that they may construct, improve and repair those facilities that are essential for supporting continuing and expanded economic activity. It is the intent of the Legislative Assembly, by providing that assistance, to stimulate industrial growth and commercial enterprise and to promote employment opportunities in Oregon [1985 c 776 §1]

**284.330 Allowable project costs.** (1) For purposes of ORS 284 310 to 284 530, the total project costs of an infrastructure project do not include costs for preliminary planning or legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of the project. Such planning costs shall be borne in their entirety by the municipality

(2) The engineering and architectural reports, studies, surveys, designs, plans, working drawings and specifications necessary in the construction of the infrastructure project shall be eligible for financial assistance under ORS 284 310 to 284 530, including technical assistance grants as specified in ORS 284.460 (1)(d). Proposals for technical assistance grants shall be processed under ORS 284 340, 284 360 to 284 400, 284 420 and 284 440 in the same manner as other project proposals [1985 c 776 §2a]

**284.340 Criteria for project priority; Intergovernmental Relations Division as administrator.** (1) With the advice of the Spe-

cial Public Works Advisory Committee, the Intergovernmental Relations Division of the Executive Department shall adopt rules and policies for the administration of the Special Public Works Fund. Insofar as practicable, the division's rules shall provide that infrastructure projects that meet the following criteria receive priority for financial assistance

(a) Support projects that will increase the number of family wage jobs in this state

(b) Promote economic recovery in small cities heavily dependent on a single industry

(c) Emphasize development in underdeveloped rural areas of this state

(d) Utilize the educational resources available at institutions of higher education

(e) Support the development of the state's small businesses, especially businesses owned by women and members of minority groups

(f) Encourage the use of Oregon's human and natural resources in endeavors which harness Oregon's economic comparative advantages

(g) Encourage projects that assist businesses selling goods and services in markets for which national or international competition exists

(2)(a) The Intergovernmental Relations Division shall manage the Special Public Works Fund and any expenditures from its accounts and transfers between its accounts so as to retain not less than 26 percent of the initial value of amounts appropriated to the fund. The division may not reduce the value of the fund to less than 50 percent of the initial value of amounts appropriated to the fund unless the administrator of the division finds that

(A) The division has operated a loan program for not less than six months, and

(B) Insufficient approvable applications have been submitted to fully utilize available loan funds

(b) The division shall determine the value of the fund by summing the value of the fund's short term net assets and long term net assets. Short term assets and liabilities shall be valued at cost. Long term assets and liabilities shall be valued at their net present value using an interest rate of five percent

(c) The division shall quarterly certify the value of the fund to the State Treasurer and to the Legislative Committee on Trade and Economic Development

(d) If necessary to insure repayment of bonds issued under this Act, the Intergovernmental Relations Division is authorized to reduce the

value of the fund to less than the limit provided in paragraph (a) of this subsection if the division

(A) Finds that without such a reduction in fund value, bonds secured by the fund will be in default,

(B) Transfers all available funds in the grant and loan accounts to the debt service account, and

(C) Imposes a moratorium on all expenditures from the grant and loan accounts until the requirements of paragraph (a) of this subsection are met

(3) Not more than 100 percent of the total cost of any infrastructure project shall be financed from the Special Public Works Fund

(4)(a) The Intergovernmental Relations Division may, in a periodic competitive evaluation process, obligate during each year to specific projects not more than 75 percent of the moneys in the Special Public Works Fund

(b) The Intergovernmental Relations Division shall reserve not more than 25 percent of the moneys in the Special Public Works Fund for infrastructure projects related to specific proposed private development or expansion opportunities that were not available at the time of any preceding competitive evaluation. These funds may be transferred to the Economic Development Department for allocation. Expenditures under this paragraph shall not be subject to the limitations of subsection (2) of section 23, chapter 776, Oregon Laws 1985

(c) Any funds not expended from moneys reserved under paragraph (b) of this subsection shall be available for competitive allocation in the subsequent competitive allocation process

(5) The division may commit moneys in the Special Public Works Fund or reserve future income to the fund for dispersal in future years under ORS 284 400 (4). The division shall commit or reserve moneys under this subsection only after

(a) Allowing for contingencies, and

(b) Finding that there will be sufficient unobligated net income to the fund to make such future payments. Such a finding shall be based on financial plans which are consistent with the financial requirements of subsections (2) and (4) of this section

(6) In assisting local governments with infrastructure projects, the division shall cooperate to the maximum extent possible with other state agencies financing infrastructure projects, including but not limited to the Department of

Environmental Quality, the Water Resources Department and the Department of Transportation [1985 c 776 §4]

**284.350 Eligibility of certain municipal corporations.** Notwithstanding ORS 284 310 (2), a county service district established under ORS chapter 451, a mass transit district organized under ORS 267 010 to 267 390 and a transportation district organized under ORS 267 510 to 267 650 shall be considered a municipality for the purpose of receiving financial assistance under ORS 284 310 to 284 530 for an infrastructure project defined in ORS 284 310 (3)(b) [1985 c 776 §2b]

**284.360 Application for funds.** (1) Any municipality may file an application with the division to obtain financial assistance from the Special Public Works Fund. The application shall be filed in such manner and contain or be accompanied by such information as the division may require

(2) In addition to other requirements prescribed by the division, an application filed under this section shall

(a) Describe the nature and purposes of the proposed infrastructure project, including the need for the project and the reasons why the project is in the public interest

(b) Set forth or be accompanied by a feasibility study of the proposed infrastructure project and an estimate of the costs of construction

(c) State whether any moneys other than those in the Special Public Works Fund are proposed to be used for the infrastructure project and whether any other moneys are available or have been sought for the project [1985 c 776 §5]

**284.370 Review of feasibility study.** Upon receipt of an application filed as provided in ORS 284 360, the division shall determine whether the feasibility study set forth in or accompanying the application is satisfactory, and if the division determines that it is not satisfactory it may

(1) Reject the application,

(2) Require the municipality to submit additional information as may be necessary, or

(3) Make, with the agreement of the municipality, such revisions of the feasibility study as it considers necessary to make the plans for the proposed project satisfactory. [1985 c 776 §6]

**284.380 Application approval.** The division shall not approve financial assistance from the Special Public Works Fund for an infrastructure project proposed in an application

filed under ORS 284 360 unless, after investigation, the division finds that:

(1) The proposed infrastructure project is feasible, and adequate provision has been made for the repayment of any bonds or loans provided for the project,

(2) The proposed infrastructure project is situated in an area in which economic development is prevented or substantially restricted by a lack of adequate sewage treatment works, solid waste disposal sites, water supply works, roads, public transportation or other facilities that comprise the physical foundation for industrial and commercial activity,

(3) The proposed infrastructure project is situated in a city or county with a comprehensive land use plan that allows industrial and commercial development of a type and scale that is sufficient to repay the costs of the project,

(4) A high probability exists for industrial or commercial development, or both, of the properties served by the infrastructure project,

(5) The municipality has provided as part of the security for repayment of loans or bonds made available through ORS 284 310 to 284 530, provisions for payments from any owners of property specially benefited by the infrastructure project which are sufficient when considered with other security to assure repayment of bonds and loans made available through ORS 284 310 to 284 530,

(6) Moneys in the appropriate accounts of the Special Public Works Fund are or will be available for the infrastructure project,

(7) The municipality is willing and able to enter into a contract with the division for repayment as provided in ORS 284 390 (1)(a) to (e), and

(8) The proposed infrastructure project is consistent with rules adopted under ORS 284 340 [1985 c 776 §7]

**284.390 Contract with municipality.**

(1) If the division approves financial assistance from the Special Public Works Fund for an infrastructure project, the division, on behalf of the state, and the municipality may enter into a contract of not more than \$10 million, which shall set forth, among other matters

(a) An estimate of the reasonable cost of the infrastructure project

(b) An agreement by the municipality to proceed expeditiously with, and complete, the project in accordance with plans reviewed and approved by the division

(c) None of the financial assistance provided by the state shall be used for administrative purposes by the municipality

(d) A statement that the liability of the state under the contract is contingent upon the availability of moneys in the Special Public Works Fund for use in the infrastructure project.

(e) Such other provisions as the division considers necessary to insure expenditure of the moneys for the purposes set forth in the approved application

(2) When the division approves financial assistance under ORS 284.310 to 284 530 for an infrastructure project, the division shall pay moneys for the project from the Special Public Works Fund in accordance with the terms of the contract [1985 c 776 §§8, 9]

**284.400 Maximum amounts of grants; standards.** (1)(a) The maximum amount of any grant to a municipality made from the Special Public Works Grant Account under ORS 284 340 (4)(a) shall not exceed \$1 million

(b) The maximum amount of any grant to a municipality made from the Special Public Works Grant Account under ORS 284 340 (4)(b) shall not exceed \$4 million

(2) No grant to a municipality shall be made for a project in an amount that exceeds 85 percent of total project costs

(3) The division shall develop standards for determining the maximum proportion of any project which can be funded by grants. Such standards shall at a minimum provide grants equalling a larger percentage of total project costs for municipalities with greatest economic need.

(4) A grant contract under ORS 284 390 (1)(a) to (e) and this section may provide for grants on behalf of the municipality on an annual basis in the form of partial repayment to bondholders of amounts owed them. In such cases, the contract shall provide that moneys are or will be available in the Special Public Works Grant Account for such annual payments and for the transfer of moneys from the Special Public Works Grant Account to the Special Public Works Debt Service Account to make such payments [1985 c 776 §14]

**284.410 Conditions for loans or purchase of municipal bonds.** Any contract under ORS 284 390 (1)(a) to (e) that includes provisions for a loan of state moneys to a municipality or the purchase of a bond of a municipality by the state shall include

(1) An acknowledgment by the municipality that repayment of the loan is an obligation of the municipality.

(2) A plan for repayment by the municipality of moneys borrowed from the Special Public Works Fund for an infrastructure project and interest on those moneys at a rate specified in the contract. The repayment plan

(a) Shall provide for such evidence of debt assurance of, and security for, repayment by the municipality as is considered necessary by the division

(b) Shall set forth the allocation of special assessments or contractual responsibility among the owners of benefited properties for repayment to the municipality of the amount of the loan

(c) Shall provide for repayment during a period which shall not exceed the usable life of the proposed project or 25 years, whichever is less [1985 c 776 §12]

**284.420 Effect of failure to comply or default.** (1) If a municipality fails to comply with a contract entered into under ORS 284 310 to 284 530, the division may seek appropriate legal remedies to secure any repayment due the Special Public Works Fund. If any municipality defaults on payments due to the Special Public Works Fund under ORS 284 310 to 284 530, the State of Oregon may withhold any amounts otherwise due to the municipality to apply to the indebtedness

(2) Moneys withheld under subsection (1) of this section shall be deposited in the Special Public Works Fund and shall be used to repay any account in the fund from which funds were expended to pay obligations upon which the municipality defaulted [1985 c 776 §10]

**284.430 Information required if project financed from lottery proceeds.** Any economic development program financed with proceeds from the state lottery authorized by section 4, Article XV of the Oregon Constitution shall have displayed conspicuously on the site or as part of the program information specifying that the program is being financed by the state lottery [1985 c 776 §22]

**284.440 Special Public Works Fund; uses; advisory committee.** (1) There is created the Special Public Works Fund. All moneys credited to the Special Public Works Fund are appropriated continuously and shall be used for the purposes outlined in ORS 284 310 to 284 530. The Special Public Works Fund shall consist of the Special Public Works Loan Account, established by ORS 284 450, the Special Public Works Grant Account, established by ORS 284 460, the Special Public Works Debt Service Account, established by ORS 284 470 and the Special Pub-

lic Works Security Reserve Account, established by ORS 284 480

(2) Moneys in the Special Public Works Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293 701 to 293 776, 293 810 and 293 820 and the earnings from such investments shall be credited to the appropriate account in the Special Public Works Fund

(3) The Intergovernmental Relations Division of the Executive Department shall be the agency for the State of Oregon for the administration of the Special Public Works Fund

(4) There is created the Special Public Works Advisory Committee to assist and advise the Intergovernmental Relations Division in the administration of the Special Public Works Fund. The assistance and advice of the advisory committee shall consist of but not be limited to advice on rules and policies and general evaluation of the performance of the program. The advisory committee shall consist of local government officials, representatives of the banking community and other representatives of the private sector. The committee members shall receive compensation for their expenses in attending meetings [1985 c 776 §3]

**284.450 Special Public Works Loan Account; uses; sources.** (1) There is established in the Special Public Works Fund the Special Public Works Loan Account. All moneys in the Special Public Works Loan Account are continuously appropriated to the Intergovernmental Relations Division of the Executive Department for the following purposes

(a) Administrative expenses of the division in processing applications and investigating proposed infrastructure projects, not to exceed four percent of the value of loans made in that biennium

(b) Loans to municipalities under ORS 284 310 to 284 530

(c) Purchase of bonds issued by municipalities which coincide with the purposes and requirements of ORS 284 310 to 284 530

(d) Transfers to the Special Public Works Debt Service Account, the Special Public Works Grant Account and the Special Public Works Security Reserve Account

(2) The Special Public Works Loan Account shall consist of

(a) Moneys appropriated to the account by the Legislative Assembly

(b) Repayment of loans to municipalities made under ORS 284 310 to 284 530, including interest on such moneys

(c) Proceeds from the sale of bonds authorized under ORS 284 310 to 284 530

(d) Transfers from the Special Public Works Grant Account, the Special Public Works Debt Service Account and the Special Public Works Security Reserve Account

(e) Repayment of moneys, from any source, of moneys expended from the account to pay obligations upon which a municipality defaulted [1985 c 776 §11]

**284.460 Special Public Works Grant Account; uses; sources.** (1) There is established in the Special Public Works Fund the Special Public Works Grant Account. All moneys in the Special Public Works Grant Account are continuously appropriated to the Intergovernmental Relations Division of the Executive Department for the following purposes

(a) Administrative expenses of the division in processing applications and investigating proposed infrastructure projects, not to exceed four percent of the value of grants made in that biennium

(b) Grants to municipalities under ORS 284 310 to 284 530

(c) Transfers to the Special Public Works Debt Service Account, the Special Public Works Loan Account and the Special Public Works Security Reserve Account

(d) Technical assistance grants to municipalities of less than 5,000 residents of not more than \$10,000. No more than \$250,000 or one percent of the value of the fund, whichever is less, shall be expended on technical assistance grants

(2) The Special Public Works Grant Account shall consist of

(a) Moneys appropriated to the fund by the Legislative Assembly

(b) Moneys obtained from the interest earned on the investment of all moneys in the Special Public Works Fund

(c) Transfers from the Special Public Works Loan Account, the Special Public Works Debt Service Account and the Special Public Works Security Reserve Account

(d) Repayment of moneys, from any source, of moneys expended from the account to pay obligations upon which a municipality defaulted [1985 c 776 §13]

**284.470 Special Public Works Debt Service Account; uses; sources.** (1) There is established in the Special Public Works Fund the Special Public Works Debt Service Account. All moneys in the Special Public Works Debt Service

Account are continuously appropriated to the Intergovernmental Relations Division of the Executive Department for

(a) Payment of bonds as provided in contracts with municipalities under the terms of ORS 284 410

(b) Transfers to the Special Public Works Loan Account, the Special Public Works Grant Account and the Special Public Works Security Reserve Account. Such transfers shall be limited to moneys not necessary for the purposes outlined in paragraph (a) of this subsection

(c) The payment for insurance premiums for bonds issued under ORS 284 310 to 284 530

(2) The Special Public Works Debt Service Account shall consist of

(a) Moneys appropriated to the account by the Legislative Assembly

(b) Moneys transferred to the account from the Special Public Works Grant Account, the Special Public Works Loan Account and the Special Public Works Security Reserve Account

(c) Payments made in respect of infrastructure projects under loan agreements, leases or subleases which are dedicated to payments of bond principal, interest and redemption premium, if any

(d) Repayment of moneys, from any source, of moneys expended from the account to pay obligations upon which a municipality defaulted [1985 c 776 §15]

**284.480 Special Public Works Security Reserve Account; uses; sources.** (1) There is established in the Special Public Works Fund the Special Public Works Security Reserve Account. All moneys in the Special Public Works Security Reserve Account are continuously appropriated to the Intergovernmental Relations Division of the Executive Department for

(a) Payment of principal, interest and redemption premium, if any, on bonds sold under ORS 284 490 to 284 530 if a municipality defaults on its bond repayments to the Special Public Works Debt Service Account, and

(b) Transfers to the Special Public Works Loan Account, the Special Public Works Grant Account and the Special Public Works Debt Service Account. Such transfers shall be limited to moneys not necessary for the purposes outlined in paragraph (a) of this subsection

(2) The Special Public Works Security Reserve Account shall consist of

(a) Moneys that may be appropriated to the account by the Legislative Assembly

(b) Moneys transferred to the account from the Special Public Works Grant Account, the Special Public Works Loan Account and the Special Public Works Debt Service Account

(c) Repayment, from any source, of moneys expended under paragraph (a) of subsection (1) of this section [1985 c 776 §16]

**284.490 Standards for eligibility for revenue bond financing; rules.** (1) The Intergovernmental Relations Division of the Executive Department shall adopt by rule standards by which to determine the eligibility for revenue bond financing under ORS 284 490 to 284 530 of infrastructure projects that have qualified under ORS 284 340, 284.360 to 284 390 and 284 420

(2) Upon determining an infrastructure project eligible for revenue bond financing under ORS 284 490 to 284 530, the division shall forward the application to the State Treasurer, who shall determine whether to issue revenue bonds [1985 c 776 §17]

**284.500 Powers of division over revenue bond financing.** In addition to any other powers granted by law in relation to an infrastructure project, the division, acting through the State Treasurer or designee may

(1) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the moneys paid to the Special Public Works Debt Service Account, including interest on such moneys, and define and segregate such revenues or provide for the payment thereof to a trustee,

(2) 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, and

(3) Enter into and perform such contracts and agreements with municipalities as the division may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of infrastructure projects [1985 c 776 §18]

**284.510 Issuance of revenue bonds.** If the State Treasurer determines that revenue bonds should be issued

(1) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by moneys paid to the Special Public Works Debt Service Account including interest on such moneys, to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension

of infrastructure projects The bonds shall be issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance such revenue bonds

(2) 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 284 490 to 284 530 [1985 c 776 §19]

**284.520 Application of law to revenue bonds.** (1) ORS 280 360 to 280 380 and 280 390 apply to revenue bonds issued under ORS 284 490 to 284 530

(2) The proceeds of revenue bonds issued and sold under ORS 284 490 to 284 530 shall be deposited in the Special Public Works Loan Account and used for the payment of a loan to a municipality for an infrastructure project described in ORS 284 310 to 284 530 and for which project the revenue bonds were issued

(3) A loan made with money derived from the sale of revenue bonds under this section shall be made as other loans under ORS 284 340, 284 360 to 284 390, 284 410, 284 420 and 284 450 are made, except that the loan contract shall set forth a schedule of payments which shall not exceed the usable life of the contracted infrastructure project [1985 c 776 §20]

**284.530 Terms of revenue bonds.** (1) Revenue bonds issued under ORS 284 490 to 284 530

(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 moneys paid to the Special Public Works Debt Service Account, including interest on such moneys, under the provisions of ORS 284 490 to 284 530

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys paid to the Special Public Works Debt Service Account, including interest on such moneys, under the provisions of ORS 284 490 to 284 530 and those moneys in the Special Public Works Security Reserve Account, under the provisions of ORS 284 310 to 284 530

(c) Shall not exceed, for all bonds outstanding, a total value of \$100 million

(2) Each bond issued under ORS 284 490 to 284 530 shall recite in substance that the bond, including interest thereon, is payable from the revenue pledged to the payment thereof and, under the conditions specified in ORS 284 340 (2)(d), from the Special Public Works Security Reserve Account. 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 [1985 c 776 §21]

**OREGON RESOURCE AND TECHNOLOGY DEVELOPMENT CORPORATION**

**284.610 Definitions for ORS 284.610 to 284.710.** As used in ORS 284 610 to 284 710

(1) "Applied research" means those research activities occurring at educational institutions and in private enterprises, which have potential commercial application in key traded sector areas of special importance to the Oregon economy

(2) "Applied research fund" means the Oregon Resource and Technology Development Applied Research Fund established in ORS 284 690

(3) "Corporation" means the Oregon Resource and Technology Development Corporation

(4) "Educational institutions" means non-profit public and private community colleges, colleges and universities in the state

(5) "Enterprise" means a firm with its principal place of business in Oregon which is engaged or proposes to be engaged in this state in natural resource based or other manufacturing, research and development, or the provision of technology based services including computer software development and information and design industries

(6) "Innovation" means any new technology, product or process without regard to whether a patent has or could be granted

(7) "New technology" means the development through science or research of methods, processes and procedures, including but not limited to those involving the utilization of timber and timber by-products, fishery resources and agriculture including aquaculture and viticulture, for practical application in industrial and service situations

(8) "Person" means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state

(9) "Product" means any product, device, technique or process, which is or may be exploitable commercially. However, "product" does not refer to pure or basic research but shall apply to such products, devices, techniques or processes which have advanced beyond the theoretical stage and are in a prototype or practice stage

(10) "Qualified security" means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by the Oregon Constitution

(11) "Seed capital" means financing that is provided for the development, refinement and commercialization of a product, process or innovation, whether for the start-up of a new firm, the expansion of a young, small firm or the restructuring of a mature, small firm

(12) "Seed capital fund" means the Oregon Resource and Technology Development Seed Capital Fund established in ORS 284 680

(13) "Small business" means an enterprise engaged in manufacturing having 200 or fewer employees and all other business enterprises having 50 or fewer employees pursuant to ORS 280 910

(14) "Traded sector" means those Oregon enterprises that sell goods or services outside the state [1985 c 814 §3]

**284.620 Legislative findings.** The Legislative Assembly finds that

(1) There exists in the state a great and growing opportunity for cooperation between private enterprise and educational institutions in the areas of innovation, applied research and the transfer of new technologies between educational institutions and private enterprises

(2) Furthermore, there exists a lack of seed capital financing for the development of new products or processes by small innovative enterprises or new enterprises engaged in key traded-sector industries of special importance to the Oregon economy

(3) Encouraging these activities can lead to increased industrial and commercial develop-

ment to provide and maintain employment and revenues which are important functions to the state

(4) These activities can improve the pace at which existing industries innovate and grow, increasing opportunities for small and large enterprises alike and creating new traded-sector industries and services within the state, resulting in increased employment and public revenues

(5) These opportunities for innovation and growth lie particularly in those small enterprises engaged in natural resource and technology based traded-sector industries, which are increasingly recognized as the engines of new job creation within Oregon and the nation [1985 c 814 §1]

**284.630 Oregon Resource and Technology Development Corporation; board; appointment; qualifications; term; officers; meetings; compensation and expenses; quorum; executive committee; removal.** (1) The Oregon Resource and Technology Development Corporation is created as an independent, nonprofit, public corporation

(2) The corporation shall be governed by a board of 11 who shall be residents of this state. The board shall consist of the Governor, or designee, and 10 directors appointed by the Governor, subject to Senate confirmation, as follows

(a) Five directors shall be persons from the private sector who have demonstrated leadership, knowledge and experience in key traded sector industries of special importance to the Oregon economy especially those small enterprises which include, but are not limited to

(A) Existing resource based industries of agriculture, forestry, fisheries and metallurgy,

(B) Existing advanced technology industries of computer and instrument manufacturing, and information and design, and

(C) Emerging industries of biotechnology, biomedical sciences, aquaculture, materials sciences and optics,

(b) Three directors shall be engineers or scientists who have extensive experience in managing applied scientific and technological research at either educational institutions or in private enterprises in areas of special importance to the economy of Oregon and who are recognized by their peers for outstanding knowledge and leadership in their fields, and

(c) Two directors shall represent the private financial sector. One shall have experience in the area of high-risk venture investments, and the other shall have commercial banking experience

in an industry of special importance to the Oregon economy and both of whom are recognized by their peers for outstanding knowledge and leadership in their fields

(3) The Governor shall give consideration to geographical representation when making board appointments

(4) A director shall be appointed for a term running four years from July 1 of the year of appointment. A director shall hold office for the term of the appointment and until the successor shall have been appointed and confirmed. In the event of a vacancy, the vacancy shall be filled by the Governor in the manner provided for appointments for the remainder of the unexpired portion of the term

(5) In addition to the 11 directors, there shall be two nonvoting, ex officio directors, one each from the Oregon Senate and House of Representatives appointed by the President of the Senate and Speaker of the House of Representatives respectively. The ex officio directors shall serve from the date of their appointment until the opening day of the next regularly scheduled session of the Legislative Assembly. Ex officio directors may be reappointed and are subject to the provisions of subsection (9) of this section

(6) Members of the board of directors shall, in their dealings with enterprises that may receive financing through the corporation, declare any potential conflict of interest prior to taking any actions relating to that transaction in accordance with ORS 57.265

(7) The board of directors shall select a corporate president who is not a board member

(8) The board of directors shall hold all board meetings in Oregon

(9) Members of the board of directors are entitled to compensation and expenses as provided in ORS 292.495

(10) The Governor shall annually select from the membership one member as chair, one member as vice-chair and one member as secretary

(11) The board of directors shall meet at least once during each calendar quarter, and at such other times as may be provided in the rules of the corporation, upon call by the president, the chair or upon written request of a majority of the directors

(12) A majority of the board of directors shall be necessary to transact corporation business, and all actions of the directors shall be by a majority vote of the full number of corporate directors

(13) The directors shall establish an executive committee composed of the chair, vice-chair, secretary and two additional members chosen by the chair from the remaining directors. The executive committee, in intervals between board meetings, may transact any board business that has been delegated to the executive committee. A majority of the executive committee shall be necessary to transact business and all actions of the executive committee shall be by a majority vote of the committee.

(14) No member of the board of directors is eligible to serve more than two terms of office.

(15) A member of the board of directors may be removed by the Governor for cause, stated in writing, after a hearing thereon [1985 c 814 §4]

**284.640 Purpose of corporation.** (1) The purpose of the Oregon Resource and Technology Development Corporation is to foster innovation in existing industry and the development of new industry in key traded-sector areas of special importance to the Oregon economy, especially in those small enterprises including, but not limited to

(a) Existing resource based industries of agriculture, forestry, fisheries and metallurgy,

(b) Existing advanced technology industries of electronics, computer and instrument manufacturing, computer software and information and design, and

(c) Emerging industries of biotechnology, biomedical sciences, aquaculture, materials sciences and optics

(2) The corporation shall achieve the purpose stated in subsection (1) of this section by

(a) Engaging in seed capital financing for the development and implementation of innovations or new technologies for existing resource, technology based and emerging traded-sector industries,

(b) Awarding applied research matching grants to educational institutions and private enterprises in order to move innovation and applied research toward commercial application, and

(c) Providing managerial assistance and technical referral services to such small, new, emerging or mature traded-sector enterprises and encouraging educational institutions to establish technical information data bases and technology transfer offices which are easily accessible by both private and public sector organizations

(3) The corporation shall achieve the purposes of subsections (1) and (2) of this section by

investigating the potential for developing innovation and new or alternative products or processes which include, but are not limited to

(a) Crops that diversify the agricultural production base within the state and require additional, value-added manufacturing to refine the raw agricultural products. Such activities may include those on which research and pilot production has already begun as with rapeseed and meadow-foam,

(b) Products that use wood or wood by-products, or require new technology in designing, engineering and manufacturing wood components and structures. Such research activities would include evaluating wood as an architectural and engineering medium, and examining the manufacturing process used to harvest, mill and give final shape to wood, and

(c) Activities bearing directly on and contributing to establishing, enhancing or maintaining Oregon marine resource based economies. Such activities shall include research basic to the problems of marine resources in their broadest aspects, and investigations to develop and improve the contribution of marine resources to the coastal communities and enterprises of this state [1985 c 814 §2]

**284.650 Powers of corporation.** To carry out the purposes specified in ORS 284.640, the corporation shall have all the powers necessary to carry out its purposes, which include the power to

(1) Make, amend and repeal bylaws, rules and regulations for the management of its affairs,

(2) Adopt an official seal,

(3) Sue and be sued,

(4) Make contracts and execute all instruments necessary or convenient for carrying out its business,

(5) Acquire, own, hold, dispose of and encumber real or personal property of any nature, both tangible and intangible, of any nature or any interest therein,

(6) Enter into agreements or other transactions with any federal, state, county or municipal agency and with any individual, corporation, enterprise, association or any other entity involving applied research and technology,

(7) Acquire real property or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the corporation has an interest,

(8) Sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant,

(9) Invest any funds appropriated by the state and held in reserve in funds not required for immediate disbursement, in such investments that may be lawful for fiduciaries in this state, and invest funds received from gifts, grants, donations and other operations of the corporation in such investments as would be lawful for a private corporation having purposes similar to the corporation,

(10) Borrow money and give guaranties, provided that the indebtedness and other obligations of the corporation shall be payable solely out of its own resources, and shall not constitute a pledge of the full faith and credit of the state or any of its revenues,

(11) Appoint officers, consultants, agents and advisors, and prescribe their duties,

(12) Appear in its own behalf before boards, commissions, departments or other agencies of municipal, county or state government or Federal Government,

(13) Procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable,

(14) Consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the fulfillment of the purposes of ORS 284 610 to 284 710, to the modifications, with respect to the rate of interest, time payment or of any instalment, of principal and interest or any terms of any contract or agreement of any kind to which the corporation is a party,

(15) Accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the purposes specified in ORS 284 610 to 284 710, in accordance with the terms and conditions of any such grant. Receipt of each such donation or grant shall be detailed in the corporation's annual report. Such report shall include the donor or lender's identity, the nature of the transaction, and any conditions,

(16) Trade, buy or sell qualified securities,

(17) Finance, conduct or cooperate in the financing or conducting of scientific, tech-

nological, business, financial or other investigations which are related to or likely to lead to business and economic development, involving natural resources, innovation, applied research and new technology, by making and entering into contracts or other appropriate arrangements, including the provisions of grants, loans and other forms of assistance,

(18) Solicit, study and assist in the preparation of business plans and proposals of new or established resource and technologically oriented enterprises, particularly in those traded-sector areas of special importance to the Oregon economy,

(19) Prepare, publish and distribute, with or without charge as the corporation may determine, such technological studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for confidentiality of the client proprietary information and encourage educational institutions to develop and disseminate similar materials,

(20) Organize, conduct, sponsor or cooperate with, and assist both the private sector and educational institutions in the conduct of, special institutes, conferences, demonstrations and studies relating to the stimulation and formulation of innovation, applied science and technologically oriented enterprises and studies relating to the formulation of resource and technologically oriented enterprises and industry endeavors,

(21) Provide and pay for such advisory services and technical assistance that may be necessary or desirable to carry out the purposes of ORS 284 610 to 284 710,

(22) Own, possess and take license in, patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the corporation in a private enterprise or when the corporation finances a product developed by a private enterprise,

(23) Negotiate royalty payments to the corporation on patents and licenses for innovations or inventions arising in the course of research sponsored by the corporation at educational institutions within the Oregon State System of Higher Education. Such negotiated royalty arrangements should reflect an appropriate sharing of legal risk as well as financial return between the corporation and educational institution. Such patents and licenses shall be in keeping with the patent policies of the State Board of Higher Education,

(24) Exercise any other powers necessary for the operation and functioning of the corporation within the purposes authorized in ORS 284 610 to 284 710,

(25) Participate with any state agency or educational institution in developing specific programs and goals to assist in the development of industrial innovation, applied research and new technology in those traded-sector areas of special importance to the Oregon economy and monitor performance,

(26) Cooperate with the Economic Development Department and the Economic Development Commission's Resource and Technology Subcommittee regarding financial assistance programs targeted to small enterprises engaged in key traded-sector industries of special importance to the Oregon economy, and

(27) Provide resource based, scientific and technological data and information required by the Governor, the Legislative Assembly, or its committees, and to state agencies, educational institutions and cities, counties and school districts and to private citizens and groups, within the limitations of the resources available to the corporation. This service shall be in addition to any services currently provided by any educational institution, committee or other organization [1985 c 814 §6]

**284.660 Additional powers and duties of corporation.** (1) The corporation shall have such powers and duties as may be delegated to or imposed upon it from time to time by the Legislative Assembly. The corporation shall publish an annual report which shall include an audit by an independent third party, dated June 30, and present the report to the Governor and Legislative Assembly, setting forth in detail the operations and transactions conducted by it pursuant to ORS 284 610 to 284 710 or to other legislation. The corporation shall distribute its annual report by such means that will make it widely available to those innovative enterprises in traded sectors of special importance to Oregon's economy

(2) The corporation shall be subject to a fiscal audit by the Division of Audits of the office of Secretary of State

(3) The corporation shall be exempt from all franchise, corporate business and income taxes levied by the state. However, ORS 284 610 to 284 710 is not intended to exempt from any such taxes, or from any taxes levied in connection with the manufacture or sale of any products or processes which are the subject of any agreement made by the corporation, or any person entering into any agreement with the corporation [1985 c 814 §6a]

**Note** Section 7, chapter 814, Oregon Laws 1985, provides

**Sec. 7** (1) Seven years after the effective date of this Act [July 15, 1985], a special review panel shall be convened to perform a financial and program audit of the corporation. The panel shall consist of the corporation chairperson and 12 members, who are not members of the board of directors, as follows

(a) Six chosen by the Governor, of whom

(A) Two shall be entrepreneurs or representatives of the business community,

(B) Two shall be scientists or engineers from either educational institutions or private enterprise, and

(C) Two shall be representatives of the private financial community,

(b) Three chosen by the President of the Senate, of whom

(A) One shall be an entrepreneur or representative of the business community,

(B) One shall be a scientist or engineer from either an educational institution or private enterprise, and

(C) One shall be a representative of the private financial community, and

(c) Three chosen by the Speaker of the House of Representatives, of whom

(A) One shall be an entrepreneur or representative of the business community,

(B) One shall be a scientist or engineer from either educational institution or private enterprise, and

(C) One shall be a representative of the private financial community

(2) All panel members shall be recognized by their peers for outstanding knowledge and leadership and have particular experience with those small, traded-sector enterprises of special importance to the Oregon economy

(3) The panel will have six months to review the corporation's investments, grants and activities including

(a) A financial performance analysis of seed capital fund investments,

(b) An economic and fiscal impact, and

(c) The extent to which the corporation employed its powers and the seed capital, applied research and clearinghouse functions to carry out its purpose and to address the opportunities found by the Legislative Assembly to require its creation

(4) Based on the panel's findings, it will recommend to the Sixty-seventh Legislative Assembly one of the following actions

(a) Continue the corporation in its statutory form,

(b) Continue the corporation, but with modifications recommended by the committee, or

(c) Dissolve the corporation with recommendations on how to dispose its assets and liabilities

**284.670 Duties of president; salary.** (1) The president shall be the chief executive officer

of the corporation who shall serve at the pleasure of the board. The president's salary shall be commensurate with the responsibilities of the position based on a national standard for similar positions. The president shall direct and supervise administrative affairs and the general management of the corporation.

(2) The president

(a) May employ and terminate such other officers and employees as designated by the board of directors and who shall be members of the unclassified service as provided for in ORS 240.205,

(b) Shall attend board meetings,

(c) Shall keep a record of all proceedings and maintain and be custodian of all financial and operational records, documents and papers filed with the corporation and of the minute book of the corporation,

(d) Shall insure that any applications, records, forms or other documents, including computer software, made available to the corporation under ORS 284.610 to 284.710 are treated as proprietary and confidential information and shall be used only for official corporation business,

(e) Shall cooperate with the Economic Development Department and the Economic Development Commission by referring to commission staff those seed-capital proposals that may be better suited for financing offered by the state's existing business loan programs and request from commission staff inquiries for state financial assistance that may be appropriate seed-capital projects, and

(f) Shall, before accepting any applications from an enterprise for seed capital funds or any requests for applied research grants, within six to nine months after the board of directors have been confirmed by the Senate, prepare a business plan that shall be approved by the board and submitted to the Governor and Legislative Assembly [1985 c 814 §5]

**284.680 Oregon Resource and Technology Development Seed Capital Fund; uses.** (1) There is created the Oregon Resource and Technology Development Seed Capital Fund, separate and distinct from the General Fund, to which shall be credited any state funds specifically so designated. The corporation may credit the fund with such unrestricted appropriations, gifts, donations or grants from any source, with payments on loans made from the fund.

(2) The corporation may use the Oregon Resource and Technology Development Seed Capital Fund as follows

(a) To carry out the purposes of ORS 284.610 to 284.710 through investments in qualified securities and through the forms of financial assistance authorized by ORS 284.610 to 284.710, including

(A) Loans,

(B) Leaseholds,

(C) Management or consultant service agreements,

(D) Loans with warrants attached that are beneficially owned by the corporation,

(E) Loans with warrants attached that are beneficially owned by a party other than the corporation, and

(F) Any other contractual arrangement in which the corporation is providing scientific and technological services to any federal, state, county or municipal agency, or to any individual, corporation, enterprise, association or any other entity involving science and technology. The corporation, in connection with the provision of any form of financial assistance, may enter into royalty agreements with an enterprise.

(b) To pay all or a portion of the corporation's operating expenses from revenues generated by seed capital fund investments, which shall be an amount sufficient to allow the corporation to undertake and efficiently manage its responsibilities.

(c) To invest in such other investments as are lawful for Oregon fiduciaries.

(3) The corporation may use the Oregon Resource and Technology Development Seed Capital Fund to purchase qualified securities issued by enterprises as a part of a resource and technology project for the purpose of raising the initial capital for such projects subject to the conditions set forth in this section.

(4) The corporation may use the fund to make low-interest or zero-interest loans to business incubator facilities in exchange for royalties from future gross sales generated by enterprises created in the incubator.

(5) The corporation shall purchase qualified securities issued by an enterprise as a part of a resource and technology project only after

(a) Receipt of an application from the enterprise which contains

(A) A business plan including a description of the enterprise and its management, product and market,

(B) A statement of the amount, timing and projected use of the capital required;

(C) A statement of the potential economic impact of the enterprise, including the number, location and types of jobs expected to be created, and

(D) Such other information as the corporation board of directors shall request

(b) Approval of the investment by the corporation may be made after the board of directors finds, based upon the application submitted by the enterprise and such additional investigation as the staff of the corporation shall make and incorporate in its minutes, that

(A) The proceeds of the investment will be used only to cover the seed capital needs of the enterprise except as authorized by this section,

(B) The enterprise has a reasonable chance of success,

(C) The corporation's participation is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets, or because funding has been offered on terms that would substantially hinder the success of the enterprise,

(D) The enterprise has the reasonable potential to create a substantial amount of primary employment within the state,

(E) The entrepreneur and other founders of the enterprise have already made or are contractually committed to make a substantial financial and time commitment to the enterprise,

(F) The securities to be purchased are qualified securities,

(G) There is a reasonable possibility that the corporation will recoup at least its initial investment, and

(H) Binding commitments have been made to the corporation by the enterprise for adequate reporting of financial data to the corporation, which shall include a requirement for an annual report, or if required by the board, an annual audit of the financial and operational records of the enterprise, and for such control on the part of the corporation as the board of directors shall consider prudent over the management of the enterprise, so as to protect the investment of the corporation, including in the discretion of the board and without limitation, right of access to financial and other records of the enterprise

(6) In carrying out its functions under this section, the board of directors is encouraged to create an investment committee to assist in evaluating potential investments in qualified securities. The membership of this investment committee may include both directors and staff

members of the corporation, and other persons drawn from sources other than the corporation who meet standards similar to those applying to the board of directors and who are recognized by their peers for outstanding knowledge and leadership in their fields, all of whom shall serve at the pleasure of the board. Members of the investment committee shall serve without compensation for their membership on such committee, but shall be reimbursed for any reasonable expenses incurred by them in the performance of duties assigned by the board

(7) The corporation shall not make investments in qualified securities issued by enterprises in excess of the smaller of the following limits

(a) Not more than \$250,000 shall be invested in the qualified securities of any one enterprise,

(b) Not more than the amount necessary to own more than 49 percent of qualified securities in any one enterprise at the time of the purchase by the corporation, after giving effect to the conversion of all outstanding convertible qualified securities of the enterprise except that in the event of severe financial difficulty of the enterprise, threatening, in the judgment of the board of directors, the investment of the corporation therein, a greater percentage of such securities may be owned by the corporation, or

(c) Not more than 20 percent of the fund available for investment shall be invested in any one enterprise [1985 c 814 §8]

**284.690 Oregon Resource and Technology Development Applied Research Fund; uses.** (1) The Oregon Resource and Technology Development Applied Research Fund is created, separate and distinct from the General Fund, to which shall be credited any state funds specifically so designated

(2) The corporation may use the Oregon Resource and Technology Development Applied Research Fund to carry out the purposes of ORS 284 610 to 284 710 by awarding competitive applied research grants to educational institutions and private enterprises in key traded-sector areas of special importance to the Oregon economy

(3) The board shall award grants only after

(a) Developing, adopting and publishing the criteria it shall use when evaluating research proposals, and

(b) Reviewing applied research proposals which present

(A) Documentation, if the proposal is from an educational institution, that not less than 50

percent of the total cost of the proposed project will be provided by sources other than the corporation. Equipment may be considered as part of the matching funds for the research, but must be accompanied by a statement

(i) That the educational institution has received the machinery or equipment and it is state of the art, and either

(ii) Verifying that the equipment or machinery is donated and has only been used in testing to insure quality control, or used by a wholesaler or retailer for demonstration purposes only, or

(iii) Detailing the price paid by the educational institution, with an invoice showing the amount paid for the equipment,

(B) Documentation, if the proposal is from a private enterprise, that not less than 50 percent of the total cost of the proposed project will be provided by sources other than the corporation or through in-kind services provided through the private enterprise as evaluated by the board or review committee,

(C) A description of the future commercial application and the industrial sectors that will likely benefit by the applied research project and the potential for job creation,

(D) An itemized research budget, time line and research methodology, and

(E) Other information that may be required by the board

(4) The board shall approve such applied research proposals after the board of directors finds, based upon the proposal submitted and such additional investigation as the staff of the corporation shall make and incorporate in its minutes, that

(a) The proposed applied research project will expand that field's technological base within the state,

(b) The project will enhance employment opportunities within Oregon, and

(c) The project is technically sound and will produce a measurable result

(5) In carrying out its functions under this section, the board of directors is encouraged to create an applied research committee to assist in evaluating potential applied research projects. The membership of this applied research committee may include both directors and staff members of the corporation, and other persons drawn from sources other than the corporation who meet standards similar to those applying to the board of directors and who are recognized by

their peers for outstanding knowledge and leadership in their fields

(6) Any commercialized research that results from a corporation applied research grant shall be subject to the provisions of ORS 284 650 (22) and (23) [1985 c 814 §9]

**284.700 Managerial assistance and technical referral services.** (1) The Oregon Resource and Technology Development Corporation shall establish a clearinghouse to deliver managerial assistance and technical referral services, particularly to small, new, emerging or mature traded sector enterprises and shall encourage educational institutions to establish technical information data bases and technology transfer offices which are easily accessible by both private and public sector organizations

(2) The corporation shall provide to private enterprises and individuals services which include, but are not limited to

(a) Disseminating such research and technical information as is available to the corporation,

(b) Referring clients to researchers or laboratories for the purpose of testing and evaluating new products, processes or innovations,

(c) Assisting persons developing innovations or new technology in locating enterprises or entrepreneurs that may be interested in applying such innovations or new technologies, and

(d) Providing managerial assistance to enterprises requesting such assistance, but particularly to those small enterprises in key traded sectors of special importance to the Oregon economy

(3) The corporation shall encourage business enterprises to use such technical support services as provided by educational institutions and especially the state's small business development centers [1985 c 814 §10]

**284.710 Cooperation in research and technological development services.** The corporation shall work cooperatively with existing organizations and agencies that provide research and technological development services, including, but not limited to

(1) Those activities sponsored by the state's educational institutions, particularly the institutions within the State System of Higher Education, and

(2) Such other private profit or not-for-profit initiatives as may apply to this section [1985 c 814 §11]

**CHAPTER 285**

**[Reserved for expansion]**

