

Chapter 284

1987 REPLACEMENT PART

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CROSS REFERENCES

Cities, generally, Ch. 221
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Capitol Planning Commission, 276.030
Department of Geology and Mineral Resources, 516.020
Department of Transportation, 184.615
Director of Commerce, 184.540
Division of State Lands, 273.041
Economic Development Commission, 184.006
Energy facility siting, Ch. 469
Environmental Quality Commission, 468.010
Executive Department, 184.305
Health Division, Department of Human Resources, 184.830
Land Conservation and Development Commission, 197.005 to 197.465, 197.610 to 197.650
Marine Board, 488.825
Real Estate Agency, 696.375
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REGIONAL ECONOMIC DEVELOPMENT

284.010 Definitions for ORS 284.010 to 284.060. As used in ORS 284.010 to 284.045 and 284.060, unless the context requires otherwise:

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

(2) "Region" means a county or groups of counties that join together to develop and implement an economic strategy.

(3) "Regional strategy" is an economic development plan to build or enlarge a principal economic activity selected by the region and its citizens. [1987 c.115 §2]

284.015 Legislative finding; purpose.

(1) The Legislative Assembly finds that regional strategies are key to the state's economic revitalization and that to be effective regional strategies must have the coordinated support of available resources.

(2) The Legislative Assembly declares that the purpose of ORS 284.010 to 284.045 and 284.060 is:

(a) To encourage the development of strategies that address the economic problems of each region of the state;

(b) To effectively utilize available resources through a regional strategies program; and

(c) To coordinate private and public resources to support economic development. [1987 c.115 §3]

284.020 Standards for regional economic strategies; criteria; regions. (1) Not later than 60 days after May 13, 1987, by rule, the department shall adopt standards for regional economic development strategies.

(2) The standards shall provide that the strategies are approved in accordance with criteria reflecting the economic benefits to the state. Each strategy must at a minimum set forth in measurable terms the extent to which the strategy will:

(a) Build or enlarge economically viable industries, with reasonable long-term growth prospects, including opportunities for innovative new industries;

(b) Result in a net benefit to the state in the long term and not require continuing state subsidies;

(c) Utilize existing public and private assets, including infrastructure, human resources and plant and equipment;

(d) Improve the conditions of the economically disadvantaged and increase the number of family wage jobs;

(e) Harness Oregon's comparative advantage with emphasis on the growth and development of existing, in-state businesses, especially small businesses;

(f) Direct assistance primarily to strategies that assist businesses selling goods and services in markets for which national or international competition exists;

(g) Result in the economic revitalization of small cities and underdeveloped urban and rural areas; and

(h) Assure that public investments to implement a strategy are matched, to the maximum extent possible, by the contribution of private financial and other resources.

(3) The department shall expedite and facilitate the definition of regions, based on historical, cultural and economic links among counties by recommending potential groupings of counties to form regions. [1987 c.115 §4]

284.025 Regional strategy content.

Regional economic development strategies shall serve as a basis for state financial assistance to projects to aid a regional economy. Each county or group of counties that form a region shall submit a regional strategy which at a minimum shall include the following elements:

(1) An identification of the principal industry or economic activity that the region is seeking to stimulate with its regional strategy;

(2) An analysis of the unique or significant resources that provide the foundation for the strategy;

(3) An evaluation of alternative resources and alternative strategies for the region;

(4) An analysis of barriers to development of the selected economic activity in the region and an identification of the means to overcome those barriers;

(5) A list of actions to implement the regional strategy, including actions by:

(a) Local governments;

(b) The private sector;

(c) State government; and

(d) Federal Government;

(6) A prioritized list of activities to be undertaken or funded by the state from lottery proceeds and other sources;

(7) A plan for involvement of disadvantaged and minority groups in the regional strategies and

an identification of job training and employment practices to benefit the economically disadvantaged including but not limited to, affirmative action goals; and

(8) A description of the number and types of jobs created, investments made and other measurable indications of economic progress as set forth in ORS 284.020. [1987 c.115 §5]

284.030 Adoption of regional strategy; public comment; notice; hearing. (1) The governing body of each county of this state shall be responsible for the submission of a regional strategy as provided in ORS 284.025. The governing body of a county may, by ordinance, delegate its responsibility under this section to another body. Wherever possible, the governing bodies of counties shall work to form multicounty regional strategies.

(2) Individually or in concert with the governing bodies of other counties, the governing body of each county shall solicit public comment and involvement in the development of ideas and suggestions for regional strategies. Notwithstanding subsection (1) of this section, after giving appropriate notice, each county governing body shall at least once hold a public hearing to receive suggestions.

(3) Individually or in concert with the governing bodies of other counties and after giving appropriate public notice not less than two weeks prior, the governing body of each county or the body designated to prepare the regional strategy shall hold a public hearing in each county in the region prior to a vote to recommend to the Governor the regional strategy described in ORS 284.025. [1987 c 115 §6]

284.035 Governor to designate region and strategy; modification; coordination with other economic development strategies. (1) After considering the recommendations submitted under ORS 284.030, the Governor may designate a region and adopt a proposed regional strategy or return the strategy to the affected counties for modification.

(2) The department shall coordinate adopted regional strategies with existing state and local economic development efforts to support a state strategy for economic development.

(3) The department shall discourage competition among regions for existing Oregon businesses and economic activity. [1987 c 115 §7]

284.040 All counties to be included in regions; limit on subsequent funding. (1) In carrying out the provisions of ORS 284.010 to 284.045 and 284.060, the department shall work

to assure that all counties are included in a region with an adopted strategy and that each regional strategy is considered for implementation not later than July 1, 1989.

(2) A region shall not be entitled to funding under ORS 284.010 to 284.045 and 284.060 in excess of the amount specified in the regional strategy adopted by the Governor prior to the time that each other region of the state has received initial funding for the priority activities within its approved strategy. [1987 c 115 §8]

284.045 Consultation with Legislative Committee on Trade and Economic Development. The department shall consult with the Legislative Committee on Trade and Economic Development on the designation of regions, the adoption of regional strategies, the expenditure of funds on behalf of such strategies and the accomplishments of such strategies. [1987 c.115 §9]

284.050 Regional Strategies Fund. (1) There is created a Regional Strategies Fund to consist of all moneys credited thereto, including moneys from the Executive Department Economic Development Fund, and all interest earned on the Regional Strategies Fund. The fund is continuously appropriated to the Economic Development Department to be used for grants to implement ORS 284.010 to 284.060, 461.710 and 461.720.

(2) The fund shall not be used to pay administrative expenses of the department, to retire any debt or to reimburse any person or municipality for expenditures made or expenses incurred prior to the adoption of a regional strategy. [1987 c 506 §24]

284.055 Strategic Reserve Fund. (1) There is created a Strategic Reserve Fund to consist of all moneys credited thereto, including moneys from the Executive Department Economic Development Fund, and all interest earned on the Strategic Reserve Fund. The fund is continuously appropriated to the Economic Development Department to be used to implement the state-wide strategies under ORS 284.010 to 284.045 and 284.060.

(2) The fund shall not be used to pay administrative expenses of the department, to retire any debt or to reimburse any person or agency for expenditures made or expenses incurred prior to the adoption of the state-wide strategy as provided in subsection (3) of this section.

(3) After September 1, 1987, no money shall be disbursed from the Strategic Reserve Fund until the department adopts and submits to the Legislative Assembly a strategy for expenditure

of such funds. The department is directed in the preparation of such a strategy or strategies to place particular emphasis on developing cost-effective, long-term policies to assist the creation, expansion and preservation of Oregon's principal traded sector industries, including but not limited to agriculture, forest products, electronics and other diversified manufacturing. [1987 c 506 §25]

284.060 Short title. ORS 284.010 to 284.045 and 284.060 shall be known as the Regional Economic Development Act. [1987 c.115 §1]

EMPLOYEE OWNERSHIP OPPORTUNITY

284.075 Definitions for ORS 284.075 to 284.095. As used in ORS 284.075 to 284.095:

(1) "Employee-owned enterprise" means a business enterprise which meets the following conditions:

(a) Is organized as a cooperative corporation formed pursuant to ORS chapter 62 or a stock ownership plan formed pursuant to section 4975(e)(7) of the Internal Revenue Code of 1986, as amended (26 U.S.C.S. §4975(e)(7));

(b) At least a majority of the employees is vested with stock in the enterprise and all employees who are vested with stock in the enterprise are entitled to vote;

(c) A majority of the employees owns a majority of the shares and shares are voted in such a manner that the vote of the majority of the employees controls the vote of a majority of shares;

(d) Voting rights on corporate matters for shares held in trust for the employees shall pass through to those employees at least to the extent required by the pass through voting requirements of section 409A(e) of the Internal Revenue Code of 1986, as amended;

(e) Voting rights of vested employees on corporate matters shall include merger, consolidation, recapitalization, reclassification, liquidation, dissolution or sale; and

(f) At least a majority of the members of the board of directors is elected by the employees of the enterprise.

(2) "Employee ownership group" means a group which may include a corporation, labor organization or other groups of persons voluntarily affiliated for the purpose of actively engaging in an effort to establish an employee-owned enterprise. [1987 c 677 §2].

284.080 Policy. It is the policy of this state to encourage the formation of employee-owned

enterprises in order to stabilize local economies, to anchor business activity by increasing and broadening community investments, to increase productivity and to encourage new capital formation through employe ownership. [1987 c.677 §3]

284.085 Employee-owned enterprises eligible for business assistance programs and grants from Economic Stabilization and Conversion Fund. (1) Any business assistance program operated by the state or any political subdivision in this state shall by rule specifically include employe-owned enterprises within the scope of its business assistance activities. Employe-owned enterprises shall not be denied assistance or service available through any business assistance program receiving state moneys solely because the enterprise is employe-owned.

(2) An employe-owned enterprise or employe ownership group as defined in ORS 284.075 shall be considered eligible for grants or technical assistance from the Economic Stabilization and Conversion Fund created under ORS 184.225. The Economic Development Commission may apply any or all of the fund to the purposes of ORS 284.075 to 284.090. [1987 c 677 §§4, 7]

284.090 Duties of department. The Economic Development Department shall accomplish the following purposes pursuant to ORS 59.025, 62.765 to 62.792 and 284.075 to 284.100:

(1)(a) Compile, organize and make available to the public a library of resources on the subject of employe ownership.

(b) Research the role of employe ownership in successful economic development programs of other states.

(c) Provide public education on the beneficial aspects of employe-owned enterprises.

(2) Conduct or contract for applied research projects related to innovative utilization of employe ownership for local economic development and may contract with qualified individuals or organizations to accomplish this section.

(3) Conduct seminars, workshops and conferences to increase awareness of the benefits found to be common to employe-owned enterprises, especially in professional, private and public sectors important to economic development and business assistance. At least one such seminar shall be held for public officials dealing with economic development or business assistance programs.

(4) Provide technical assistance on the establishment and successful management of employe-owned enterprises. [1987 c.677 §5]

Note: Section 6, chapter 677, Oregon Laws 1987, provides:

Sec. 6. The Economic Development Department shall issue a special report, separate and distinct from other reports, to the Sixty-fifth Legislative Assembly, to include the following.

(1) Steps the department has taken to encourage the formation and development of employe-owned enterprises

(2) Recommendations for future legislative or executive action to utilize more effectively employe-owned enterprises to stabilize local economies [1987 c 677 §6]

284.095 Application for demonstration on unemployment compensation payable for self-employment. The Employment Division shall pursue application with appropriate federal agencies to qualify this state as a pilot state for demonstration programs related to provision of unemployment compensation to individuals for the purpose of self-employment, including employe ownership of an employe-owned enterprise to the extent allowable under federal law. [1987 c.677 §8]

284.100 Short title. ORS 59.025, 284.075 to 284.100 shall be referred to as the "Employe Ownership Opportunity Act." [1987 c.677 §1]

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) "Modernization" means making substantial corrective changes to an existing building with curable functional obsolescence.

(6) "Nonurban enterprise zone" means an area located outside an urbanized portion of a 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.

(7) "Primarily nonretail" means at least 75 percent of the business firm's gross receipts within the zone are not attributable to sales of merchandise or services, excluding hotels or

motels, to the general public for personal or household consumption.

(8) "Primarily retail" means at least 75 percent of the business firm's gross receipts within the zone are attributable to sales of merchandise or services, excluding hotels or motels, to the general public for personal or household consumption.

(9) "Qualified business firm" means a business firm satisfying the requirements of ORS 284.220 (1) to (8).

(10) "Remodeling" means making substantial corrective changes to an existing building with incurable functional obsolescence.

(11) "Renovation" means making substantial changes to an existing structure or building so as to change the basic nature of the building.

(12) "Urban enterprise zone" means an area located in an urbanized portion of a 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. [1985 c 807 §3, 1987 c 769 §1]

284.120 "Qualified property" defined.

(1) For the purposes of ORS 284.210 (1) to (4), 284.240 and 284.250, "qualified property" includes:

(a) New buildings or structures;

(b) Additions to existing buildings or structures;

(c) Renovated, remodeled or modernized buildings or structures if the renovation, remodeling or modernization increases the true cash value of the building or structure by 40 percent or more over the true cash value of the building or structure assessed by the county assessor or the Department of Revenue on the January 1 assessment date prior to the undertaking of such changes;

(d) Any increase in land value due to site preparation, if such site preparation is necessary for, and is undertaken within six months of the ensuing new construction;

(e) Newly installed machinery and equipment that is or will be installed in or affixed to property qualified for exemption under paragraphs (a) and (b) of this subsection; or

(f) New equipment and machinery affixed to or located in property owned or leased by a qualified business.

(2) For purposes of subsection (1) of this section, qualified personal property shall be a new single-item piece of machinery, excluding self-propelling motorized vehicles, with a minimum true cash value of \$50,000 in the first assessment year or a new single-item piece of equipment or machinery used exclusively for producing tangible goods with a minimum true cash value of \$1,000.

(3) For the purposes of the tax exemption allowed under ORS 284.210 (1) to (4) the amount of exemption for renovating, remodeling or modernizing buildings or structures allowed under ORS 284.210 (4)(a) shall be determined based on the amount of the investment specifically and directly applicable to the costs of renovation, remodeling and modernization, as defined in ORS 284.110. The amount of exemption for renovating, remodeling or modernizing buildings or structures allowed under ORS 284.210 (4)(b) to (e) shall be determined based on the amount of exemption in the first assessment year and subject to annual adjustment in step with any rate of adjustment to the value of the buildings or structures as assessed annually by the county assessor or the Department of Revenue. The amount of exemption shall not reduce the assessed value of the buildings or structures below zero.

(4) For the purposes of the tax exemption allowed under ORS 284.210 (1) to (4), the value of any increase in land value shall be any positive amount obtained by subtracting the true cash value of the land prior to site preparation from the true cash value of the land after site preparation. [1985 c.807 §13c; 1987 c.769 §2]

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 the unincorporated territory of 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 one or more counties may apply to the director for designation of an area situated partly within each city and partly in unincorporated territory within each 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 employees 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.

(10) 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; 1987 c 769 §3]

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 nec-

essary 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. A zone whose designation has expired can reapply, provided it meets the requirements of ORS 284.180, 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, provided it meets the requirements of ORS 284.180. [1985 c 807 §6, 1987 c.769 §4]

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 Standards for designation in metropolitan statistical area. (1) If the area is located in an urbanized portion of a metropolitan statistical area, the Governor may designate it as an enterprise zone only when the area is contiguous and satisfies any of the following criteria:

(a) Per capita income is below 80 percent of the per capita income of this state or of the

metropolitan statistical area in which the zone is located;

(b) The percentage of persons having incomes below the poverty level is at least twice as great as the percentage of persons having incomes below the poverty level for the state as a whole or for the metropolitan statistical area in which the zone is located; or

(c) The unemployment rate is at least twice as great as the unemployment rate of this state or of the metropolitan statistical area in which the zone is located.

(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 284.255 (1) to (4).

(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, 1987 c 769 §5]

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), qualified property of a qualified business is partially exempt from taxation if:

(a) The qualified property is being constructed, renovated, remodeled, modernized 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 qualified property is located in an enterprise zone.

(2) The exemption allowed under this section shall be allowed only for property that is owned or leased by a qualified business firm. Leased property shall not include any property that is not specified under ORS 284.120. Notwithstanding any other law, leased property shall be qualified for exemption specified under this section only if:

(a) The firm leasing the property has paid for the full cost of the new construction, addition, renovation, remodeling and modernization;

(b) The firm leasing the property has met the requirements to become a qualified firm specified under ORS 284.220; and

(c) The firm leasing the property must be required by the lease agreement to compensate the owner for the entire amount of the property taxes of that leased property.

(3)(a) The exemption allowed under this section shall be in effect for the assessment year immediately following the completion of the new construction, addition, renovation, remodeling or modernization or the installation of qualified machinery and equipment and for the number of

consecutive assessment years immediately following, not to exceed four, in which the qualified property is owned or leased by a qualified business firm and located in an enterprise zone.

(b) For purposes of subsection (1) of this section, the exemption for site preparation shall begin in the same assessment year as the exemption for the ensuing new construction on the prepared site.

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

(a) 100 percent of the true cash value of the qualified property in the first assessment year;

(b) 80 percent of the true cash value of the qualified property in the following assessment year;

(c) 60 percent of the true cash value of the qualified property in the second following assessment year;

(d) 40 percent of the true cash value of the qualified property in the third following assessment year; and

(e) 20 percent of the true cash value of the qualified property in the fourth following assessment year.

(5) Subsections (1) to (4) of this section, ORS 284.120, 284.240 and 284.250 do not apply to new construction, additions, renovation, remodeling, modernization or site preparation beginning prior to the date on which the enterprise zone is established or to machinery and equipment purchased prior to the date on which the enterprise zone is established.

(6) The tax exemption allowed under this section shall be granted for renovated property owned by a qualified business firm when the renovation of the property commenced on or after March 11, 1986. [1985 c 807 §§13, 14, 1987 c 769 §§6, 16]

284.220 Eligibility for exemptions. (1) The exemptions 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; 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) 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; and

(b) 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; and either

(b) 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 (c) of subsection (2) of this section; or

(c) By the end of the assessment year in which construction, renovation, remodeling or modernization of exempt property is completed, 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 number of such employees who were employed at the end of the assessment year in which the construction, renovation, remodeling or modernization was commenced, with such increased employment satisfying the requirements of paragraphs (b) and (c) of subsection (2) of this section. For purposes of this paragraph, the period of construction, renovation, remodeling or modernization shall not exceed two years. Employees hired for the purpose of constructing, renovating, remodeling or modernizing the firm's property or for any other purpose not related to income generating activities of the firm shall not be counted when determining an increase in full-time employment for purposes of this paragraph.

(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; and either

(b) 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 (b) of subsection (3) of this section; or

(c) By the end of the assessment year in which construction, renovation, remodeling or modernization of exempt property is completed, 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 number of such employees who were employed at the end of the assessment year in which the construction, renovation, remodeling or modernization was commenced, 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 (b) of subsection (3) of this section. For purposes of this paragraph, the period of construction, renovation,

remodeling or modernization shall not exceed two years. Employees hired for the purpose of constructing, renovating, remodeling or modernizing the firm's property or for any other purpose not related to income generating activities of the firm shall not be counted when determining an increase in full-time employment for purposes of this paragraph.

(6) Notwithstanding subsections (2) and (3) of this section, if a firm has been qualified under subsections (2) and (3) of this section and is applying for exemption for any qualified property specified under ORS 284.120 that is added to the firm in any year after the first year in which the exemption for the firm's initial investment is approved, then:

(a) A business firm located in an urban enterprise zone shall be a qualified firm only if requirements set forth in subsection (4) of this section are met; and

(b) A business firm located in a nonurban enterprise zone shall be a qualified firm only if requirements set forth in subsection (5) of this section are met.

(7) Notwithstanding subsections (2) to (6) 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.

(8) 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.

(9) There shall be no duplication of exemptions under ORS 284.210 to qualified business firms which operate in an enterprise zone. [1985 c.807 §§10, 11; 1987 c.769 §7]

Note: Sections 18 and 19, chapter 769, Oregon Laws 1987, provide

Sec. 18. (1) Notwithstanding ORS 284 220 (4) and (5), a business firm is a qualified business firm for the purposes of ORS 284 110 to 284 260 if:

(a) The Economic Development Department determines that.

(A) There is a definite possibility that the firm's facility may close or be substantially curtailed, based on evidence necessary to make such a determination;

(B) The closure of the facility or the curtailment of the business may result in significant distress to business activities within the enterprise zone, and

(C) The value of the exemption allowed under ORS 284.210 (1) to (5), as estimated by the business firm based on its planned investment, constitutes a crucial element in preventing the closure or curtailment

(b) In addition to the requirements of paragraph (a) of this subsection, the governing body of the local governmental unit that applied for the enterprise zone designation under ORS 284.150 and, where appropriate, the governing bodies of the local governmental units consenting to the expansion of the enterprise zone into territory, has approved the use of the exemption provided by ORS 284 210 for the purpose of business retention, as provided in this section. Such approval shall be by local ordinance or, where necessary, by intergovernmental agreement under ORS chapter 190, which ordinance or intergovernmental agreement may include a requirement that the annual average number of full-time employees employed by the firm within the enterprise zone throughout the exemption period be either a specified number or a percent of the average number of full-time employees of the firm employed within the enterprise zone during the last taxable year prior to receiving the exemption. If the local ordinance or intergovernmental agreement adopted under this paragraph includes a provision requiring retention of a specified number or percent of full-time employees during the period in which the firm receives the tax exemption, failure by the firm to maintain that level of employment shall constitute substantial curtailment under ORS 284 250 (1). Otherwise, the definition of "substantial curtailment" set forth in ORS 284 250 (2)(a) shall apply.

(c) In addition to the requirements of paragraphs (a) and (b) of this subsection, the firm

(A) Commits to an investment of not less than \$25 million in property eligible for exemption under ORS 284.210; and

(B) Makes the commitment in writing to the Economic Development Department not later than July 1, 1989.

(2)(a) No exemption under ORS 284 210 shall be granted to a business firm qualified under subsection (1) of this section for any property completed on or after July 1, 1993

(b) If the minimum investment required under subsection (1) of this section is not completed before July 1, 1993, then

(A) The business firm shall notify the Department of Revenue of such lack of completion and the department shall notify the appropriate county assessor;

(B) No remaining property tax exemptions under ORS 284 210 shall be allowed to the business firm; and

(C) Notwithstanding ORS 311 220, there shall be added to the tax extended against the property on the next general property tax roll an amount of tax equal to the tax that would have been extended against the property had the exemption under ORS 284.210 not been granted for any and all years for which exemption for the property was granted under ORS 284 210 pursuant to commitment made under this section, plus interest computed in the manner and at the rate specified under ORS 311.505 from the date from which interest would have been computed had the property not been exempt.

(3) When a business firm located in an urban enterprise zone qualifies for a tax exemption under subsection (1) of this section, employs that the firm hires during any year for which the firm receives an exemption under ORS 284.210 shall satisfy the requirements of ORS 284 220 (2)(b) and (c).

(4) When a business firm located in a nonurban enterprise zone qualifies for a tax exemption under subsection (1) of this section, employs that the firm hires during any year for which the firm receives an exemption under ORS 284 210 shall satisfy the requirements of ORS 284 220 (3)(b)(A) to (E)

(5) Property that is exempt from taxation under this section must be property specified in ORS 284.120 that is owned by the business firm receiving the exemption [1987 c 769 §18]

Sec. 19. Section 18 of this Act is repealed on December 31, 2000 [1987 c.769 §19]

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. If the qualified property for which the exemption is requested is property leased by the qualified business firm, the owner of the qualified property and the qualified business firm shall jointly submit the statement required under this section. 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; 1987 c 769 §8]

284.240 Duties of assessor. (1) On or before April 1 of the first assessment year for which exemption under ORS 284.210 (1) to (4) is claimed, the qualified business firm shall file an application for the exemption with the county

assessor on a form prescribed by the Department of Revenue. If the qualified property for which the exemption is claimed is property leased by a qualified business firm, the owner of the qualified property and the qualified business firm shall jointly file the application required under this section.

(2) Each year that qualified property is exempt under ORS 284.210 (1) to (4), 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 (4).

(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 (4).

(c) Indicate on the assessment and tax roll that the property is granted exemption under ORS 284.210 (1) to (4) 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, 1987 c 769 §9]

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), qualified property granted exemption from taxation under ORS 284.210 (1) to (4) 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 qualified business firm or the owner of qualified property leased by the qualified business firm 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 qualified property is disqualified during the first fiscal year of exemption;

(b) 80 percent of the additional taxes calculated under ORS 284.240 if the qualified property is disqualified during the second fiscal year of exemption;

(c) 60 percent of the additional taxes calculated under ORS 284.240 if the qualified property is disqualified during the third fiscal year of exemption;

(d) 40 percent of the additional taxes calculated under ORS 284.240 if the qualified property is disqualified during the fourth fiscal year of exemption; or

(e) 20 percent of the additional taxes calculated under ORS 284.240 if the qualified property is disqualified during the fifth fiscal year of exemption.

(2) For the purposes of this section:

(a) Operation of the trade or business which qualifies under ORS 284.220 (2) or (3) shall be considered to be substantially curtailed when the number of full-time employees is reduced by more than 85 percent from the highest number of full-time employees in any year reported on the form supplied by the Department of Revenue pursuant to ORS 284.230, or when the number of full-time employees is reduced by more than 50 percent from the highest number of full-time employees in any year reported on such form for a period longer than one year.

(b) Operation of a trade or business which qualifies under ORS 284.220 (4) or (5) shall be considered to be substantially curtailed when the number of full-time employees is reduced below 110 percent of the average number of full-time employees at facilities of the firm located within the enterprise zone in the year preceding the first taxable year for which the exemption is granted.

(3) If the qualified business firm or 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.

(4) The amount determined to be due under subsection (1) or (3) 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.

(5) The assessor shall at all times be authorized to demand and receive reports by registered or certified mail from owners or lessees of qualified property exempt under ORS 284.210 (1) to (4) as to the use of the same. If the owner or lessee 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.

(6) The Department of Revenue of the State of Oregon shall make such rules consistent with this section, ORS 284.210 and 284.240 as shall be necessary or desirable to permit its effective administration. [1985 c.807 §13b; 1987 c.769 §10]

284.255 Listing of economically lagging areas; notice; approval or disapproval by local government; revision; certification and decertification of areas. (1) The Economic Development Commission shall prepare a preliminary list of economically lagging areas in the state. The areas may be counties, cities, subcounty areas or areas certified by the federal Economic Development Administration as a special impact area. The list shall contain only areas which are part of, or which have, a comprehensive economic development plan acceptable to the commission. The commission shall select areas for inclusion in the list using criteria which may include, but need not be limited to, the following:

- (a) High unemployment rate.
- (b) Low per capita income.
- (c) Out-migration due to lack of economic opportunity.
- (d) Closure or announced closure of a major employer.

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

(3) The Economic Development Commission shall periodically submit to the Governor a final

list of economically lagging areas prepared in accordance with the provisions of subsections (1) and (2) of this section, together with its recommendations that areas included in such list be certified as economically lagging areas. Taking such recommendations into consideration, the Governor may certify any or all of the areas as economically lagging areas.

(4) The Economic Development Commission shall annually review the final list prepared under subsections (1) to (4) of this section to determine whether sufficient economic recovery has occurred in any area to warrant its removal from the list and decertification by the Governor. After such review, the commission shall submit to the Governor the names of any areas removed from the list and recommendations that such areas be decertified. Taking the recommendations of the commission into consideration, the Governor may decertify any or all of the economically lagging areas certified pursuant to subsections (1) to (4) of this section.

(5) As used in this section:

(a) "City" means that area within the corporate limits or urban growth boundary, or both, of any incorporated city.

(b) "Eligible area" means an economically lagging area certified by the Governor pursuant to this section.

(c) "Subcounty area" means any area within a single county which includes unincorporated territory outside the urban growth boundary of any incorporated city. [1987 c.769 §§12, 13]

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) "Department" means the Economic Development 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, railroad industrial spurs or sidings or other facilities

that comprise the physical foundation for industrial and commercial activity.

(b) A project, in consultation with the Department of Transportation, the Public Utility Commission and other affected agencies, 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. The project may include reconstruction or rehabilitation necessary to begin operation of the line.

(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 projects located in whole or in part within the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary, and the acknowledged urban growth boundaries of the cities of Eugene, Springfield, Salem, Keizer or Medford or projects that will principally benefit these areas. The Director of the Economic Development Department is authorized to resolve situations left in question by this definition.

(10) "Nonurban infrastructure projects" includes all those projects which do not meet the definition of urban infrastructure projects. [1985 c 776 §2, 1987 c 757 §1]

284.320 Legislative findings. (1) The Legislative Assembly finds that the improve-

ment, 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.

(3) The money in the Special Public Works Fund obligated to specific programs by ORS 284.340 (4)(a) shall be used primarily to provide loans to municipalities for infrastructure projects. Grants shall be given only when loans are not feasible due to the economic need of the applicant municipality and special circumstances of the project. The Director of the Economic Development Department is authorized to determine the level of grant or loan funding, if any, on a case-by-case basis. [1985 c 776 §1, 1987 c 757 §2]

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 paid for by technical assistance grants awarded to eligible municipalities, or by a municipality itself, but shall not otherwise be paid from financial assistance received under ORS 284.310 to 284.530.

(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. Proposals for technical assistance grants shall be processed under ORS 284.340, 284.360 (2)(a), 284.390 (2) and 284.400 (2) in the same manner as other project proposals. [1985 c 776 §2a; 1987 c.757 §3]

284.340 Criteria for project priority; administration by department. (1) The Economic Development Department shall adopt rules and policies for the administration of the Special Public Works Fund. Insofar as practica-

ble, the department's rules shall provide that infrastructure projects that meet the following criteria receive priority for financial assistance:

(a) Provide for the establishment or enlargement of economically viable industries, with reasonable long term growth prospects, including opportunities for innovative new industries or for continuance of existing basic industries.

(b) Result in a net benefit to the state in the long term and not require continuing state subsidies.

(c) Utilize existing public and private assets, including infrastructure, human resources and plant and equipment.

(d) Improve the conditions of the economically disadvantaged and increase the number of family wage jobs.

(e) Support the development of businesses owned by women and members of minority groups.

(f) Harness Oregon's comparative advantage with emphasis on the growth and development of existing, in-state businesses, especially small businesses.

(g) Direct assistance to projects that assist businesses selling goods and services in markets for which national or international competition exists and prohibit assistance to infrastructure projects that primarily focus on relocating business or economic activity from one part of the state to another.

(h) Result in the economic revitalization of small cities and underdeveloped urban and rural areas.

(i) Are funded and otherwise supported to the maximum extent possible by private resources.

(j) Result in business growth or expansion which would not occur in Oregon without an investment from the Special Public Works Fund.

(2)(a) The Economic Development Department shall manage the Special Public Works Fund and any expenditures from its accounts and transfers between its accounts so that the fund value shall be equal to at least 50 percent of lottery revenues actually transferred to the fund plus interest on such amounts compounded annually at five percent. The fund value shall be determined by summing the cash reserves and the outstanding principal amount of loans to municipalities. Any principal amounts of loans forgiven shall be subtracted from the value of the fund. The value of the fund shall include moneys in the fund that are pledged to the repayment of state bonds.

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

(c) If necessary to insure repayment of bonds issued under ORS 284.310 to 284.530, the Economic Development Department is authorized to reduce the value of the fund to less than the limit provided in paragraph (a) of this subsection if the department:

(A) Finds that without such a reduction in fund value, bonds secured by the fund are likely to be in default; and

(B) Imposes a moratorium on grants 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) The department 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 department shall commit or reserve moneys under this subsection only after:

(a) Allowing for contingencies;

(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; and

(c) Providing in any contract for such commitment that the liability of the state to make such annual payments shall be contingent on the availability of moneys in the Special Public Works Fund.

(5) In assisting local governments with infrastructure projects, the department 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; 1987 c.757 §4]

284.350 [1985 c.776 §2b, repealed by 1987 c.757 §16]

284.360 Application for funds. (1) Any municipality may file an application with the Economic Development Department 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 department may require.

(2) In addition to other requirements prescribed by the department, 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, 1987 c 168 §7]

284.370 Review of feasibility study.

Upon receipt of an application filed as provided in ORS 284.360, the Economic Development Department shall determine whether the feasibility study set forth in or accompanying the application is satisfactory, and if the department 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, 1987 c.168 §8]

284.380 Application approval. The department 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 department finds that:

(1) The proposed infrastructure project is feasible, and the municipality has certified to the department that there will be adequate funds available to repay any loans made to the municipality under ORS 284.310 to 284.530;

(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 department 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, 1987 c 757 §5]

284.390 Contract with municipality.

(1) If the department approves financial assistance from the Special Public Works Fund for an infrastructure project, the department, on behalf of the state, and the municipality may enter into a contract, 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 department.

(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 department considers necessary to insure expenditure of the moneys for the purposes set forth in the approved application.

(2) When the department approves financial assistance under ORS 284.310 to 284.530 for an infrastructure project, the department shall pay moneys for the project from the Special Public Works Fund in accordance with the terms of the contract.

(3) The department shall determine and approve a maximum amount of a loan for an infrastructure project under ORS 284.310 to 284.530 based upon a reasonable and prudent expectation of the municipality's ability to repay any amount borrowed. [1985 c.776 §§8, 9; 1987 c.757 §6]

284.400 Maximum amounts of grants; standards. (1) The maximum amount of any grant to a municipality made from the Special Public Works Fund under ORS 284.340 shall not exceed \$1 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 department 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 projects 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 Fund for such annual payments. [1985 c.776 §14; 1987 c.757 §7]

284.410 Conditions for loans or purchase of municipal bonds. (1) 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 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 department.

(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.

(2) Notwithstanding any other provision of law, or any restriction on indebtedness contained in a charter, a municipality may borrow from the Special Public Works Fund by entering into a loan contract with the Economic Development Department. The contract may be payable:

(a) From the revenues of any infrastructure project, including special assessment revenues;

(b) From amounts withheld under ORS 284.420 (1);

(c) From the general fund of the municipality;

(d) From any combination of paragraph (a), (b) or (c) of this subsection; or

(e) From any other sources.

(3) The loan contracts under subsection (2) of this section shall be authorized by an ordinance which is adopted with not less than 14 days' prior notice. Notice shall be published at least once in a newspaper of general circulation within the municipality. [1985 c.776 §12, 1987 c.757 §8]

284.415 Guaranty of municipal obligations; status of guaranty. (1) The department may enter into contracts to guaranty all or any portion of the obligations of a municipality which are issued to finance an infrastructure project and are not sold to the State of Oregon.

(2) Notwithstanding subsection (1) of this section, guaranty contracts shall be payable solely from money in the Special Public Works Fund, and shall not constitute a debt or obligation of the State of Oregon. The department may, on behalf of the state, establish a special account in the fund, and commit to deposit into the account, specified portions of existing and future allocations to the fund. Such commitments shall be made by rule of the department and shall constitute covenants of the state for the benefit of the owners of obligations guaranteed by the state pursuant to this section. [1987 c.757 §18]

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 department 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. The department may waive this right to withhold.

(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; 1987 c.757 §9]

284.425 Other forms of financial assistance. In addition to making loans to municipalities for infrastructure projects and purchasing debt obligations issued to finance an infrastructure project, the Economic Development Department may provide any other form of financial assistance that the department may

consider appropriate for the financing of infrastructure projects. [1987 c 757 §18a]

284.428 Waiver on instalment payments of assessments. The limitation provided in ORS 223.220 on the amount of an assessment which may be paid in instalments may be waived by a municipality, if the assessments are levied in connection with an infrastructure project and are used to secure a loan agreement with the department. [1987 c 757 §19]

284.430 [1985 c.776 §22, 1987 c.506 §26; renumbered in 1987 461 710]

284.440 Special Public Works Fund; uses. (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. There shall be credited to the Special Public Works Fund, money appropriated to the fund by the Legislative Assembly, earnings on the fund, repayment of financial assistance and bond proceeds as authorized under ORS 284.310 to 284.530.

(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 account in the Special Public Works Fund designated by the department.

(3) The Economic Development Department shall be the agency for the State of Oregon for the administration of the Special Public Works Fund.

(4) The department may establish such other accounts within the Special Public Works Fund for the payment of project costs, reserves, debt service payments, credit enhancement, administration and operation expenses or any other purpose necessary to carry out ORS 284.310 to 284.530. [1985 c 776 §3; 1987 c.757 §10]

Note: Section 22, chapter 757, Oregon Laws 1987, provides.

Sec. 22. Out of moneys in the Special Public Works Fund the department may make 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. [1987 c.757 §22]

284.445 Funding of urban and nonurban infrastructure projects. Not less than 33 percent of the funds disbursed from the fund shall be used to provide financial assistance to nonurban infrastructure projects and not less than 33 percent shall be used to provide financial

assistance to urban infrastructure projects. [1987 c.757 §20]

284.450 [1985 c.776 §11, repealed by 1987 c 757 §16]

284.455 Use of Special Public Works Fund for administrative expenses. Out of the moneys in the Special Public Works Fund the department may expend funds for the purposes of administering ORS 284.310 to ORS 284.530. Administrative expenses of the department, that are paid from the Special Public Works Fund, shall not exceed four percent of the moneys allocated to the fund in any biennium. [1987 c.757 §23]

284.460 [1985 c.776 §13, repealed by 1987 c 757 §16]

284.470 [1985 c.776 §15; repealed by 1987 c.757 §16]

284.480 [1985 c.776 §16, repealed by 1987 c.757 §16]

284.490 Standards for eligibility for revenue bond financing; rules. (1) The Economic Development 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, 284.370, 284.380 (2) to (6), 284.390 and 284.420.

(2) Upon determining an infrastructure project eligible for revenue bond financing under ORS 284.490 to 284.530, the department shall forward the application to the State Treasurer, who shall determine whether to issue revenue bonds.

(3) Administrative expenses of the department in processing applications and investigating proposed infrastructure projects and bond sales shall not be derived from bond proceeds.

(4) The department may pledge all or any portion of the existing or future assets and receipts of the Special Public Works Fund to pay debt service on bonds issued pursuant to ORS 284.310 to 284.530. Such pledge shall take effect immediately, without delivery of the pledged funds to third parties, and the lien of the pledge shall be superior to all other liens of any nature.

(5) The department is authorized to establish separate accounts within the fund for separate bond issues. [1985 c.776 §17; 1987 c.757 §11]

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

(1) 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;

(2) Enter into and perform such contracts and agreements with municipalities as the department may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of infrastructure projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Special Public Works Fund. [1985 c 776 §18; 1987 c.757 §12]

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 Fund pledged therefor 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; 1987 c 757 §13]

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 Fund and used for the payment of a loan to a municipality for an infrastructure project and costs of issuing the revenue bonds.

(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 and 284.420 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; 1987 c.757 §14]

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 pledged therefor in the Special Public Works Fund, 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 Fund.

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

(2) No 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; 1987 c.757 §15]

Note: Section 21, chapter 757, Oregon Laws 1987, provides.

Sec. 21. For the purposes of the revenue bond program under ORS 284.490 to 284.530, all grants and loans awarded prior to the date of this 1987 Act [July 16, 1987] are approved and ratified. [1987 c.757 §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) "Corporation" means the Oregon Resource and Technology Development Corporation.

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

(4) "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.

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

(6) "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.

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

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) "Traded sector" means those Oregon enterprises selling goods and services in markets for which national or international competition exists. [1985 c.814 §3, 1987 c.837 §3]

Note: Section 13, chapter 837, Oregon Laws 1987, provides:

Sec. 13. ORS 284.610, 284.620, 284.630, 284.640, 284.650, 284.660, 284.670, 284.680, 284.690, 284.700, 284.710 and section 12 of this Act [ORS 284.705 (1)] are repealed June 30, 1993 [1987 c.837 §13]

284.620 Legislative findings. The Legislative Assembly finds that:

(1) There exists in the state a great and growing opportunity for cooperation between pri-

vate 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 development 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]

Note: See note under 284.610.

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, 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.

(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 60.361.

(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 who are not members of the Legislative Assembly are entitled to compensation and expenses as provided in ORS 292.495. Members of the board of directors who are members of the Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS

171.072, payable from funds appropriated to the Legislative Assembly.

(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) The directors may establish such other committees as they wish and delegate to the committees such duties as the directors consider desirable.

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

(16) 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, 1987 c.94 §101, 1987 c 837 §10; 1987 c.879 §12]

Note: See note under 284.610

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 contracts 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; 1987 c.837 §4].

Note: See note under 284.610.

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, including any interest or earnings thereon, 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, technological, 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 neces-

sary 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;

(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; and

(28) Hold all operating funds from whatever sources, including interest or earnings thereon, in accounts separate and distinct from the General Fund. [1985 c.814 §6; 1987 c.837 §5]

Note: See note under 284.610.

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: See note under 284.610

Note: Section 7, chapter 814, Oregon Laws 1985, provides.

Sec. 7. (1) On July 15, 1992, 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, contracts and activities including.

(a) A financial performance analysis of the corporation's 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 clear-house 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 [1985 c 814 §7; 1987 c 837 §9]

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, business plans and any information generally considered to be proprietary and confidential in the general course of business, 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 contracts, 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, 1987 c.837 §6]

Note: See note under 284.610

284.680 Oregon Resource and Technology Development Fund; uses. (1) There is created the Oregon Resource and Technology Development Fund, separate and distinct from the General Fund, to which shall be credited any state funds specifically so designated. The fund shall account separately for moneys available for the purposes of this section. The corporation may credit the fund with such unrestricted appropriations, gifts, donations, grants or contract proceeds from any source, with payments on loans made from the fund.

(2) The corporation may use the Oregon Resource and Technology Development 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, which shall be an amount sufficient to allow the corporation to undertake and efficiently manage its responsibilities. After September 1, 1989, the corporation shall pay its operating expenses only from revenues generated by returns on the corporation's capital.

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

(3) The corporation may use the Oregon Resource and Technology Development 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's investments in qualified securities issued by enterprises shall be:

(a) Not more than \$500,000 in the qualified securities of any enterprise; and

(b) Not more than the amount necessary to own more than 49 percent of qualified securities

in any 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. [1985 c 814 §8; 1987 c 837 §7]

Note: See note under 284 610

284.690 Other uses of fund. (1) The corporation may use the Oregon Resource and Technology Development Fund to carry out the purposes of ORS 284.610 to 284.710 by awarding competitive applied research contracts to educational institutions and private enterprises in key traded-sector areas of special importance to the Oregon economy. The fund shall account separately for moneys available for the purposes of this section.

(2) The board shall award contracts 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.

(3) 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 reasonable probability exists that:

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

(b) The project's application will enhance employment opportunities within Oregon; and

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

(4) 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.

(5) Any commercialized research that results from a corporation applied research contract shall be subject to the provisions of ORS 284.650 (22) and (23). [1985 c 814 §9, 1987 c.837 §8]

Note: See note under 284.610

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]

Note: See note under 284.610

284.705 Corporation exempt from application of certain other laws. (1) Actions of the corporation in processing, approving or denying applications for financing from the corporations are not subject to ORS 183.310 to 183.550.

(2) Except as otherwise provided by law, the provisions of ORS chapters 276, 279, 292 and 293 do not apply to the Oregon Resource and Technology Development Corporation. [1987 c.837 §§2, 12]

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]

Note: See note under 284 610

OREGON CAPITAL CORPORATION

284.750 Definitions for ORS 284.750 to 284.795. As used in ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304:

(1) "Department" means the Department of Insurance and Finance established under ORS chapter 705.

(2) "Director" means the Director of the Department of Insurance and Finance.

(3) "Enterprise" means any business owned by an Oregon resident, partnership, association or corporation with its principal place of business in Oregon, even if it is a wholly owned subsidiary of a foreign corporation that does substantially all of its production in Oregon.

(4) "Equity investment" means all forms of equity such as common stock, preferred stock, with or without voting rights, and without regard to seniority of equity position, forms of subordinate or convertible debt, or both, with warrants or other means of equity conversion attached, or any other means of near equity finance.

(5) "Traded sector" means those Oregon businesses that sell goods or services in markets for which national or international competition exists. [1987 c.911 §3]

284.755 Purpose; findings. (1) ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304 establishes the mechanism to create an Oregon Capital Corporation. ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304 will, through a tax credit, help generate a \$40 to \$50 million fund for risk capital investments. These funds will be invested primarily in profitable and growing Oregon traded sector enterprises which will lead to further growth and diversification of businesses throughout the state.

(2) The purpose of ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304 is to encourage the formation of an Oregon Capital Corporation which will:

(a) Enable potentially profitable enterprises to gain access to long-term, unsecured, subordinated debt and equity financing to promote growth, diversification and expansion;

(b) Encourage the growth, diversification and expansion of existing enterprises and the creation of new, wealth-creating enterprises; and

(c) Promote economic diversification and innovation within key traded sectors of special importance to Oregon's economy particularly in nonmetropolitan areas of the state.

(3) The Legislative Assembly finds that the establishment of the Oregon Capital Corporation is likely to benefit the state's citizens and businesses by:

(a) Providing capital assistance to expanding or restructuring firms which have a potential for liquidity and earnings too limited to make them attractive to venture capitalists.

(b) Aiding entrepreneurs to obtain financial capital for expansion on terms that allow them to retain long-term control of their businesses rather than giving up control to the providers of financial capital.

(c) Enabling private financial institutions to expand the means by which they can provide financial capital to their customers.

(d) Broadening the base of capital resources for business expansion to include the shareholder equity of state utility holding companies, the investment portfolios of insurance companies and other major corporate and personal investors. [1987 c.911 §§1, 2]

284.760 Duties of department. The department shall adopt rules to implement ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304 on or before October 1, 1987, and shall serve as a clearinghouse for information relevant to potential incorporators or organizers of Oregon capital companies. [1987 c.911 §4]

284.765 Application for certification; review by Department of Insurance and Finance; capitalization requirements. (1) The department shall adopt rules for making an application for certification of the Oregon Capital Corporation and shall specify the information that must be submitted at the time of application. The Oregon Capital Corporation shall not be certified until the department has adopted rules as required in ORS 284.760. The department's rules shall provide at a minimum, that an applicant seeking to be certified as the Oregon Capital Corporation must specify the level of capitalization that the company expects to qualify for the tax credits provided for in ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304.

(2) The Department of Insurance and Finance shall review the articles of incorporation or partnership of each applicant for certification and the business history of the applicant and determine that the capitalization is at least \$40 million. [1987 c.911 §5]

284.770 Incorporation; articles and bylaws; directors; officers; powers. The Oregon Capital Corporation shall be incorporated under and be governed by the laws of Oregon. The articles of incorporation and the bylaws of the Oregon Capital Corporation shall provide that:

(1) The corporation shall be governed by a board of directors that shall consist of not more than 15 members to oversee the operations of the Oregon Capital Corporation.

(2) In addition to the members appointed under subsection (1) of this section, not fewer than two members of the board shall be appointed by the Governor. Members of the board appointed by the Governor shall not have a vote, but shall have the right to attend all board meetings and observe and participate in the business of the board on behalf of the public interest.

(3) The purpose of the Oregon Capital Corporation is to earn a favorable rate of return for its investors consistent with the attainment of public policy objectives to:

(a) Make long-term, unsecured, subordinated debt and equity investments in Oregon-based, traded-sector firms by providing capital for expansion, restructuring and working capital needs.

(b) Promote economic diversification and innovation within basic industries in Oregon.

(c) Promote increased productivity and value-added products and processes among wealth creating enterprises and the export of those products created by Oregon companies.

(d) Contribute to the Oregon economy which provides increased revenue for state and local government.

(4) The board shall conduct a search and select a president or other chief executive officer, who is not a member of the board, for the Oregon Capital Corporation with experience, ability and initiative in similar executive positions in venture capital corporations participating in high-risk, equity and near-equity investment activities. The president or other chief executive officer may be compensated on a reward and penalty system accepted by the private sector for individuals managing such investment firms.

(5) The Oregon Capital Corporation may, at the board's discretion, contract with a qualified investment company to invest all or a portion of the Oregon Capital Corporation's moneys, provided the qualified investment company demonstrate a record of investing in:

(a) Equity or near equity instruments;

(b) Firms that have not been traditionally served by the risk capital markets; and

(c) Firms located throughout the state.

(6) Not more than 30 percent of the stock of such a corporation may be owned by or held for the benefit of any one beneficial owner.

(7) Not less than once each year, the corporation shall provide for an evaluation of the value of the assets and liabilities of the corporation, and

shall report the results of its valuation to shareholders and to the department. [1987 c 911 §6]

Note: Sections 7 and 8h, chapter 911, Oregon Laws 1987, provide:

Sec. 7. (1) The department shall certify the Oregon Capital Corporation as eligible to receive the tax credits provided for in section 8 of this Act [see ORS 316.104, 317.084 and 317.140], if it finds the corporation has obtained from private financial institutions and institutional investors \$40 million in binding commitments to provide capital to the corporation on or before January 1, 1989

(2) The department shall not certify the Oregon Capital Corporation under this Act [ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304] after July 1, 1989. The department shall not certify more than \$50 million in total capitalization of the Oregon Capital Corporation [1987 c.911 §7]

Sec. 8h. No taxpayer shall claim a credit under section 8b, 8d or 8f of this Act [ORS 316.104, 317.140 or 318.031], unless on September 1, 1988, the most recent quarterly forecast of General Fund resources prepared by the Executive Department under ORS 291.342 for the biennium beginning July 1, 1987, exclusive of any change in revenue caused by this Act, exceeds by more than \$10 million, the forecast given to the Emergency Board as soon as practicable after adjournment sine die of the 1987 regular session on which the printed, adopted budget prepared in the Executive Department is based, adjusted insofar as necessary to reflect changes in laws adopted at that session [1987 c.911 §8h]

284.775 Requirements to retain certification; limits on investments; confidentiality of certain records. (1) To continue certification, the Oregon Capital Corporation shall:

(a) Invest at least 40 percent of its original capitalization at the end of the initial three years in equity investments in Oregon enterprises.

(b) Invest at least 60 percent of its original capitalization at the end of the initial five years in equity investments in Oregon enterprises.

(c) Invest at least 75 percent of its original capitalization at the end of the initial seven years in equity investments in Oregon enterprises.

(d) Invest at least 25 percent of the amounts required to be invested as provided in paragraphs (a) to (c) of this subsection in equity investments in Oregon enterprises located outside of Clackamas, Multnomah and Washington Counties.

(2) No more than 20 percent of the assets of the Oregon Capital Corporation may be invested in the equity of a single enterprise at any one time, unless the Oregon Capital Corporation can reasonably demonstrate and the department finds that a greater percentage in a single enterprise at any one time is the result of losses suffered by the Oregon Capital Corporation in other investments.

(3) The Oregon Capital Corporation may invest its funds in any Oregon enterprise. However, the use of invested funds by an Oregon enterprise for oil and gas exploration and development, real estate development or appreciation, banking or lending operations, service or retail businesses shall not be considered acceptable investments for the purpose of qualifying for the purposes of subsection (1) of this section.

(4) Documents and other materials submitted by the Oregon Capital Corporation or by Oregon businesses for purposes of certification and continuation of certification shall not be public records if such records are determined to be trade or business secrets and shall be maintained in a secure environment by the department.

(5) No funds of the Oregon Capital Corporation may be invested in stock or obligations of, or property acquired from, any stockholder of the Oregon Capital Corporation or any directors, officers or employees of any stockholder. [1987 c.911 §9]

284.780 Annual review; grounds for decertification; notice; compliance period; effect of decertification. (1) The department shall review annually the Oregon Capital Corporation to determine if it is abiding by the requirements of certification, to advise the management as to the certification status of its investments and to insure that no investment has been made in violation of the provisions of ORS 284.750 to 284.795, 316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304 or rules adopted by the department. Any violation shall be grounds for decertification under this section.

(2) If the Oregon Capital Corporation has met the investment levels prescribed in ORS 284.775 (1) and has subsequently sold any of the companies in which those equities were made, the temporary liquidity of the corporation prior to reinvestment in the equity of new ventures will not be cause for decertification.

(3) In evaluating the corporation's annual performance, the department shall use reasonable standards of the venture capital practice to determine legislative intent in those cases where a technical violation might otherwise lead to a technical decertification.

(4) If the department determines that a corporation is not in compliance with ORS 284.775 for continuing in certification, the department shall, by written notice, inform the officers of the corporation and the board of directors or partners that they will be decertified in 120 days from the

date of mailing of the notice unless they correct the deficiencies and are once again in compliance with the requirements for decertification.

(5) At the end of the 120-day period provided for in subsection (4) of this section, if the department determines the Oregon Capital Corporation is still not in compliance, the department shall send a notice of decertification to the company and to the Department of Revenue. In making a determination of noncompliance, the department may extend the 120-day period by up to 60 days, if in its sole discretion, it determines that the corporation has made a good faith effort to comply.

(6) Following each annual examination, the department shall notify the Department of Revenue if the Oregon Capital Corporation is not in compliance with this section.

(7) Decertification of the Oregon Capital Corporation shall cause the forfeiture of any tax credit previously allowed under ORS 316.104, 317.140 or 318.031. The total amount of any tax credits previously claimed by any taxpayer under ORS 316.104, 317.140 or 318.031 shall be reported and paid as additional tax for the taxable year in which notice of decertification is given to the taxpayer by the Department of Revenue. The Department of Revenue shall send written notice to the address of each person whose tax credit has been forfeited, using the address from such person's last income tax filing. [1987 c.911 §10]

284.785 Voluntary decertification procedure; effect. At any time, the Oregon Capital Corporation may voluntarily decertify itself by sending written notice of decertification to the department and by remitting to the Department of Revenue full payment of all tax credits claimed by investors under its participation in the certification program. Thereafter, the corporation shall be entitled to recover from its investors or equity owners such sums as were remitted by the corporation. The Department of Revenue shall not seek to recover from any taxpayer the amount of any tax credit for which payment has been made by the Oregon Capital Corporation. [1987 c.911 §11]

284.790 Annual report. (1) The Oregon Capital Corporation shall prepare and publish an annual report of its activities and present that report to the Governor, the Department of Insurance and Finance, the Department of Revenue, the Joint Legislative Committee on Trade and Economic Development and the public which shall account for such information as required by the board and the department, but shall include at a minimum:

(a) The manner in which the need and mission as described in ORS 284.750 to 284.795,

316.104, 317.084, 317.140, 317.267, 318.031, 708.078, 708.430, 716.588 and 722.304 have been carried out.

(b) The total investments made annually by the Oregon Capital Corporation.

(c) The names and amounts invested in other, qualified investment companies and their investments made that year.

(d) An estimate of the jobs created and preserved by investments from the Oregon Capital Corporation.

(e) An analysis of the dispersal of resources by the corporation by size, sector and location to qualifying enterprises.

(2) The department shall review the Oregon Capital Corporation's reports and evaluate the success of the Oregon Capital Corporation and may include specific recommendations for program improvement. [1987 c 911 §12]

284.795 State liability. The State of Oregon shall be held harmless for any damages to an investor in the Oregon Capital Corporation. [1987 c 911 §13]

PROJECT PERMITS

284.800 Definitions for ORS 284.800 to 284.865. As used in ORS 284.800 to 284.865, unless the context requires otherwise:

(1) "Affected agency" means a state agency requiring a permit for which a public informational hearing or a contested case hearing is permitted or required.

(2) "Agency" or "state agency" means an "agency" as that term is defined in ORS 183.310.

(3) "Contested case hearing" means a proceeding in a "contested case" as that term is defined in ORS 183.310 and for which procedures are established in ORS 183.310 to 183.550.

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

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

(6) "Permit" means any approval required from a state agency prior to construction or operation of a project.

(7) "Project" means any new public or private activity or expansion or addition to an existing public or private activity requiring two or more permits, excluding activities subject to siting under ORS 469.300 to 469.570, 469.590 to 469.621 and 469.930.

(8) "Public informational hearing" means a noncontested hearing held prior to an agency's

decision on a permit primarily for the purpose of soliciting information and views from the public concerning the proposed project.

(9) "Specific application form" means an application prepared by a state agency for the purpose of gathering information to assist in deciding whether to approve a project. [Formerly 447 800]

284.805 Purpose. (1) The Legislative Assembly finds that:

(a) Many individuals are unaware and unable to obtain information about state agency permit requirements and processes.

(b) State agency processes in making decisions regarding issuance of permits for projects may impose unnecessary costs on project developers and deny citizens the opportunity for effective participation in the decision-making process.

(c) It is necessary to provide some method for reporting information concerning regulatory processes of this state to the Legislative Assembly.

(d) It is necessary to provide a method to identify regulatory problems and a mechanism for directing interagency coordination in regulatory processes.

(2) The purposes of ORS 284.800 to 284.865 are to:

(a) Simplify the permit issuance procedure;

(b) Accelerate decision-making;

(c) Make available permit application information for state government at one place;

(d) Encourage federal and local government agency participation in a coordinated procedure of permit issuance;

(e) Provide more effective notice to affected or concerned citizens; and

(f) Provide methods to simplify, consolidate and coordinate and, where unnecessary, eliminate government regulatory activities to reduce the nonproductive time and expense government and the public must spend dealing with regulatory activities.

(3) In carrying out the purpose of ORS 284.800 to 284.865, the department and the director shall attempt to be of particular assistance to small businesses especially those who employ 200 or fewer people in manufacturing or 50 or fewer people in any other small business. [Formerly 447 805]

284.810 Staff; rules. (1) The department shall provide such staff as it determines necessary to accomplish the purposes of ORS 284.800 to 284.865. In addition to salary, subject to the

limitations otherwise provided by law, any employe of the department shall be reimbursed for all expenses actually and necessarily incurred in the performance of official duties.

(2) Subject to the applicable provisions of the State Personnel Relations Law, the director shall appoint all subordinate officers, including hearings officers, and prescribe their duties and fix their compensation.

(3) The director shall adopt rules necessary for the administration of ORS 284.800 to 284.865 pursuant to ORS 183.310 to 183.550. [Formerly 447 810]

284.815 Agency catalogue of regulations; reports to legislative committee; content. (1) Except as otherwise provided in this section, each state agency shall:

(a) Maintain, at a central location, a current catalogue of all types of projects, license requirements, permits and other regulatory requirements administered by the state agency. Specific application forms, any applicable agency rules and the time period necessary for permit application consideration based upon experience and statutory requirement shall be included in the catalogue of each agency.

(b) Provide to any person, upon request, information from the catalogue required under this section or any application forms used by the state agency.

(c) Provide the department, upon request, with any information from the catalogue required under this section, including copies of the catalogue as the department determines necessary.

(d) Promptly notify the department of any changes in information in the catalogue required under this section if the department has previously requested information concerning the catalogue.

(e) If the agency performs any regulatory function, report annually to the Legislative Committee on Trade and Economic Development to make recommendations for methods to improve the efficiency of the agency's regulatory program, to suggest outdated or otherwise unnecessary regulatory authority that may be eliminated and to provide the committee with statistics on the regulatory activities of the agency. The statistics shall include information necessary for the committee to determine the number of permits, licenses, approvals or certifications the agency issues or denies and to determine the average time range for the agency to take action on such issuances or denials and to determine the number of instances that exceeded the average time range

for issuance or denial. For those instances in which the average time range for issuance or denial is exceeded, an agency shall include in the report reasons for exceeding the average time range. This paragraph does not apply to regulatory activities involving the licensing of or issuance of permits for motor vehicles or motor vehicle operators or the operation of motor vehicles or involving the issuance of hunting or fishing licenses.

(f) Cooperate with the department in the exercise of its duties under this section and take administrative action necessary to implement the programs the department develops to carry out the purposes of ORS 284.800 to 284.865.

(2) Except as otherwise provided in this section, the department:

(a) Shall encourage federal and local government agencies to participate in the permit coordination processes of the department and in the submission of permit authority and application forms applicable to projects in Oregon coordinated by the department under ORS 284.800 to 284.865.

(b) Shall provide information, upon request, on state agency permit requirements for projects and shall make the information available to the public at the offices of the department and through distribution to appropriate local government offices.

(c) May provide a toll-free telephone information and referral service for the entire state to aid project permit applicants and members of the public.

(d) Annually shall prepare a report summarizing work the department has performed in carrying out the purposes of ORS 284.800 to 284.865 and submit the report to the Legislative Committee on Trade and Economic Development. The report may include any suggestions for legislation to clarify state agency permit programs for projects and shall include recommendations for any changes necessary to enable government agencies to simplify, consolidate and combine the regulatory activities of this state.

(e) Shall identify ways in which state rules, mandated paperwork, permits, inspections, certification and license issuance may be simplified, consolidated and coordinated and, if unnecessary, eliminated and direct state agencies to take necessary administrative measures to implement the ways identified. To the extent possible, the department shall encourage and participate in efforts to also carry out the purposes of this paragraph between state agencies and federal and local agencies.

(f) Upon request, shall mediate regulatory conflicts between state agencies and small businesses in an attempt to resolve the conflicts. The department may require a state agency to cooperate in any attempt to mediate under this section.

(3) The department and state agencies are not required to comply with this section for regulatory activities concerning the licensing of fiduciary, depositing or lending activities. [Formerly 447 815]

284.820 Application for all necessary permits; notice to state agencies; preapplication conference. (1) After January 1, 1976, any person proposing a project may submit an application to the department requesting issuance of all permits necessary prior to construction and operation of the project in this state. The application shall be on a form furnished by the department and shall contain specific and accurate information on the location of the project, the nature of the project, and any other information on the project required by rule of the department.

(2) The application shall contain a detailed description of the proposed site of the project.

(3) After receipt of a properly completed application, the department shall immediately notify in writing each state agency having a possible interest in the application. The notification shall be accompanied by a copy of the application together with the date by which the agency shall respond.

(4) Each notified state agency shall respond in writing to the department within the specified date in subsection (3) of this section, not exceeding 30 days from receipt of the notice. The notified state agency shall advise the department:

(a) Whether the state agency has an interest in the application; and

(b) The permit programs under the state agency's jurisdiction to which the project described in the application is pertinent.

(5) Each notified state agency which responds within the specified date that it does not have an interest in the application, or does not respond by the date specified in subsection (3) of this section shall not require a permit of the applicant for the project described in the application.

(6) The restrictions provided in subsection (5) of this section shall not apply if the application provided the notified state agency contained false, misleading or deceptive information, or failed to include pertinent information, the lack

of which would reasonably lead a state agency to misjudge its interest in the application.

(7) The department shall submit specific application forms to applicants for permits required, with a direction to the applicant to complete and return the application to the designated state agency.

(8) When the department submits specific application forms to the applicant, the department shall also inform the applicant that the applicant may make a request to the department for a preapplication conference before submitting the specific application forms to the designated state agencies. If the applicant requests a preapplication conference and the department determines a preapplication conference should be held, the department shall notify all state agencies that indicated an interest in the application under subsection (4) of this section, the governing body, or its designee, of the city or county where the proposed project will be located and the applicant of the date, time and location of the preapplication conference. Representatives of each notified agency shall attend the conference.

(9) At the preapplication conference, the parties may discuss, among other matters, the application procedures the applicant must follow, the probability of project approval by the city or county and state agencies, and the time needed by each state agency to process and approve or deny each permit application. At the conference, the department may set time periods within which each state agency shall approve or deny each permit application. The time limits set by the department shall be consistent with other applicable time limitations set by statute or rule. If the proposed project is designed to proceed in stages, the permit review process established under this section shall be structured to allow the project to proceed in stages.

(10) Upon receipt of the completed specific application forms each agency shall forward one copy to the department. [Formerly 447 820]

284.825 Consolidated hearing; contents of notice. (1) Upon request of the applicant or any affected agency for a consolidation of either public informational hearings or contested case hearings concerning a particular project for which application has been made to the department pursuant to ORS 284.820, the department may require the consolidation of any or all hearings otherwise permitted or required by law for each of the affected state agencies. Public informational hearings shall not be consolidated with contested case hearings.

(2) If the department determines to hold a consolidated public informational hearing, it

shall cause a notice to be published once each week for three consecutive weeks in a newspaper of general circulation in the county in which the project is proposed to be constructed or operated, the third publication being no more than 20 days prior to the date of the hearing for which the notice is given, unless otherwise provided by law. Notice shall also be sent by registered mail to the applicant and all affected agencies, and by regular mail to persons who have requested that their names be placed on mailing lists maintained by the department and any affected agency for such purposes. The department may broadcast notice of a consolidated public informational hearing as provided in ORS 193.310 to 193.360. Both the published and mailed notice shall describe the project proposed, the project's location, the state agencies having jurisdiction over the project, all state permits applied for, the state permits which will be considered at the hearing, and the time, place and purpose of the hearing. The notice shall also state that relevant public testimony will be taken in oral or written form at the hearing, that a copy of the application is available for public inspection at the department and that copies of all specific applications are available for public inspection at the department and the affected state agencies.

(3) If the department determines to hold a consolidated contested case hearing, it shall cause notice of the hearing to be given in accordance with ORS 183.415 (1) and (2). [Formerly 447.825]

284.831 Consolidation of informational hearings; record of hearing. If the applicant or an affected agency requests a consolidation of public informational hearings, the director may consolidate any or all such hearings into one or more consolidated hearings, at least one of which must be held in the county in which the project is proposed to be constructed or operated. The director or the designee of the director shall be the presiding officer at a consolidated public informational hearing and shall determine its time, place, agenda and procedures. A verbatim oral or written record of the hearing shall be kept and made available to affected agencies by the department. However, the record need not be transcribed. [Formerly 447 831]

284.834 Consolidation of contested case hearings; procedure; prehearing conference; notice. (1) If the applicant or an affected agency requests a consolidation of contested case hearings, the director may consolidate any or all such hearings into one or more consolidated contested case hearings. The director or the designee of the director shall be the presiding officer at a consolidated contested case hearing.

The notice, parties, procedures, record and appeal of a consolidated contested case hearing shall be consistent with the provisions of ORS 183.310 to 183.550 relating to contested cases. At the discretion of the director, the director may allow intervention in all or a part of the consolidated proceedings of the hearing and shall have the authority to adopt rules of procedure for the conduct of the consolidated contested case hearing.

(2) Prior to a consolidated contested case hearing, the director may, in discretion, require that all parties to all hearings subject to the consolidation appear at a prehearings conference to consider:

(a) The type, time, place, parties and issues of the hearing or hearings which will be held;

(b) The necessity of special procedures;

(c) The simplification of the issues;

(d) The possibility of obtaining admissions of fact and of documents, and the limitation of repetitious or immaterial testimony; and

(e) Any other matters which may aid in the disposition of the issues.

(3) Notice shall be given to parties to the conference which is consistent with the provisions of ORS 183.415 (1) and (2) and which also describes the purpose and procedures of the conference. The director or the designee of the director shall be the presiding officer at the conference and at its conclusion shall issue an order which recites the agreements made and actions taken at the conference. [Formerly 447 834]

284.835 Copy of transcript and proposed order to be sent to agencies after hearing. (1) Within 30 days of the final adjournment of a consolidated contested case hearing held pursuant to ORS 284.800 to 284.865, the director or the designee of the director shall prepare and serve upon all parties to the hearing a proposed order, including proposed findings of fact and conclusions of law. The parties to the hearing, excluding affected agencies, shall be given the opportunity to file exceptions to the proposed order with the appropriate affected agency or agencies issuing the final orders.

(2) An extension of time for forwarding of the proposed order may be granted by the department, up to an additional 30 days. [Formerly 447.835]

284.840 Issuance of final orders. Each affected agency participating in a consolidated contested case hearing shall issue a final order within the time otherwise provided by law for agency action. The final order shall:

(1) Be issued in accordance with the requirements of ORS 183.470;

(2) Set forth the basis for any conclusion including findings of fact and conclusions of law; and

(3) Include any conditions that the state agency, within its statutory authority, wishes to impose upon the permit. [Formerly 447 840]

284.845 Conflicting permit terms and conditions. (1) If state agencies propose terms and conditions for permits that are conflicting the state agencies shall refer the permits to the director or the director's designee for reconciliation of the conflict.

(2) In accordance with the authority of the department under ORS 284.815 a state agency:

(a) May use the department to mediate conflicts between the state agency and small businesses; and

(b) Shall cooperate with the department when the department requests the agency to participate in mediation to resolve conflicts between the agency and small businesses. [Formerly 447 845]

284.850 Judicial review. Any party to a consolidated contested case hearing conducted under ORS 284.834, 284.840 and this section aggrieved by a final decision of any affected agency may obtain review of that decision by appeal to the Court of Appeals pursuant to ORS 183.310 to 183.550. Appeals from final orders arising from any one consolidated contested case hearing shall be consolidated and shall be based upon the record and agency findings. [Formerly 447.850]

284.855 Informal conference. The department may call an informal conference of parties to resolve questions arising from permit application procedures on any proposed project. [Formerly 447 855]

284.860 Permit procedure optional. (1) No person shall be required to obtain permit approval through the method provided by ORS 284.800 to 284.865.

(2) An applicant may, in lieu of procedures established by ORS 284.800 to 284.865, proceed with permit approval procedures established by individual state agencies.

(3) Any applicant may withdraw the application of the applicant at any time without forfeiture of any permit approval the applicant may have obtained for the project as submitted pursuant to the procedures set forth in ORS 284.800 to 284.865. [Formerly 447 860]

284.865 Hearing costs. (1) The department shall, within 60 days after the conclusion of a consolidated public informational hearing or a consolidated contested case hearing, collect from each affected agency participating in the hearing that agency's proportionate share of the costs associated with the hearing and incurred by the department, including the costs of:

- (a) Preparing, sending and publishing notice;
- (b) Arranging and conducting a prehearings conference;
- (c) Arranging and conducting the hearing;
- (d) Preparing a record;
- (e) Preparing a transcript if necessary;
- (f) Preparing a proposed order; and
- (g) Performing any other functions necessary or appropriate to the type of hearing held.

(2) Such moneys are continuously appropriated for purposes of administering ORS 284.800 to 284.865. [Formerly 447.865]

284.875 Definitions for ORS 284.875 and 284.880. As used in ORS 284.880 and this section:

(1) "Permit" means any approval required from an agency of a city or county prior to construction or operation of a project.

(2) "Project" means any new public or private activity or expansion or addition to an existing public or private activity for which any permit is required.

(3) "Development charge" means an assessment, charge or fee imposed upon any property for the purpose of increasing the capacity of existing public facilities to provide public services to the property necessitated by improvements made on the property. [Formerly 447.875]

Note: 284.875 and 284.880 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 284 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

284.880 Public access to list of development charges and permits required by cities and counties; list of state permits; file to be maintained at central location. Not later than January 1, 1978, the governing body of each city and county shall make available to the public a list of all development charges and permits issued by the city or county. The list shall include a brief description of the permit, its basic unit cost or fee, if available, and the agency from which the permit may be obtained. The Executive Department shall make available to all city and county governments the information on state

agency permit requirements compiled under ORS 284.815. These lists shall be maintained at a central location. [Formerly 447.880]

Note: See note under 284.875

CHAPTER 285
[Reserved for expansion]

