

# Chapter 285

1993 EDITION

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**PUBLIC FACILITIES; ECONOMIC DEVELOPMENT**

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**ADMINISTRATION****(Generally)**

**285.001 Definitions.** As used in this chapter and ORS 329.900 to 329.975, unless the context requires otherwise:

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

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

(3) "Director" means the Director of the Economic Development Department. [Formerly 184.001; 1993 c.736 §1]

**285.005 Legislative findings.** (1) The Legislative Assembly finds that:

(a) Oregon's economy continues to experience change and adjustment that greatly affect the well-being of its citizens.

(b) The state has a need for continuing economic development and expansion to provide jobs for its citizens.

(c) Oregon should seek to increase its per capita income.

(d) Providing well-paid jobs is critical to assuring the economic security of Oregon families.

(e) Oregon communities continue to rely on a single firm or industry dependent on the wise use and development of the state's natural resources.

(f) Oregon's rural areas can benefit substantially from the further development and utilization of their natural resources and public assets.

(2) The Legislative Assembly further finds that:

(a) Oregon's human resources constitute a major asset in the state's effort to promote economic expansion and improvement.

(b) Oregon's natural resources provide ample opportunities for productive and beneficial economic enterprise.

(c) Oregon's location on the growing economy of the Pacific Rim provides substantial opportunities and challenges in international trade.

(d) Oregon's special heritage, its respect for and cultivation of its environment and its quality of life are a unique and sustaining virtue that will both guide and assist the state's economic expansion.

(3) It is the purpose of ORS 285.001 to 285.055, 285.090, 285.110 and 285.115 to promote the improvement of Oregon's economy to better provide for the well-being of its citizens, including the availability of health care services in underserved areas. To that end, the Economic Development Department shall give priority to economic development efforts that meet the following criteria:

(a) Develop the human resources of Oregon, by preparing citizens for careers and job opportunities which will provide for their long-term economic security, and aid the economically disadvantaged and distressed citizens of this state including women and minorities to achieve self-sufficiency.

(b) Promote development that will provide economic activity in small communities suffering from economic dislocation and in rural areas suffering from chronic underdevelopment.

(c) Promote the development of sectors of the economy that sell goods and services in markets for which national and international competition exists.

(d) Promote development which will provide family wage jobs for Oregonians.

(e) Promote development of sectors of the economy in which Oregon has an economic comparative advantage based on Oregon's labor force, natural resources or geographic location that will secure the long-term viability of the economic sector.

(4) The Legislative Assembly declares that it is the economic strategy of the state to focus its development and promotion efforts on Oregon's small businesses and on existing industries. To that end, all state economic development efforts shall, to the maximum extent feasible:

(a) Promote entrepreneurship and the growth and development of small businesses which have historically been the most important contributors to the state's economic expansion;

(b) Promote the development of new markets, nationally and in foreign nations, for goods and services produced in Oregon;

(c) Utilize the resources of the state's public and private educational system including higher education and community colleges; and

(d) Encourage additional new investment in Oregon by out-of-state firms that is consistent with the state's long-term economic betterment. [Formerly 184.004]

**285.009 Oregon Economic Development Commission; appointment; confirmation; qualifications; term; compensation and expenses; presiding officer; quorum; meetings; effect of vacancy.** (1) There is established the Oregon Economic Development Commission consisting of five members appointed by the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. The Governor shall appoint members of the commission in compliance with all of the following:

(a) Members shall be appointed with due consideration given to representation of the different geographic regions of the state, and at least one member shall be a resident of the area east of the Cascade Range.

(b) Not more than three members shall belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. In case of a vacancy for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(3) A member of the commission is entitled to compensation and expenses as provided by ORS 292.495.

(4) The Governor shall appoint one of the commissioners as presiding officer of the commission. The presiding officer shall have such duties and powers as the commission determines are necessary for the office.

(5) Three members of the commission constitute a quorum for the transaction of business.

(6) The commission shall meet at least quarterly at a time and place determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the presiding officer or of a majority of the commission.

(7) No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission. If the commissioners are unable to agree, the Governor shall have the right to vote as a member of the commission. [1993 c.736 §3]

**Note:** 285.009, 285.011, 285.013, 285.033, 285.036 and 285.038 were added to and made a part of ORS chapter 285 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Sections 4 and 5, chapter 736, Oregon Laws 1993, provide:

**Sec. 4. Initial terms.** Notwithstanding section 3 (2) of this 1993 Act [285.009 (2)], of the members first appointed to the Oregon Economic Development Commission after the effective date of this 1993 Act [August 26, 1993], three shall serve for terms of four years and two shall serve for terms of two years. The respective terms of the members shall be determined by the Governor. [1993 c.736 §4]

**Sec. 5. Reorganization plan for department.** (1) The Oregon Economic Development Commission established under section 3 of this 1993 Act [285.009] shall develop a reorganization plan for the Economic Development Department. The commission shall submit a written report to the Sixty-eighth Legislative Assembly concerning the reorganization. The report shall be submitted not later than February 15, 1995.

(2) The report required under this section shall also contain recommendations from the commission for proposed legislation that in the judgment of the commission is necessary or helpful for the development and implementation of greater efficiencies in the programs administered by the department. [1993 c.736 §5]

285.010 [Formerly 184.006; repealed by 1989 c.908 §86]

**285.011 Duties and functions of commission.** (1) As its primary duty, the Oregon Economic Development Commission shall develop and maintain an economic development policy for this state that implements the strategy declared in ORS 285.005 (4) and that includes policies that:

(a) Maintain and create family wage jobs and raise real wage levels of Oregon workers.

(b) Increase the skill levels of the Oregon workforce.

(c) Improve the competitiveness of this state's key industries and achieve benchmarks for those industries established by the Oregon Progress Board.

(d) Invest public moneys in a manner that produces the greatest possible return on investment.

(e) Support statewide and regional strategies to develop and maintain the infrastructure necessary to support and strengthen the economy of this state.

(f) Identify and eliminate barriers that impede the competitiveness of Oregon businesses.

(g) Encourage expansion of existing businesses and the attraction of new business and industry to the state.

(2) It is the function of the Oregon Economic Development Commission to establish the policies for economic development in this state in a manner consistent with the policies and purposes set forth in this section and ORS 285.013. In addition, the commission shall perform any other duty vested in it by law.

(3) The commission shall keep complete and accurate records of all the meetings, transactions and business of the commission at the office of the department.

(4) The commission shall set policy for and monitor programs relating to economic development and rural and community development and such other programs related to economic development that may be assigned by law to the department.

(5) In carrying out its duties under subsection (1) of this section, the commission shall:

(a) Place priority on those policies that achieve benchmarks established by the Oregon Progress Board; and

(b) Coordinate its activities with the policies of the Oregon Workforce Quality Council. [1993 c.736 §§6,7]

Note: See note under 285.009.

**285.013 Biennial report; content; methodology for measuring return on public investment; guidelines for returns.**

(1) The Oregon Economic Development Commission shall report biennially to the Governor and the Legislative Assembly on the success of economic development efforts. The report, at a minimum, shall include the following:

(a) For the overall department effort and for each identifiable program and significant project:

(A) The impact of that program on the competitiveness of key industries and the skill levels of the Oregon workforce;

(B) The impact on the number of jobs, including jobs created and retained;

(C) The impact on the wage levels of Oregon workers, including increases in wage levels; and

(D) The actual or anticipated return on investment of public funds.

(b) The status of the Oregon economy related to:

(A) Changes in employment and wage levels in Oregon industries;

(B) Changes in employment, wage levels and competitiveness of key industries; and

(C) Barriers that have been identified as impeding business competitiveness and productivity in this state.

(c) Progress made toward achievement of the Oregon Benchmarks.

(d) Recommendations for removing identified barriers and additional suggestions for improving the performance of Oregon's economy.

(2) The commission shall establish a methodology for measuring return on public investments in economic development programs and projects. At a minimum, the methodology shall include estimates of state and local taxes and fees paid directly by the benefiting businesses and taxes paid by employees hired as a result of the public investment.

(3) The commission, in accordance with the methodology developed in subsection (2) of this section, shall establish guidelines for return on investment that shall be used by the department in evaluating potential investments of public funds for economic development.

(4) Whenever a power is granted to the commission, the power may be exercised by

such officers, employees or commission-appointed committees within the department as are designated in writing by the commission. [1993 c.736 §8]

Note: See note under 285.009.

285.015 [Formerly 184.008; repealed by 1993 c.736 §80]

285.020 [Formerly 184.010; repealed by 1993 c.736 §80]

**285.025 Prerequisites for certain commission actions.** (1) Prior to the approval of bond financing of economic development projects under ORS 285.310 to 285.397, the making of a loan under ORS 285.870 to 285.943 or the making of any loan or the granting of any moneys from any source except for those allocated under chapter 777, Oregon Laws 1985, the Oregon Economic Development Commission shall:

(a) Determine that the action is cost effective, considering both major public expenses and major public benefits;

(b) Find that the project will produce goods or services which are sold in markets for which national or international competition exists or, if the project is to be constructed and operated by a nonprofit organization, that the project will not compete with local for-profit businesses;

(c) Determine that the action is the best use of the moneys involved, considering other pending applications for those moneys;

(d) Find that the project involved is consistent with the department's comprehensive policy and programs;

(e) Find that the project involved is consistent with all applicable adopted local economic development plans; and

(f) Provide for public notice of, and public comment on, the action.

(2) When establishing standards under subsection (1) of this section, the standards of the commission shall provide that projects be approved in accordance with criteria reflecting the economic benefits to this state. Such criteria shall include, but need not be limited to, the following:

(a) Supporting projects that will increase the number of family wage jobs in this state. In adopting any definition of a "family wage job" as used in this paragraph, the commission shall consider local housing costs.

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

(c) Emphasizing development in underdeveloped rural areas of this state.

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

(e) Supporting the development of the state's small businesses, especially businesses

owned by women and members of minority groups.

(f) Encouraging the use of Oregon's human and natural resources in endeavors that harness Oregon's comparative economic advantages.

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

(h) Notifying the Housing and Community Services Department of proposed projects and related workforce increases at the time an application is received by the commission.

(i) Considering housing needs based on the projected workforce increase in the developing area. [Formerly 184.025; 1993 c.736 §13]

**285.030 Advisory and technical committees.** (1) To aid and advise the Oregon Economic Development Commission in the performance of its duties, the commission may establish such advisory and technical committees as it considers necessary. Such committees may be continuing or temporary. The presiding officer of the commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members. Members shall be appointed with due consideration given to the geographic representation described in ORS 285.009 (1). The director, or designee, shall be an ex officio member of each committee.

(2) Members of the committees appointed pursuant to this section shall receive no compensation, but may receive payment for their actual and necessary travel and other expenses while engaged in the performance of their official duties. [Formerly 184.030; 1993 c.736 §14]

**285.033 Economic Development Department; divisions; director; confirmation; duties.** (1) The Economic Development Department created by ORS 285.035 is continued, but reorganized as provided in this section and in the reorganization plan developed under section 5, chapter 736, Oregon Laws 1993.

(2) The Economic Development Department shall consist of not more than five divisions.

(3) The department shall be under the supervision of the Director of the Economic Development Department, who shall be appointed by and shall hold office at the pleasure of the Governor. Each division shall be under the supervision and control of a chief administrative officer appointed by the director.

(4) The appointment of the director shall be subject to confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.

(5) The director may appoint all subordinate officers and employees of the department and may prescribe their duties, assignments and reassignments and fix their compensation, subject to any applicable provisions of the State Personnel Relations Law. Subject to any other applicable law regulating travel expenses, the officers and employees of the department shall be allowed such reasonable and necessary travel and other expenses as may be incurred in the performance of their duties.

(6) The Oregon Economic Development Commission shall set review criteria for the director and shall report annually to the Governor on the director's performance under the criteria and make appropriate recommendations. [1993 c.736 §9]

Note: See note under 285.009.

**285.035 Purpose of department; duties.**

(1) The Economic Development Department, through research, promotion and coordination of activities in this state, shall foster the most desirable growth and geographical distribution of agriculture, industry and commerce in the state. The department shall serve as a central coordinating agency and clearinghouse for activities and information concerning the resources and economy of the state.

(2) The department shall have no regulatory power over the activities of private persons. Its functions shall be solely advisory, coordinative and promotional.

(3) The department shall administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 85301 et seq.

(4) In order to accomplish the purposes of this chapter and ORS 329.900 to 329.975, the department may expend moneys duly budgeted to pay the travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel whom the director determines may promote the purposes of this subsection.

(5) In accordance with applicable provisions of ORS 183.310 to 183.550, the department may adopt rules necessary for the administration of laws that the department is charged with administering.

(6) ORS 276.428, 279.021, 279.310 to 279.320, 279.334, 279.336, 279.338, 279.340, 279.342, 279.348 to 279.363, 279.365, 279.545 to 279.650, 279.712, 279.826, 282.020, 282.050,

282.210, 282.220, 282.230 and 283.140 do not apply to the department's operation of foreign trade offices outside the state. [Formerly 184.125; 1993 c.736 §15]

**285.036 Salaries and expenses of personnel.** The director and all unclassified personnel shall receive such salary as may be provided by law or be fixed by the commission. In addition to salaries, the director and all unclassified personnel, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred in the performance of official duties. [1993 c.736 §10]

Note: See note under 285.009.

**285.038 Duties of director.** (1) Subject to policy direction by the Oregon Economic Development Commission, the director shall:

(a) Be the administrative head of the Economic Development Department;

(b) Administer the laws of the state concerning economic development; and

(c) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies which may substantially affect economic development within Oregon.

(2) Subject to ORS 285.033 (2), the director, for purposes of administration and with the approval of the commission, may organize and reorganize the department in whatever manner the director considers necessary to conduct the work of the department properly.

(3) In addition to duties otherwise required by law and subject to the policy direction by the commission, the director shall prescribe rules for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law.

(4) The director may delegate to any of the employees of the department the exercise or discharge in the director's name of any power, duty or function of whatever character vested in or imposed by law upon the director. The official act of any such person so acting in the director's name and by the authority of the director shall be considered to be an official act of the director.

(5) The director shall have authority to require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amounts of the bond shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The de-

partment shall pay the premiums on the bonds. [1993 c.736 §11]

Note: See note under 285.009.

**285.040** [Formerly 184.135; repealed by 1993 c.736 §80]

**285.045** [Formerly 184.137; repealed by 1993 c.736 §80]

**285.050 Duties of department; field representatives.** The Economic Development Department shall:

(1) Implement programs consistent with policies of the commission.

(2) Provide field representatives in the various geographical regions of the state. The field representatives shall be in the unclassified service and shall receive such salary as may be set by the director, unless otherwise provided by law. The field representatives shall:

(a) Work with local units of government and the private sector to encourage and to assist them as they establish and carry out economic development plans and programs under ORS 280.500;

(b) Promote local awareness of department policy and department programs and services and of assistance and economic incentives available from government at all levels; and

(c) Deliver to local units of government and the private sector the assistance and services available from the department, including publications, research and technical and financial assistance programs.

(3) Process requests received by state agencies and interested parties for information pertaining to industrial and commercial locations and relocations throughout the state.

(4) Consult and advise with, coordinate activities of, and give technical assistance and encouragement to, state and local organizations, including local development corporations, county, city, and metropolitan-area committees, chambers of commerce, labor organizations and similar agencies interested in obtaining new industrial plants or commercial enterprises.

(5) Act as the state's official liaison agency between persons interested in locating industrial or business firms in the state, and state and local groups seeking new industry or business, maintaining the confidential nature of the negotiations it conducts as requested by persons contemplating location in the state.

(6) Coordinate state and federal economic development programs.

(7) Consult and advise with, coordinate activities of, and give technical assistance and encouragement to all parties including,

but not limited to, port districts within the state working in the field of international trade or interested in promoting their own trading activity.

(8) Provide advice and technical assistance to Oregon business and labor.

(9) Collect and disseminate information regarding the advantages of developing new business and expanding existing business in the state.

(10) Aid local communities in planning for and obtaining new business to locate therein and provide assistance in local applications for federal development grants.

(11) Work actively to recruit domestic and international business firms to the state.

(12) In carrying out its duties under this chapter and ORS 329.900 to 329.975, give priority to assisting small businesses in this state by encouraging the creation of new businesses, the expansion of existing businesses and the retention of economically distressed businesses which are economically viable.

(13) Make recommendations on rates to the Oregon Board of Maritime Pilots.

(14) Provide managers and other employees for foreign trade offices in those foreign countries in which the department considers a foreign trade office necessary. Managers and other employees shall be in the unclassified service, and the director shall set the salaries of those persons. Foreign trade offices shall:

(a) Work with the private sector to assist them in finding international markets for their goods and services;

(b) Work with local units of government to assist them in locating foreign businesses within their jurisdiction;

(c) Promote awareness in foreign countries of department policy, programs and services and of assistance and economic incentives available from government at all levels; and

(d) Provide all other assistance considered necessary by the director. [Formerly 184.160; 1993 c.736 §16]

**285.055 Directory of Oregon Manufacturers; other publications; Economic Development Publication Account.** (1) The Economic Development Department may cause to be published a Directory of Oregon Manufacturers and such other publications relating to the economic development of the state. The cost of such publications shall be fully recovered through the sales thereof.

(2) All revenues derived from the sale of publications of the department shall be deposited in the Economic Development Publi-

cation Account, which is hereby established as an account in the General Fund.

(3) The moneys credited to the Economic Development Publication Account under subsection (2) of this section, shall be continuously appropriated exclusively to pay for publication costs of the Economic Development Department. [Formerly 184.015]

**285.060 Duties of department for Armed Forces of United States.** (1) The Economic Development Department shall:

(a) Consult and advise with, coordinate the activities of and give technical assistance to the Armed Forces of the United States and units of local government in this state in carrying out this section and ORS 174.103, 341.529, 351.642 and 497.006.

(b) Provide, upon request of any one of the Armed Forces of the United States, lists of persons who are qualified to provide technical and commercial services to the Armed Forces of the United States and to enter contracts for the construction, repair and maintenance of military facilities.

(2) Other state agencies shall cooperate with the Economic Development Department and the Armed Forces of the United States in carrying out this section and ORS 174.103, 341.529, 351.642 and 497.006. [Formerly 184.250]

**285.065 Rulemaking; policy role of commission.** (1) In accordance with any applicable provisions of ORS 183.310 to 183.550, the Oregon Economic Development Department may adopt such rules consistent with and necessary to carry out the policies established by the commission and the duties, functions and powers vested by law in the department.

(2) The commission has the power to establish any policy when a statute gives such power to the department. However, the commission may not establish policy when a statute specifically grants policy-making power to a named board, council or commission, without regard to whether that board, council or commission exists within the department. [Subsection (1) formerly 184.235; subsection (2) formerly 280.270; 1993 c.736 §17]

**285.067** [Formerly 280.250; repealed by 1993 c.736 §80]

**285.068 Services by department on contract basis; charges.** (1) The Economic Development Department shall provide to Oregon businesses, without regard to the sales volume or number of employees of the businesses, the following services on an individual contract basis:

(a) Marketing analysis; and

(b) Assistance in establishing within a designated foreign country:

(A) A plan for distribution of goods and services; and

(B) Sales of goods and services.

(2) In providing assistance to an Oregon business, the Economic Development Department may, for each contract, collect a fee for the services provided to the business. The Economic Development Department, by rule, shall establish the fees authorized by this subsection upon a shared cost recovery basis so that the moneys received are adequate for the department to administer the program described in subsection (1) of this section.

(3) In providing assistance to an Oregon business, the Economic Development Department shall require that a business reimburse it on an individual contract basis, for expenses incurred by the Economic Development Department's staff in rendering services to the business. Expenses that require reimbursement under this subsection include, but are not limited to:

- (a) Airline tickets;
- (b) Hotel accommodations;
- (c) Ground transportation expenses;
- (d) Per diem expenses; and
- (e) Moneys expended for commercially published research aids and materials.

(4) In addition to the expenses described in subsection (3) of this section, client businesses shall be subject to an hourly fee that is determined by the Economic Development Department in consultation with the global advisory committee. The hourly fee shall be an amount that allows recovery of the percentage of the overhead costs of the department that are attributable to assistance provided to Oregon businesses under this section. [1993 c.499 §2; 1993 c.736 §77]

**285.070** [Formerly 280.255; repealed by 1993 c.736 §57]

**285.075** [Formerly 280.260; repealed by 1993 c.736 §57]

**285.080** [Formerly 280.265; repealed by 1993 c.736 §57]

#### (Financial Affairs)

**285.085** [Formerly 184.040; repealed by 1993 c.736 §80]

**285.086 Gifts and grants; federal funds.** (1) The Economic Development Department may accept gifts of money or other property from any public or private agency or person made for the purpose of assisting the department to carry out any programs or laws that the department is charged with administering. Moneys so received shall be paid into an appropriate fund or account. Property so received shall be used for the purposes for which that property is given.

(2) The department may apply for, receive from the United States or any of its agencies, and disburse or supervise the disbursement of federal aid for the purposes for which the aid is provided. The department may also disburse or supervise the disbursement of funds provided by the State of Oregon for expenditure as a condition of receiving the federal aid. [1993 c.736 §12]

**285.090 Designation of department as agency to obtain financial assistance involving federal port programs.** For purposes of the Merchant Marine Act (46 U.S.C. 861 et seq.), the Economic Development Department shall be the state agency to apply to the Secretary of Commerce for financial assistance to assist ports in achieving compliance with federal law or regulations relating to environmental protection, public health and safety, or port or cargo security. [Formerly 184.165]

**285.095 Department to prepare financial statements; contents.** (1) In each calendar year, the Economic Development Department shall prepare, in accordance with generally accepted governmental accounting principles, a financial statement relating to each of the following funds:

(a) The Special Public Works Fund created by ORS 285.733;

(b) The Community Development Bank Fund established by ORS 285.685;

(c) The Oregon Business Development Fund created by ORS 285.443;

(d) The Oregon Economic Development Fund created by ORS 285.395;

(e) The Oregon Port Revolving Fund created by ORS 285.915; and

(f) Any other fund or account that is used by the department or commission to make loans or loan guarantees or to provide other financial assistance to private business firms organized for profit.

(2) The financial statements required by this section shall record and summarize all the financial transactions during the reporting period that involved moneys credited to a fund or account and shall describe the financial condition of the fund or an account at the end of the reporting period. The reporting period for financial statements required by this section shall be the fiscal year commencing on July 1 and ending on June 30.

(3) The financial statements required by this section shall be in a form prescribed by the Secretary of State.

(4) Each financial statement required by this section shall describe the financial transactions and condition of a single fund and shall be submitted to the Governor, the

President of the Senate and the Speaker of the House of Representatives not later than December 31 in each year. [Formerly 184.202; 1993 c.736 §18]

**285.100 Economic Development Department Special Events Revolving Fund.** There is established in the General Fund of the State Treasury the Economic Development Department Special Events Revolving Fund. Moneys in the revolving fund are continuously appropriated for the purpose of accumulating moneys to pay for special events and cooperative efforts with private corporations and individuals. [Formerly 184.240]

**285.105 Financial Programs Account.** There is created a cash account within the General Fund known as the Financial Programs Account. Revenues shall be derived from fees for service related to administration of the financial programs. Moneys in this account are continuously appropriated to provide for the administrative expenses of the financial programs in the department. [Formerly 184.215; 1993 c.736 §19]

**285.110 Federal Economic Development Research Account.** (1) There is created in the General Fund of the State Treasury a revolving account known as the Federal Economic Development Research Account. All moneys in such account are appropriated continuously and, pending receipt by the State Treasurer of federal funds for the payment of federally financed economic development research projects administered by the Economic Development Department, shall be used by the department to pay the costs of completing such research projects.

(2) Upon notice that such federal funds have been received by the State Treasurer, the director shall prepare a claim against such funds for the amount advanced from the Federal Economic Development Research Account for the purposes of this section, and the Oregon Department of Administrative Services shall issue a warrant in payment of such claim, for credit to and reimbursement of such account. [Formerly 184.198]

**285.115 Federal Planning Revolving Account.** (1) There is continued in the General Fund of the State Treasury a revolving account known as the Federal Planning Revolving Account. All moneys in the Federal Planning Revolving Account are appropriated continuously and, pending receipt by the State Treasurer of federal funds for the payment of federally financed planning projects administered by the Economic Development Department, shall be used by the department to pay the cost of completing such planning projects.

(2) Upon notice that such federal funds have been received by the State Treasurer, the director shall prepare a claim against such funds for the amount advanced from the Federal Planning Revolving Account for the purposes of this section, and the Oregon Department of Administrative Services shall issue a warrant in payment of such claim, for credit to and reimbursement of the Federal Planning Revolving Account. [Formerly 184.050]

**285.117 Economic Development Fee Account; sources; uses.** There is created a cash account within the General Fund known as the Economic Development Fee Account. Revenues in the account shall be derived from the fees for services collected under ORS 285.068. Moneys in this account are continuously appropriated to the Economic Development Department to provide the services set out in ORS 285.068. [1993 c.499 §3]

**285.120 Economic Stabilization and Conversion Fund; uses.** (1) The Legislative Assembly finds that Oregon traded sector industries are experiencing a period of major change and disruption, and that this change is creating severe and unpredictable economic consequences for many communities and workers. It is the purpose of the Economic Stabilization and Conversion Fund to assist communities and workers affected by economic dislocation or the possibility of economic dislocations to evaluate and implement alternative business or community opportunities.

(2) The Economic Stabilization and Conversion Fund is created separate and distinct from the General Fund. The fund shall be administered by the Economic Development Department. The fund may be credited with contributions of moneys from public and private sources and with repayments as provided in this section. Interest earned by the fund shall be credited to the fund.

(3)(a) The Economic Development Department shall allocate moneys in the fund for the following purposes:

- (A) Industrial retention service;
- (B) Employee ownership;
- (C) Community response to plant closures or community distress, or both; and
- (D) Feasibility studies.

(b) Not more than 30 percent of the moneys expended in any biennium from the fund shall be used for the purposes of paragraph (a)(C) of this subsection, nor shall any moneys be expended under paragraph (a)(C) of this subsection unless those funds are matched dollar for dollar from other nonlottery funds.

(4) The Economic Development Department may expend or loan moneys in the fund for financial assistance, feasibility studies, technical assistance and management consulting services for troubled firms that may close without assistance, for troubled firms that are experiencing major layoffs or firms that have actually closed or announced closure, and for communities that are experiencing distress due to the business closures and for the purpose of encouraging employee ownership, under such terms and conditions as the department may determine.

(5) The Economic Development Department shall provide that firms receiving assistance repay to the Economic Stabilization and Conversion Fund any assistance provided under subsection (4) of this section. Such provisions for repayment shall consider the financial ability of the firm to repay assistance.

(6) In providing assistance from the Economic Stabilization and Conversion Fund, the department shall give preference to Oregon's distressed areas and its traditional agriculture, forestry and fishing industries, and firms competing in markets for which national or international competition exists.

(7) In providing assistance from the Economic Stabilization and Conversion Fund, the department shall give preference to employee-owned enterprises. The employee ownership funds shall be contracted out to fulfill the state's obligation under ORS 285.263 to 285.275. In contracting, the Economic Development Department shall give preference to contractors with prior experience in operating programs for technical assistance and public education in the area of employee ownerships.

(8) The Economic Development Department shall establish specific criteria for expenditure of funds from the Economic Stabilization and Conversion Fund by adopting rules. [Formerly 184.225]

## ASSISTANCE TO SMALL BUSINESSES

**285.121 Legislative findings.** (1) The Legislative Assembly finds that:

(a) Small businesses continue to be a major source of employment opportunities for Oregon and that this state ought to encourage the success and growth of small businesses as a means of providing employment opportunities and family wage jobs for Oregonians.

(b) Those small businesses which have at least one employee and which compete in markets for which national or international competition exists have the greatest potential for benefiting the economy of this state.

(c) Access to appropriate business assistance services, rather than the cost of obtaining such services, is a factor limiting the expansion of many small businesses in this state.

(d) Small businesses that receive services from state-supported business assistance programs ought to pay part of the costs of those services because payment of fees by participating businesses assures that the beneficiaries of program services bear a part of the costs of providing the services, that businesses which do not value the services are discouraged from using them and that programs that provide services for which there is great demand obtain additional resources from program revenues.

(2) The Legislative Assembly therefore declares that it is the policy of this state:

(a) To encourage competition among publicly supported small business service providers in order to supply the most effective, highest quality services to the greatest number of businesses;

(b) To foster cooperation among state agencies, state-supported organizations and private sector entities that provide services to small businesses in order to best meet the needs of small business clients; and

(c) To encourage and support the formation of private sector organizations, including trade associations, organizations formed to meet the needs of key industries and similar groups, to serve the needs of the small businesses in this state and, to the maximum extent feasible, to coordinate the small business programs of this state and of such private sector organizations. [1993 c.736 §66]

Note: 285.121 to 285.127 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285.123 Goals and benchmarks to measure effectiveness of assistance to small businesses.** The Economic Development Department shall develop goals and benchmarks for the purpose of determining and measuring the performance of this state in providing efficient and effective business assistance services to the small businesses in this state. The benchmarks shall include but not be limited to:

(1) Employment and wage levels in small businesses in traded sectors of the economy of this state;

(2) Profitability of small businesses in traded sectors of the economy of this state;

(3) The number of traded sector small businesses in this state that are provided with business assistance services; and

(4) The level of satisfaction of small business clients with state-supported business assistance services. [1993 c.736 §67]

Note: See note under 285.121.

**285.125 Contracts with public or private entities to provide assistance services to small businesses; requirements for contractors; waiver of federal requirements.** (1) The Economic Development Department shall contract for specified periods with public or private organizations or associations that provide business assistance services to small businesses for delivery to small businesses in this state of services that include but are not limited to:

(a) Basic business training, including elements of accounting, personnel management, marketing and tax compliance.

(b) Counseling on business needs and problems.

(c) Assistance in securing state and federal procurement contracts.

(d) Assistance in securing Oregon suppliers for goods and services.

(2) For contracts entered into under this section, the department shall recognize and maintain the policy set forth in ORS 285.121 (1)(d) relating to fees for business assistance programs for small businesses.

(3) An organization or association that receives state moneys for the purpose of providing business assistance services to small businesses shall comply, to the greatest extent feasible, with the state policies established under ORS 285.121 to 285.127.

(4) To the extent that federal laws or regulations impose requirements that limit the payment of fees by recipients of business assistance services to small businesses, the Economic Development Department and the providers of those services shall apply for waivers of such federal requirements. [1993 c.736 §§68,69]

Note: See note under 285.121.

**285.127 Evaluation of effectiveness of assistance.** (1) The Economic Development Department shall evaluate the efficiency and effectiveness of the delivery of business assistance services to small businesses under ORS 285.121 to 285.127.

(2) The Economic Development Department, commencing in the biennium beginning on July 1, 1995, and in each biennium thereafter, shall cause an independent evaluation to be made of the system of providing small business services as provided in ORS 285.121 to 285.127. After receiving the final report of the person or organization that evaluated the system, the department shall submit a report to the Legislative Assembly concerning the evaluation and other matters involving the

administration and implementation of ORS 285.121 to 285.127. The report of the department shall include a recommendation, based on the independent evaluation, to continue, modify or terminate the delivery of business assistance services under ORS 285.121 to 285.127. [1993 c.736 §70]

Note: See note under 285.121.

## OREGON FILM AND VIDEO BOARD

Note: Sections 1 to 4 and section 6, chapter 923, Oregon Laws 1991, provide:

Sec. 1. There is established the Oregon Film and Video Board in the Economic Development Department for the purpose of promoting rapid statewide growth of the film and video industry in Oregon through public and private partnerships. The board shall coordinate supporting organizations, regional film plans, communication strategies and investments. [1991 c.923 §1]

Sec. 2. (1) The Oregon Film and Video Board shall consist of 11 members appointed by the Governor. The members shall be appointed for a term of four years, and all appointments shall be made subject to approval by the Senate in the manner provided in ORS 171.562 and 171.565.

(2) The 11 members shall include at least one member from each of the following groups:

(a) Professional filmmakers, videographers and production and support service firms;

(b) Business executives from manufacturing, banking or other commercial enterprises;

(c) Governmental agencies;

(d) Union or labor representatives from the film and video industry labor cooperative committees or associations; and

(e) Persons with particular skills or experience in areas such as promotion, education and training and strategic planning.

(3) Geographic representation from throughout the state shall be observed in appointments to the board.

(4) Members of the board are entitled to expenses as provided in ORS 292.495 (2).

(5) Upon expiration of the term of a member of the board, the successor shall be appointed for a term of four years, except in case of a vacancy, when the appointee shall serve the unexpired term of the member to be replaced.

(6) The board shall select one of its members to chair the board for such term and with duties and powers necessary to perform the functions of the office as the board determines.

(7) A majority of the members of the board constitutes a quorum for the transaction of business.

(8) The Oregon Film and Video Office of the Economic Development Department shall provide administrative support to the board. [1991 c.923 §2]

Sec. 3. Notwithstanding the term of office specified in section 2 of this Act, of the members first appointed to the Oregon Film and Video Board:

(1) Three shall serve for a term ending June 30, 1993.

(2) Four shall serve for a term ending June 30, 1994.

(3) Four shall serve for a term ending June 30, 1995. [1991 c.923 §3]

Sec. 4. The Oregon Film and Video Board shall:

(1) Serve as a body to advise governmental bodies and agencies and private persons on the development

and implementation of state policies and programs relating to the film and video industry.

(2) Prepare, periodically revise and submit to the Governor and the Director of the Economic Development Department a plan for promoting the development of the film and video industry in Oregon. The plan shall be directed toward the accomplishment of the following purposes:

(a) Promoting investment in and expansion of Oregon's indigenous film and video industry.

(b) Improving the knowledge, skills and abilities of current and future film and video industry workers.

(c) Promoting Oregon as a competitive center for film and video production.

(d) Assisting local and regional organizations in developing their local industry and attracting out-of-state productions.

(3) Advise the Governor and the Economic Development Department on issues facing the film and video industry and make recommendations on policy and programs.

(4) Report biennially to the Joint Legislative Committee on Trade and Economic Development. [1991 c.923 §4]

Sec. 6. This Act is repealed on June 30, 1995. [1991 c.923 §6]

## TOURISM

**285.130 Definitions for ORS 285.130 to 285.160.** As used in ORS 285.130 to 285.160, unless the context requires otherwise, "council" means the Oregon Tourism Council. [Formerly 360.005; 1993 c.736 §20]

**285.133 Legislative findings.** The Legislative Assembly finds and declares that:

(1) Travel and recreation industries are important to the State of Oregon as a whole, and the health of these industries affects the well-being of all Oregonians.

(2) Tourist facilities and attractions serve the recreational and cultural needs of both visitors and residents.

(3) It is in the public interest to encourage the orderly growth and development of nonpolluting, labor-intensive industries such as tourism within the state.

(4) The travel and recreation industries have become increasingly important to the economic growth of the state and will become more important in the future because of increased leisure time and declining employment opportunities in other traditional Oregon industries.

(5) State involvement in tourism, recreational and cultural activities needs to be better coordinated to respond effectively to state interests and, where appropriate, to meet the needs of local governments and the private sector.

(6) There is a need to encourage communication and cooperation between the public and private sectors of the industry to promote orderly growth and implementation of statewide objectives.

(7) It is desirable that there be an agency in state government to act in matters pertaining to public relations.

(8) It is in the public interest to promote quality, integrity and reliability in all tourism and tourism related services and in information offered to visitors to the State of Oregon.

(9) Oregonians want to preserve the historical and cultural foundations of the state as a living part of community life and development and to insure future generations and visitors the opportunity to appreciate and enjoy the rich heritage of Oregon.

(10) Planning and promotion of tourism and recreation should be compatible with other state interests in energy development and conservation, environmental protection, transportation and the judicious use of natural resources.

(11) It is in the best interest of the nation and the tourism and recreation industries to proceed in an orderly fashion toward the development of a promotional program for advancing and enhancing tourism in the state. [Formerly 360.015]

**285.135 Oregon Tourism Council; qualifications; confirmation; term; compensation and expenses; officers; quorum.**

(1) There is established an Oregon Tourism Council consisting of nine members appointed by the Governor, subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution, to perform the duties described in ORS 285.137. In appointing members of the council, the Governor shall:

(a) Appoint members representing the state's various regions and areas of tourism activity.

(b) Appoint at least six of the members drawn from the travel agencies, tour operators, private transportation, restaurants, hotels, motels, resorts, tourism promotion for cities or counties, cultural attractions, historic attractions, ski facilities and related recreational industries.

(c) Appoint at least one member to represent the public at large.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for one reappointment except that a member appointed to fill a vacancy for a partial term may be reappointed to fill a total of two full terms in addition to the partial term. If there is a vacancy for any cause, the Governor shall make an appoint-

ment to become effective immediately for the unexpired term.

(3) A member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(4) The council shall select one of its members to chair the council for such term and with duties and powers necessary to perform the functions of the office as the council determines.

(5) A majority of the members of the council constitutes a quorum for the transaction of business. [Formerly 360.025]

**285.137 Duties of council.** The Oregon Tourism Council shall perform the following duties:

(1) Serve as a body to advise governmental bodies and agencies and private persons on the development and implementation of state policies and programs relating to tourism and recreation and to assist in the coordination of these activities.

(2) Advise the Governor, the director and the commission on all matters pertaining to tourism that pertain to the powers, duties and functions of the department.

(3) Prepare, periodically revise and submit to the Governor, the commission and the director a recommended comprehensive marketing plan for review by the Governor and director as provided in ORS 285.140. The comprehensive marketing plan shall be directed toward the accomplishment of the following purposes:

(a) Maximizing the return on public and private investment in tourism.

(b) Encouraging longer stays by visitors to Oregon.

(c) Assisting local agencies in attracting conferences and conventions.

(d) Reducing seasonal fluctuations in travel and tourist related industries.

(e) Encouraging visitors to be destination oriented in this state.

(f) Encouraging visitors from foreign countries to come to Oregon.

(g) Encouraging Oregonians to vacation in Oregon.

(4) Develop a recommended biennial budget for the operation of the department's programs relating to tourism and recreation that will be submitted to the director and the Governor.

(5) Seek and receive the views of all levels of government and the private sector with respect to state programs and policies for the promotion and assistance of tourism.

(6) Prepare and submit suggested administrative rules to the director that the coun-

cil determines are necessary for the operation of the department's programs relating to tourism and recreation.

(7) Cooperate with educational institutions of the state in the development of educational programs preparing persons for supporting and leadership positions critical to the development of an economically strong and socially beneficial tourism industry in Oregon. [Formerly 360.035; 1993 c.736 §21]

**285.140 Action on marketing plan.** Upon receipt of a marketing plan prepared or revised by the Oregon Tourism Council under ORS 285.137, the Governor and the director may review the plan. If the Governor or the director has any disagreement with the plan or if the Governor or director desires anything included in the plan that is not in the plan when submitted, the Governor or director shall resubmit the plan to the council with recommendations for revision by the council. [Formerly 360.045]

**285.143 Assistance for council.** The department shall provide the council with staff and other assistance as necessary for the council to perform its duties. [Formerly 360.055; 1993 c.736 §22]

**285.145 Tourism Program; duties.** The Tourism Program is established as an administrative section of the department. The following are the duties and powers of the Tourism Program:

(1) Collecting, analyzing and disseminating data that accurately measure the economic and social impact of tourism on this state and that may be used in marketing efforts.

(2) Carrying out a program of media advertising, promotion of Oregon to the travel trade and other promotional activities as directed by the department and in compliance with the marketing plan established by the council under ORS 285.137.

(3) Providing information on vacationing in Oregon to travel writers, travel agents and tour operators. The Tourism Program may expend moneys duly budgeted to pay the travel and various other expenses of travel writers, travel agents and tour operators.

(4) Assisting communities with publicity concerning local festivals, arts activities and historical and natural attractions.

(5) Answering requests for information about Oregon.

(6) Printing, publishing and distributing all the information required by this section in a manner that will best serve the traveling public. In carrying out this subsection, the Tourism Program is not subject to ORS chapter 282.

(7) Entering into agreements and cooperating with political subdivisions of this state, state agencies, other states, federal agencies, governments of foreign countries and private individuals, corporations or other persons in the publication or distribution of information relating to recreational activities and tourist facilities or of other information or materials of interest or service to the traveling public and in activities related to developing and promoting tourism in this state. [Formerly 360.065; 1993 c.736 §23]

285.147 [Formerly 360.075; repealed by 1993 c.736 §80]

**285.148 Matching grant program; purposes; amount.** (1) The Tourism Program established by ORS 285.145, with the approval of the Tourism Council, shall administer a biennial matching grants program when the Legislative Assembly appropriates moneys therefor. The purpose of the matching grants program is to help develop and improve the economies of communities throughout Oregon by means of the improvement, expansion and promotion of the visitor industry.

(2) The Tourism Program and the council shall establish the maximum grant amount in the applicant guidelines prepared for the matching grants program in each biennium. No more than 50 percent of the total cost of a project may be paid for with moneys from the program. An applicant must show a minimum one-to-one match from private or public sources other than department programs. The applicant must also show a cash match of at least 50 percent of the amount requested under the matching grants program. [1993 c.736 §23a]

285.150 [Formerly 360.095; repealed by 1993 c.736 §80]

**285.153 Administrator of division.** (1) The Director of the Economic Development Department, upon consultation with the council and upon the approval of the Governor, shall appoint an administrator of the division who shall serve at the pleasure of the director.

(2) The administrator shall receive such salary as may be provided by law or as fixed by the director.

(3) The administrator shall be the administrative head of the division.

(4) The administrator may suggest rules to the director for the government of the division, the conduct of its employees and the assignment and performance of its business and the custody, use and preservation of its records, papers and property. [Formerly 360.105]

**285.155 Special consultant.** The department may engage on an independent-

contractor basis a qualified consultant to make in a professional capacity a special and temporary survey and investigation concerning the eligibility of a museum to receive a matching fund grant as authorized by ORS 358.760 and to make recommendations in connection therewith. [Formerly 360.115; 1993 c.736 §24]

285.157 [Formerly 360.125; repealed by 1993 c.736 §80]

**285.160 Tourism Account.** (1) The Tourism Account is established in the General Fund of the State Treasury. Except for moneys otherwise designated by statute, all fees, assessments, federal apportionments or contributions and other moneys received by the department shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously and shall be used by the department for purposes authorized by law.

(2) The department shall keep a record of all moneys deposited in the account. The record shall indicate by separate and by cumulative accounts the source from which moneys are derived and the individual activity or program against which each withdrawal is charged. [Formerly 360.135; 1993 c.736 §25]

**285.163 Maintenance of tourist information centers.** The Economic Development Department shall establish and maintain official tourist information centers near the principal entrance points into the state, and at other locations it considers appropriate, to be used to provide information to the public about public accommodations, commercial services for the traveling public, campgrounds, parks, recreational areas and points of interest. The department may contract for the construction, maintenance and operation of such tourist information centers. [Formerly 377.785; 1993 c.736 §26]

## OREGON MARKETPLACE

**285.170 Policy to strengthen local economies.** It is the policy of the State of Oregon to strengthen local economies and put money from Oregon businesses to work within the state whenever possible. [1991 c.822 §1]

**285.173 Oregon Marketplace.** (1) The Economic Development Department shall contract for the operation of an Oregon Marketplace designed to enhance family wage jobs, create new jobs and retain existing jobs by taking advantage of new in-state, national and international business opportunities. The Oregon Marketplace shall assist Oregon businesses to meet purchasing needs for goods and services competitively with Oregon suppliers.

(2) The Oregon Marketplace shall consist of local network offices under contract to the Economic Development Department.

(3) In performing the duties described in this section and ORS 285.170, the Oregon Marketplace shall:

(a) Contact businesses to identify goods and services Oregon businesses could supply and items businesses plan to buy in the future and determine which of these goods and services could be purchased on competitive terms within the state;

(b) Respond to inquiries from businesses interested in purchasing goods and services from Oregon businesses;

(c) Determine, with the consent of a business, goods and services on which the business is willing to take contract agreements;

(d) Advertise market opportunities described in paragraph (c) of this subsection;

(e) Receive bid responses from potential suppliers, compile them according to criteria agreed upon in advance with a prospective purchasing business and send them to that business for final selection;

(f) Facilitate contract agreements between purchasers and Oregon suppliers;

(g) Handle media and public relations to explain and promote the Oregon Marketplace; and

(h) When feasible, charge service fees for businesses that participate in the program.

(4) To carry out the duties described in this section and ORS 285.170, the Economic Development Department shall contract for planning, coordinating and implementing Oregon Marketplace offices to establish and operate the Oregon Marketplace program. The department shall assure that either the department or the contractor shall:

(a) Provide funding for Oregon Marketplace local offices;

(b) Prepare promotional materials or conduct seminars to inform communities and organizations about the Oregon Marketplace;

(c) Provide technical assistance to communities and organizations interested in developing local access to the Oregon Marketplace;

(d) Develop standardized procedures for operating Oregon Marketplace offices;

(e) Train staff;

(f) Provide continuing management and technical assistance;

(g) Annually produce a report describing the activities, outcomes and accomplishments of the Oregon Marketplace and submit the report to the Joint Legislative Committee on

Trade and Economic Development and to the Emergency Board; and

(h) Establish goals for Oregon Marketplace offices that represent commitment to the state economy.

(5) The report required under subsection (4)(g) of this section shall include the contractor's procedures for assessing and collecting fees from participating businesses for the services it provides, the amount of such fees assessed and the amount of such fees actually collected.

(6) In carrying out this section and ORS 285.170, the Oregon Marketplace and the Economic Development Department shall cooperate and coordinate their activities with each other and local economic development agencies to the maximum extent possible.

(7) All state agencies shall cooperate fully with the Oregon Marketplace to provide information and technical assistance necessary for program operation.

(8) As used in this section, "market opportunity" means an advertisement for a good or service to all interested Oregon businesses so that these businesses can compete on the contract in open bidding. [1991 c.822 §2]

#### TECHNOLOGICAL DEPLOYMENT SERVICES

**285.175 Definitions for ORS 285.175 to 285.179.** As used in ORS 285.175 to 285.179:

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

(2) "Key industries" means those industries identified by rule of the department under ORS 285.765 to 285.780.

(3) "Manufacturing technology center" means an organization that provides technology deployment services.

(4) "Technology deployment" means the process of assisting manufacturing firms to appraise, purchase, install and effectively use equipment, techniques and processes that improve quality and productivity of goods and services being produced. [1993 c.736 §72]

**Note:** 285.175 to 285.179 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285.176 Legislative findings.** (1) The Legislative Assembly finds that:

(a) Manufacturing firms in Oregon and the United States lag behind many of their international competitors in the deployment of proven manufacturing technologies and techniques.

(b) The ability of all Oregon manufacturers to effectively deploy the appropriate

technology is critical to the ability of key industries to compete in the global economy.

(c) To be effective, any program to improve the manufacturing capability of Oregon firms must reflect the specific needs and capabilities of those firms.

(2) The Legislative Assembly therefore declares that the purpose of ORS 285.175 to 285.179 is to provide for the design of a manufacturing technology center program to improve the technological capabilities of one or more closely related sectors of the Oregon economy. [1993 c.736 §71]

Note: See note under 285.175.

**285.178 Design of technological deployment services.** In designing the program provided for under ORS 285.175 to 285.179, the Economic Development Department shall develop a program that uses an industrial extension service model of providing client-directed problem-solving services. The department shall develop benchmarks for assessing the effectiveness of the program. The benchmarks shall include, but need not be limited to, the following:

(1) The number of firms for which the service has completed technology audits, competitiveness assessments or other analyses specific to a firm and that enable the firm to identify particular problems in its manufacturing operations.

(2) The number of firms that have adopted recommendations provided through the program for solving manufacturing problems.

(3) The value of savings in manufacturing costs, rework, labor savings and other sources resulting from assistance provided to manufacturing firms. [1993 c.736 §73]

Note: See note under 285.175.

**285.179 How services provided.** (1) From moneys appropriated or allocated to the Economic Development Department for the purpose of carrying out ORS 285.175 to 285.179, the department may provide technology deployment services through or in conjunction with public or private consultants, institutions of higher education in this state, community colleges, small business development centers and other appropriate public or private persons or agencies.

(2) The Economic Development Department may enter into contracts with public or private persons or agencies to provide technology deployment services. [1993 c.736 §74]

Note: See note under 285.175.

## JOB TRAINING PROGRAMS

**285.180 Definitions for ORS 285.180 to 285.185.** As used in ORS 285.180 to 285.185:

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

(2) "Participant" means a person receiving training in programs conducted under the direction of the State Job Training Coordinating Council as the council implements the federal Job Training Partnership Act (29 U.S.C. 1501).

(3) "Participant records" means records relating to matters such as grades, conduct, personal and academic evaluations, results of psychometric testing, counseling, disciplinary actions, if any, and other personal matters. [Formerly 658.600]

**285.183 Records of participants in Job Training Partnership Act programs; confidentiality; rules.** (1) All participant records maintained by the local service delivery area providers or any public or private agency involved in Job Training Partnership Act programs shall be confidential and except as provided in ORS 285.180 to 285.185 shall be open for inspection only in accordance with such rules as the department shall adopt.

(2) A participant may provide written consent for the examination or release of any record pertaining to the participant.

(3) All information contained in participant files shall be available for inspection by the participant, and the participant's parent or legal guardian if the participant is under 18 years of age. Participant behavioral records shall be released only in the presence of an individual qualified to explain or interpret the records.

(4) The department may adopt rules to provide the circumstances under which participant names or records may be made available for inspection when:

(a) Ordered by a court of competent jurisdiction.

(b) Necessary to protect the health or safety of a participant or another.

(c) Necessary to provide information to state and local agencies administering ORS chapters 418, 657 and 657A.

(d) Necessary for program staff work or studies of a statistical or demographic nature.

(e) Necessary to carry out the planning and coordinating functions between state and local agencies required by the federal Job Training Partnership Act (29 U.S.C. 1501), as amended, and the State Job Training Partnership Administration within the department. [Formerly 658.610]

**285.185 Oregon State Job Training Coordinating Council; members; confirmation; council status.** (1) The Oregon

State Job Training Coordinating Council is established to assist the Governor in implementing and overseeing job training programs pursuant to the Job Training Partnership Act (P.L. 97-300 as amended, 29 U.S.C. 1501 et seq.).

(2) The Oregon State Job Training Coordinating Council shall consist of members appointed by the Governor, consistent with the requirements of the Job Training Partnership Act.

(3) The Oregon State Job Training Coordinating Council shall be this state's job training coordinating council required under 29 U.S.C. 1532.

(4) The Economic Development Department shall be the administrative agency for the State of Oregon for all other purposes of the Job Training Partnership Act (P.L. 97-300, as amended, 29 U.S.C. 1501 et seq.).

(5) Except for those individuals who are statewide elected officials or state legislators and those individuals who have been subjected to confirmation for governmental offices which they presently hold, all appointments by the Governor to the State Job Training Coordinating Council referred to in the federal Job Training Partnership Act (29 U.S.C. 1501) are subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. [Subsections (1) to (4) formerly 184.285; subsection (5) formerly 658.620]

**Note:** Section 16, chapter 765, Oregon Laws 1993, provides:

**Sec. 16.** (1) Notwithstanding ORS 285.185, the Oregon Workforce Quality Council is directed and authorized to reduce, to the extent possible within statutory limitations, the number of state agencies involved in setting and implementing workforce development policy by arranging administrative consolidation or coordination of one or more of the following responsibilities into the Office of Community College Services:

- (a) Job opportunities and basic skills contract administration.
- (b) Trade Adjustment Assistance Act administration.
- (c) Oregon Dislocated Worker Program administration.
- (d) Job Training Partnership Act administration.

(2) Any such arrangement of administrative responsibilities shall be in the form of an interagency agreement, shall be agreed to by the organizations involved and shall be subject to review and approval by the Sixty-eighth Legislative Assembly. [1993 c.765 §16]

**285.187 Report on expenditure of federal job training funds; standards for private industry councils.** The State Job Training Coordination Council shall require each private industry council to report annually the amount of federal Job Training Partnership Act funds expended for economic development activities which do not directly involve services to participants under 29 U.S.C. §1604 (18), (19) or (23). The report

shall include an analysis of the types of economic development efforts undertaken and the results of these expenditures. After reviewing the reports required by this section, the State Job Training Coordination Council shall adopt standards for private industry council expenditure of such funds. [Formerly 658.630]

**285.190 Legislative findings on job training.** The Legislative Assembly finds that job training is an essential component in promoting the economic development of Oregon and the economic well-being of the citizens of this state. Therefore, the Legislative Assembly declares that it is the policy of this state to promote the coordinated provision of education, employment and job training to achieve the following goals:

(1) Develop the human resources of Oregon, by preparing citizens for careers and job opportunities which will provide for their long-term economic security;

(2) Aid the economically disadvantaged citizens of this state to attain long-term self-sufficiency, especially those living in distressed rural and inner city areas;

(3) Coordinate the delivery of all employment, job training, retraining, apprenticeship training and related educational programs to assure the efficient and effective provision of needed services;

(4) Promote local initiative and innovation to flexibly and responsibly meet the special needs of businesses and individuals in different regions of the state;

(5) Promote employee and employer participation in efforts to improve productivity, through improvements in worker skills and management practices thereby enhancing the competitiveness of Oregon's workforce;

(6) Provide retraining assistance to workers displaced by the changing economy, particularly older workers; and

(7) Promote expansion of the state's economy consistent with the following criteria:

(a) Increase the number of family wage jobs in this state.

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

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

(d) Utilize the educational resources available at community colleges and other higher education institutions.

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

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

harness Oregon's economic comparative advantages.

(g) Assist businesses selling goods and services in markets for which national or international competition exists. [Formerly 184.280]

**285.200** [Formerly 344.305; subsection (4) enacted as 1991 c.668 §1; subsection (5) enacted as 1991 c.668 §2; 1993 c.765 §2; renumbered 329.905 in 1993]

**285.203** [1991 c.668 §3; 1993 c.765 §1; renumbered 329.915 in 1993]

**285.205** [Formerly 344.319; renumbered 329.925 in 1993]

**285.207** [1991 c.668 §6; 1993 c.765 §3; renumbered 329.935 in 1993]

**285.210** [1991 c.668 §7; repealed by 1993 c.765 §8]

**285.213** [1991 c.668 §8; 1993 c.765 §14; renumbered 329.945 in 1993]

**285.215** [1991 c.668 §9; repealed by 1993 c.765 §8]

**285.217** [1991 c.668 §10; repealed by 1993 c.765 §8]

**285.220** [1991 c.668 §11; repealed by 1993 c.765 §8]

**285.223** [Formerly 344.323; repealed by 1993 c.765 §8]

**285.225** [Formerly 344.325; 1993 c.765 §11; renumbered 329.950 in 1993]

**285.227** [Formerly 344.329; repealed by 1993 c.765 §8]

**285.230** [Formerly 344.335; 1993 c.765 §20; renumbered 329.955 in 1993]

**285.233** [Formerly 344.339; 1993 c.45 §288; repealed by 1993 c.765 §8]

**285.235** [Formerly 344.343; 1993 c.45 §289; repealed by 1993 c.765 §8]

**285.237** [Formerly 344.347; 1993 c.45 §290; repealed by 1993 c.765 §8]

**285.240** [Formerly 344.355; repealed by 1993 c.765 §8]

**285.243** [Formerly 344.309; 1993 c.765 §6; renumbered 329.970 in 1993]

**285.245** [1989 c.961 §13; 1991 c.668 §12; repealed by 1993 c.765 §8]

**285.247** [1989 c.961 §14; 1991 c.668 §13; 1993 c.765 §22; renumbered 329.975 in 1993]

## PERMITS

### (Generally)

**285.250 Issuance of permits by state agencies; rules; time limitations.** (1) It is the policy of the State of Oregon that every state agency authorized or required to approve or to issue permits shall accomplish its review and make its decision expeditiously and without undue delay.

(2) Every state agency authorized or required to approve or to issue permits shall adopt rules establishing the timetable to be followed by the agency when issuing permits. Whenever possible, the period of time between receipt of the properly completed application and completion of the agency's review shall not exceed 60 days unless other law specifies a longer period of time.

(3) Whenever any person proposes a project and submits a properly completed application to the appropriate state agency for the necessary permit, the state agency shall promptly acknowledge receipt of the application. If the state agency contemplates it will be unable to complete action to approve or disapprove the application within 60 days of receipt of the application, the state agency shall submit to the applicant a procedural timetable for completion of the agency's review at the time it acknowledges receipt of the application.

(4) As used in this section:

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

(b) "Project" means any public or private construction or expansion or addition that requires as a prerequisite to such construction, expansion or addition the approval of a state agency, excluding activities subject to ORS 469.570, 469.590 to 469.619 and 469.930.

(c) "State agency" means "agency" as that term is defined in ORS 183.310. [Formerly 284.895]

### (Project Permits)

**285.253 Definitions for ORS 285.253 to 285.260.** As used in ORS 284.253 to 285.260, unless the context requires otherwise:

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

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

(3) "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 469.619 and 469.930.

(4) "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 284.800]

**285.255 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 285.253 to 285.260 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 285.253 to 285.260, 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 284.805]

**285.257 Staff; rules.** (1) The department shall provide such staff as it determines necessary to accomplish the purposes of ORS 285.253 to 285.260. In addition to salary, subject to the limitations otherwise provided by law, any employee 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 285.253 to 285.260 pursuant to ORS 183.310 to 183.550. [Formerly 284.810]

**285.260 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 department 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 department with statistics on the regulatory activities of the agency. The statistics shall include information necessary for the department 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 285.253 to 285.260.

(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 285.253 to 285.260.

(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 285.253 to 285.260 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 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 284.815]

### EMPLOYEE OWNERSHIP OPPORTUNITY

**285.263 Definitions for ORS 285.263 to 285.273.** As used in ORS 285.263 to 285.273:

(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. [Formerly 284.075]

**285.265 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 employee ownership. [Formerly 284.080]

**285.267 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 employee-owned enterprises within the scope of its business assistance activities. Employee-owned enterprises shall not be denied assistance or service available through any business assistance program receiving state moneys solely because the enterprise is employee-owned.

(2) An employee-owned enterprise or employee ownership group as defined in ORS 285.263 shall be considered eligible for grants or technical assistance from the Economic Stabilization and Conversion Fund created under ORS 285.120. The Economic Development Department may apply any or all of the fund to the purposes of ORS 285.263 to 285.270. [Formerly 284.085]

**285.270 Duties of department.** The Economic Development Department shall accomplish the following purposes pursuant to

ORS 59.025, 62.765 to 62.792 and 285.263 to 285.275:

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

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

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

(2) Conduct or contract for applied research projects related to innovative utilization of employee 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 employee-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 employee-owned enterprises. [Formerly 284.090]

**285.273 Application for demonstration on unemployment compensation payable for self-employment.** The Employment Department 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 employee ownership of an employee-owned enterprise to the extent allowable under federal law. [Formerly 284.095]

**285.275 Short title.** ORS 59.025 and 285.263 to 285.275 shall be referred to as the "Employee Ownership Opportunity Act." [Formerly 284.100]

### STATE REVENUE BONDS FOR INDUSTRIAL, COMMERCIAL, RESEARCH AND DEVELOPMENT USES

**285.310 Policy.** The Legislative Assembly finds that by use of the powers and procedures described in ORS 285.310 to 285.397 for the assembling and financing of lands for industrial, commercial and research and development uses and for the construction and financing of facilities for such uses, financed through the issuance of revenue bonds secured solely by the properties and rentals thus made available, the state may be able to reduce substantially in various counties the occurrence of economic conditions requiring more expensive remedial action. It is

the purpose of ORS 285.310 to 285.397 to authorize the exercise of powers granted by ORS 285.310 to 285.397 by this state in addition to and not in lieu of any other powers it may possess. [Formerly 280.310]

**285.315 Definitions for ORS 285.310 to 285.397.** As used in ORS 285.310 to 285.397, unless the context requires otherwise:

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

(2) "Eligible project" means an economic development project found by the Oregon Economic Development Commission to meet standards of the commission adopted under ORS 285.065. The commission may treat as a single eligible project for bonding purposes any number of economic development projects determined to be eligible projects. [Formerly 280.315; 1993 c.736 §27]

**285.320 Determination of eligibility of projects for financing; fees.** (1) Upon determining an economic development project an "eligible project," the commission shall forward the application to the State Treasurer, who shall determine whether to issue the revenue bonds.

(2) The commission shall collect the fees set forth in subsection (3) of this section from an applicant that seeks to have an economic development project declared eligible for financing. The fee may be collected even though the project has not been determined to be eligible for financing. Moneys collected under this subsection are continuously appropriated to the commission for the purpose of administration or funding of any program it is authorized to operate. Participation fees received on bonds issued pursuant to ORS 285.397 may be paid to local development groups for administration expenses related to investigating proposed economic development projects and assisting the commission in processing applications pursuant to ORS 285.397.

(3) The fees described in subsection (2) of this section are as follows:

(a) \$250 for an application of not to exceed \$500,000.

(b) \$500 for an application of more than \$500,000.

(c) A closing fee of not to exceed one-half of one percent of the total bond issue for the project, as determined by the commission.

(d) A one-time participation fee, not to exceed one-half of one percent of the total

bond issue or an annual participation fee not to exceed one one-sixteenth of one percent of the outstanding principal of the bond issue as determined by the commission.

(e) For bonds issued under ORS 285.395 and 285.397, insurance assessments in amounts and payable at such times as are required by rules adopted pursuant to ORS 285.065. [Formerly 280.320; 1993 c.736 §28]

**285.323 When revenue bonds to be issued to benefit key industry; hiring requirements; tax liability if project leased.**

(1) If an eligible project will directly benefit a key industry, as defined in ORS 285.765 (3), and if the total cost of the eligible project exceeds \$100 million, the state, acting through the State Treasurer, may authorize and issue revenue bonds in accordance with ORS 285.310 to 285.397 to finance the costs of the project.

(2) Nothing in this section authorizes the refinancing of existing eligible projects that meet the requirements of this section.

(3) A business firm that will be benefited by an eligible project shall enter into a first-source hiring agreement with a publicly funded job training provider that will remain in effect until the end of the tax exemption period. If the project is located in an enterprise zone, the benefited business firm shall agree to the hiring requirements identified in ORS 285.605. The benefited business firm shall agree that not less than 75 percent of new employees hired as a result of the bond issue shall reside within Oregon.

(4) Notwithstanding ORS 285.335 (2), if revenue bonds are issued to finance an eligible project under subsections (1) to (3) of this section, and the project is leased or subleased to any person, the lessee shall be required to pay property taxes levied upon or with respect to the leased premises only in accordance with ORS 307.123. [1993 c.737 §§2,3]

**285.325 Review by Economic Development Commission.** The state, acting through the State Treasurer, shall not undertake to finance any economic development project pursuant to ORS 285.310 to 285.397 before the Oregon Economic Development Commission has reviewed the project pursuant to standards adopted under ORS 285.065. [Formerly 280.325; 1993 c.736 §29]

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

(2) The governing body of any Oregon county is encouraged to forward appropriate

prospective development projects to the Oregon Economic Development Commission for processing pursuant to ORS 285.320.

(3) For purposes of this section, for projects located on a federally recognized Oregon Indian reservation, the governing body of a county shall be considered to be the governing body of the federally recognized Oregon Indian tribe.

(4) If the governing body is requesting the undertaking of an eligible project to be funded by revenue bonds issued under ORS 285.323 (1) to (3), it may impose additional reasonable requirements on the applicant.

(5) The county shall not request a project to be funded by revenue bonds issued under ORS 285.323 (1) to (3) unless, after a public hearing:

(a) The county and, if the proposed project will be located within a city, the city have approved the special provisions related to the property tax exemption.

(b) As consideration for the county requesting financing of the project under ORS 285.323 (1) to (3), the business firm that will be benefited by the project enters into an agreement with the county for payment to the county of an annual fee for community services support in an amount equal to 25 percent of the property taxes exempted in each tax year, but not exceeding \$2 million in any year. The fee shall be paid annually during the term of the revenue bonds issued under ORS 285.323 (1) to (3) to finance the costs of the project. For purposes of this paragraph, the property tax exempted in a tax year shall be calculated as the effective tax rate after any constitutional limits on the taxable portion of the value of the project multiplied by the exempt value of the project.

(c) The applicant has reached agreement with the county and, if the proposed project will be located within a city, with the city on any other requirements related to the project, including requirements for hiring, as employees of the project, individuals who, prior to being hired, reside within the county in which the project is located.

(6) The fee collected under subsection (5)(b) of this section shall be distributed by the county based on an agreement entered into at the time of application between the county and the city, if any, in which the project is located. [Formerly 280.330; 1993 c.737 §6]

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

(1) Enter into agreements to finance the costs of an eligible project by loaning the proceeds of bonds authorized by ORS 285.395 and 285.397 to any person, firm or public or private corporation or federal or state governmental subdivision or agency under such terms and with such security as the state may approve;

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

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

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

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

may be required for the construction, acquisition or installation of other public facilities;

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

(7) Accept from any authorized agency of the Federal Government loans or grants for the planning, construction, acquisition, leasing, or other provision of any eligible project, and enter into agreements with such agency respecting such loans or grants. [Formerly 280.335]

**285.340 Powers of Oregon Economic Development Commission.** In carrying out its duties under ORS 285.310 to 285.397, the Oregon Economic Development Commission, acting for and in behalf of the state as its duly authorized agency, may:

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

(2) Sell and convey all properties acquired in connection with eligible projects, including without limitation the sale and conveyance thereof subject to any mortgage and the sale and conveyance thereof under an option granted to the lessee of the eligible project, for such price, and at such time as the state may determine. However, no sale or conveyance of such properties shall ever be made in such manner as to impair the rights of interests of the holder, or holders, or any bonds issued under the authority of ORS 285.310 to 285.397. [Formerly 280.340]

**285.345 Limitation on state power.** Except as provided in ORS 285.340 (2), the state shall not have power to operate any eligible project as a business or in any manner whatsoever, and except as provided in ORS 285.395 and 285.397, nothing in ORS 285.310 to 285.397 authorizes the state to expend any funds on any eligible project, other than the revenues of such projects, or the proceeds of revenue bonds issued hereunder, or other

funds granted to the state for the purposes of an eligible project. [Formerly 280.345]

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

(a) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by revenues from eligible economic development projects, and where applicable, secured as provided in ORS 285.395 and 285.397, to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project and issued in the manner prescribed by ORS 286.010, 286.020 and 286.105 to 286.135, and refunding bonds may be issued to refinance such revenue bonds.

(b) The State Treasurer shall designate the underwriter, trustee and bond counsel, if any, and enter into appropriate agreements with each to carry out the provisions of ORS 285.310 to 285.397.

(2) Any trustee designated by the State Treasurer to carry out all or part of the powers specified in ORS 285.335 must agree to furnish financial statements and audit reports for each bond issue. [Formerly 280.350]

**285.355 Issuance of bonds; determining factors.** In determining whether to issue revenue bonds under ORS 285.310 to 285.397, the State Treasurer shall consider:

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

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

(3) Such other relevant factors as the State Treasurer considers necessary to protect the financial integrity of the state. [Formerly 280.355]

**285.360 Method of issuing bonds.** Bonds authorized under ORS 285.310 to 285.397 shall be issued in accordance with the provisions of ORS 288.515 to 288.550. [Formerly 280.360]

**285.365 Administration expenses.** The administrative expenses of the State Treasurer shall be charged against bond proceeds or project revenues. [Formerly 280.365]

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

**285.375 Validity of bonds.** The validity of bonds issued under ORS 285.310 to 285.397 shall not be dependent on nor be affected by the validity or regularity of any proceeding relating to the acquisition, purchase, construction, installation, reconstruction, improvement, betterment or extension of the eligible project for which the bonds are issued. The official action authorizing such bonds may provide that the bonds shall contain a recital that they are issued pursuant to ORS 285.310 to 285.397 and such recital shall be conclusive evidence of their validity and of the regularity of their issuance. [Formerly 280.375]

**285.380 Covenants in bonds.** The official action authorizing the issuance of bonds under ORS 285.310 to 285.397 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 285.310 to 285.397 in the following respects and in such other respects as the state, acting through the State Treasurer, or the designee of the treasurer may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 285.310 to 285.397;

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

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

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

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

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

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

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

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

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

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

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

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

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 285.310 to 285.397;

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

(16) The subordination of the security of any bonds issued under ORS 285.310 to 285.397 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the state, to other bonds or obligations of the state issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered. [Formerly 280.380]

#### **285.385 Limitations of bonds; recitals.**

(1) Revenue bonds issued under ORS 285.310 to 285.397:

(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 and ORS 285.395 and 285.397, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the state except those projects or portions thereof, mortgaged or otherwise encumbered under the provisions

and for the purposes of ORS 285.310 to 285.397.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those eligible projects, or portions thereof, mortgaged or otherwise encumbered, under the provisions and for the purposes of ORS 285.310 to 285.397 and except as provided in ORS 285.395 and 285.397.

(2) Each bond issued under ORS 285.310 to 285.397 shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof and as provided in ORS 285.395 and 285.397. No such bond shall constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. However, nothing in ORS 285.310 to 285.397 is intended to impair the rights of holders of bonds to enforce covenants made for the security thereof as provided in ORS 285.390. [Formerly 280.385]

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

(1) By action or proceeding for legal or equitable remedies, enforce their rights against the state and any of its officers, agents and employees, and may require and compel the state or any such officers, agents or employees to perform and carry out its and their duties and obligations under ORS 285.310 to 285.397 and its and their covenants and agreements with bondholders;

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

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

(4) Bring action upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of ORS 285.310 to 285.397 and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by ORS 285.310 to 285.397 without exhausting and without regard to any other right or remedy conferred by ORS 285.310 to 285.397 or any other law of this state, none of which rights and remedies is intended to be exclusive of any other, and each is cumu-

lative and in addition to every other right and remedy. [Formerly 280.390]

**285.393 Loans to eligible projects when state holds no interest.** The state, acting through the State Treasurer and the Oregon Economic Development Commission, or either of them, may loan the proceeds of the bonds authorized by ORS 285.310 to 285.397 for eligible projects without the necessity of the state having any ownership or leasehold interest in the eligible projects. Loans made pursuant to this section shall be secured, if at all, to the extent deemed necessary or desirable by the State Treasurer and the Oregon Economic Development Commission. [Formerly 280.393]

**285.395 Oregon Economic Development Fund; uses; sources; Economic Development Insurance Account.** (1) There is created within the State Treasury a revolving trust fund known as the Oregon Economic Development Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in this fund shall be used in accordance with agreements made by the state, acting through the State Treasurer or the State Treasurer's designee, for the benefit of the holders of bonds issued under ORS 285.397, but only to pay:

(a) Principal of, interest and redemption premium, if any, on bonds issued under ORS 285.397;

(b) Insurance premiums for bonds issued under ORS 285.397; and

(c) Repayment of any transfers authorized by subsection (4) of this section.

(2) The following moneys shall be credited to the Oregon Economic Development Fund:

(a) Reserve funds established for bonds issued under ORS 285.397.

(b) Such moneys as may be appropriated to the fund by the Legislative Assembly.

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

(d) Earnings from investment of moneys in the fund.

(e) Any grant made to the fund by any federal agency.

(f) Any other moneys required to be placed in the fund pursuant to any agreement authorized by ORS 271.510, 271.520, 285.310 to 285.320, 285.335, 285.345, 285.350, 285.360, 285.385, 285.393 to 285.397, 285.443 and 777.250.

(3) There is created a trust account within the Oregon Economic Development Fund to be known as the Economic Development Insurance Account. Fees authorized under ORS 285.320 (3)(e) and other moneys required to be placed in the account pursuant to any agreement authorized by ORS 271.510, 271.520, 285.310 to 285.320, 285.335, 285.345, 285.350, 285.360, 285.385, 285.393 to 285.397, 285.443 and 777.250 and such other assets as may be required pursuant to ORS 285.397 (4) and earnings in the account shall be credited to the Economic Development Insurance Account. Fees authorized under ORS 285.320 (3)(d) shall be credited to the Economic Development Insurance Account, unless otherwise required as repayment for transfers provided for in subsection (4)(b) of this section. Moneys in the Economic Development Insurance Account shall be used only to replenish reserves established in the Oregon Economic Development Fund or to pay principal and interest due on bonds authorized under ORS 285.397 and to pay insurance premiums for such bonds, in accordance with rules adopted by the state, acting through the State Treasurer or the State Treasurer's designee.

(4) If, at any time, there are insufficient moneys in the Oregon Economic Development Fund available for timely payment of the bonds authorized by ORS 285.397, then the conditions precedent to a transfer of moneys under ORS 293.210 from the Oregon Business Development Fund to the Oregon Economic Development Fund shall be deemed to be met for:

(a) A transfer of any liquid assets in the Oregon Business Development Fund which are not then required to meet obligations against that fund; and

(b) A maximum transfer of \$3 million from any other state funds having excess money, but only under terms for repayment which are approved by the State Treasurer. [Formerly 280.395; 1993 c.736 §30]

**285.397 Issuance of bonds secured by Oregon Economic Development Fund.** (1) In addition to bonds authorized by ORS 285.310 to 285.397, the state may issue bonds to finance eligible projects which are secured in part by the assets of the Oregon Economic Development Fund, as provided in this section.

(2) The aggregate principal amount of revenue bonds issued pursuant to this section which are outstanding at any time shall not exceed \$20 million.

(3) Bonds issued pursuant to this section shall be secured in the manner provided in rules adopted by the Oregon Economic De-

velopment Commission and approved by the State Treasurer.

(4) The commission may require participants to agree to such arrangements as it and the State Treasurer deem necessary to secure the payment of the principal of, and interest on, the bonds, and redemption premium, if any. Such arrangements may include, but are not limited to, establishment of a debt service reserve, creation of a self-insurance program, the purchase of insurance or other similar devices ensuring the payment of the principal of, and interest on, the bonds issued pursuant to this section.

(5) Within 30 days following the closing of each fiscal quarter, the commission shall report on its operations to the Governor, State Treasurer and the Legislative Assembly. The report shall include a summary of the activities of the commission relating to bonds issued under this section.

(6) Notwithstanding the provisions of ORS 285.385, the state may pledge to the payment of bonds authorized by this section any funds or revenues specifically set forth in this section, as well as any other funds or revenues which may be used for such purposes under any other provision of state law.

(7) Except to the extent they are inconsistent with the provisions of this section or the rules adopted under ORS 271.510, 271.520, 285.310 to 285.320, 285.335, 285.345, 285.350, 285.360, 285.385, 285.393 to 285.397, 285.443 and 777.250, the provisions of ORS 285.310 to 285.397 apply to the bonds issued under ORS 271.510, 271.520, 285.310 to 285.320, 285.335, 285.345, 285.350, 285.360, 285.385, 285.393 to 285.397, 285.443 and 777.250 and the loans made pursuant to this section. [Formerly 280.397; 1993 c.736 §31]

## BUSINESS DEVELOPMENT PROJECTS

**285.403 Definitions for ORS 285.403 to 285.447.** As used in ORS 285.403 to 285.447, unless the context requires otherwise:

(1) "Business development project" means the acquisition, engineering, improvement, rehabilitation, construction, operation or maintenance of any property, real or personal, that is used or is suitable for use by an economic enterprise and that will result in, or will aid, promote or facilitate, development of one or more of the following activities:

(a) Manufacturing or other industrial production;

(b) Agricultural development or food processing;

(c) Aquacultural development or seafood processing;

(d) Development or improved utilization of natural resources;

(e) Convention facilities and trade centers;

(f) Transportation or freight facilities; and

(g) Other activities that represent new technology or type of economic enterprise the commission determines is needed to diversify the economic base of an area but not including:

(A) Construction of office buildings, including corporate headquarters; and

(B) Retail businesses, shopping centers or food service facilities.

(2) "Commission" means the Oregon Economic Development Commission established under ORS 285.009.

(3) "Fund" means the Oregon Business Development Fund.

(4) "Collateral" means property subject to a security interest, as defined in ORS 79.1050.

(5) "Municipality" means any city, municipal corporation or quasi-municipal corporation.

(6) "Person" means any individual, association of individuals, joint venture, partnership or corporation.

(7) "Local development group" means any public or private corporation which has as one of its primary purposes, as stated in its articles of incorporation, charter or bylaws, the promotion of economic development in any part of the State of Oregon.

(8) "Applicant" means any county, municipality, person or any combination of counties, municipalities or persons applying for a loan from the Oregon Business Development Fund under ORS 285.403 to 285.447.

(9) "Owned and operated by women and minorities" means, with regard to any specific business enterprise, the ownership or control of more than 50 percent of the units of proprietary or ownership interest in that business enterprise by individuals who are women or members of minorities, as defined by ORS 430.347 (2).

(10) "Emerging small business" has the meaning given that term by ORS 200.005.

(11) "County" means any county or federally recognized Oregon Indian tribe. [Formerly 280.520]

**285.405 Borrowing money from Oregon Business Development Fund for projects.** (1) Any county, municipality, person or any combination of counties, municipalities and persons may file with the Oregon Economic Development Commission an

application to borrow money from the Oregon Business Development Fund for a business development project as provided in ORS 285.403 to 285.447. The application shall be filed in such a manner and contain or be accompanied by such information as the commission may prescribe.

(2) Any applicant receiving a loan from the Oregon Business Development Fund shall annually report to the Economic Development Department the estimated number of jobs created as a result of the business development project financed under ORS 285.403 to 285.447. The reporting requirement under this section shall continue for five years following the receipt of the loan proceeds or for the life of the loan, whichever period is longer. Agreement to comply with the requirements of this section shall be a condition for obtaining a loan from the Oregon Business Development Fund. [Formerly 280.522]

**285.407 Application forwarded to affected city or county.** Upon receipt of an application under ORS 285.405, the Oregon Economic Development Commission shall forward copies of the application to the governing body of the city or county in which the proposed business development project is to be located. An application filed by a county or city under ORS 285.405 shall be exempt from this requirement and the provisions of ORS 285.413 (1)(e) and (f). [Formerly 280.523]

**285.410 Evaluation of project; fee.** (1) Upon receipt of an application under ORS 285.405, the Oregon Economic Development Commission shall determine whether the plans and specifications for the proposed business development project set forth in or accompanying the application are satisfactory. If the commission determines that the plans and specifications are not satisfactory, it shall:

(a) Reject the application with a written statement of the reason for that rejection; or

(b) Require the applicant to submit additional information of the plans and specifications as may be necessary.

(2) The commission shall charge and collect from the applicant, at the time the application is filed, a fee not to exceed \$100. Moneys referred to in this subsection shall be paid into the Oregon Business Development Fund. [Formerly 280.525]

**285.413 Conditions for commission approval of project; preferences; limits.** (1) The Oregon Economic Development Commission may approve a business development project proposed in an application filed under ORS 285.403 to 285.447 if, after investigation, it finds that:

(a) The proposed business development project is feasible and a reasonable risk from practical and economic standpoints, and the loan has reasonable prospect of repayment.

(b) The applicant can provide good and sufficient collateral for the loan.

(c) Moneys in the Oregon Business Development Fund are or will be available for the proposed business development project.

(d) There is a need for the proposed business development project, and the applicant's financial resources are adequate to assure success of the project.

(e) If the proposed project is to be located in an incorporated city, the governing body of that city has executed a resolution recommending the proposed project.

(f) If the proposed project is to be located outside any incorporated city, the governing body of the county in which the project is to be located has executed a resolution recommending the proposed project.

(g) The Housing and Community Services Department received notification of the proposed project and any related workforce increase at the time the application was received by the commission.

(h) The applicant has not received or entered into a contract or contracts exceeding \$250,000 with the commission, under authority of ORS 285.403 to 285.447, for the previous 365 days, nor is there an amount equal to 20 percent of the total value of the fund in outstanding loans with the commission at any one time for business development projects located in the same county as the proposed project. However, nothing in this paragraph prevents the commission from making a loan to an emerging small business, as provided in subsection (6) of this section, or making a loan of less than \$50,000, as provided in ORS 285.433.

(2) Preference shall be given to a business development project which has a high ratio of employment to the amount of money sought to be borrowed from the Oregon Business Development Fund, which benefits businesses with fewer than 50 employees or which is located within a rural area of the state. Consideration also shall be given to the extent of participation by local development groups, and the availability and cost of money to the applicant from, or through, commercial lending or financial institutions, or other financial sources, inasmuch as the Oregon Business Development Fund is intended to complement, not supplant, other sources of money for economic development.

(3) The total amount of moneys loaned from the fund for any business development project shall not exceed 50 percent of the

cost of the project. Working capital equity contributed by the applicant or a related party shall not be included in the calculation of total project costs.

(4) Except in cases where the applicant is a county or municipality, no money shall be loaned from the fund for any business development project unless there exists a commitment from a commercial or private lender, or a local development group, to participate in the financing of the project.

(5) To encourage private sector and local development group participation in the financing of business development projects, the commission may subordinate the security position of the fund to that of other lenders.

(6) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending from the Oregon Business Development Fund are reserved for loans to certified emerging small business enterprises which are located in or draw their workforces from within economically depressed areas as determined by the Economic Development Department in cooperation with the Employment Department of this state. Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added to the amount reserved for loans to such businesses in the subsequent fiscal year. If the Economic Development Department is unable to obtain a sufficient number of approvable applications to meet the requirements of this subsection, it may, notwithstanding the limitations imposed by ORS 285.403 (1)(g)(B), make loans to service and retail businesses operated by certified emerging small business enterprises.

(7) In the operation of the Oregon Business Development Fund, the commission and the department shall, to the maximum extent feasible and consistent with constitutional limitations, seek to assure that an amount equal to that specified in subsection (6) of this section be loaned to businesses owned and operated by women and minorities. [Formerly 280.532; 1993 c.736 §32]

**285.415 Agreement for project loan; required provisions; interest rate; discount for early repayment.** If the Oregon Economic Development Commission approves the business development project, it, on behalf of the state, and the applicant may enter into a loan contract of not more than \$250,000, secured by good and sufficient collateral, which shall set forth, among other matters:

(1) A plan for repayment by the applicant to the Oregon Business Development Fund moneys borrowed from the fund used for the business development project with interest charged on those moneys at the rate of not

less than one percentage point more than the prevailing interest rate on United States Treasury bills, notes or bonds of a comparable term, as determined by the commission. However, the commission may make such loans to emerging small businesses, as defined in ORS 200.005, at a rate of not less than one percentage point less than such prevailing interest rate. The repayment plan, among other matters:

(a) Shall provide for commencement of repayment by the applicant of moneys used for the business development project and interest thereon no later than one year after the date of the loan contract or at such other time as the commission may provide.

(b) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances if approved by the commission.

(c) Shall provide for such evidence of debt assurance of, and security for, repayment by the applicant as is considered necessary by the commission.

(d) Shall set forth a schedule of payments and the period of loan which shall not exceed the usable life of the contracted project or 20 years from the date of the contract, whichever is less, and shall also set forth the manner of determining when loan payments are delinquent. The payment schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may require payments of varying amounts for collection of accrued interest.

(e) Shall set forth a procedure for formal declaration of default of payment by the commission, including formal notification of all relevant federal, state and local agencies; and further, a procedure for notification of all relevant federal, state and local agencies that declaration of default has been rescinded when appropriate.

(f) May offer a discount not to exceed 10 percent of the outstanding principal for the early repayment of the entire outstanding principal of any loan. The commission by rule shall adopt policies that provide for greater discounts for earlier repayments and that provide for greater discounts for firms that have created at least one job per each \$15,000 loaned to the firm from the Oregon Business Development Fund.

(2) Provisions satisfactory to the commission for field engineering and inspection, the commission to be the final judge of completion of the contract.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Oregon Business

Development Fund for use in the business development project.

(4) Such further provisions as the commission considers necessary to insure expenditure of the funds for the purposes set forth in the approved application.

(5) That the commission may institute appropriate action or suit to prevent use of the facilities of a business development project financed by the Oregon Business Development Fund if the applicant is delinquent in the repayment of any moneys due the fund. [Formerly 280.535; 1993 c.18 §50]

**285.416 Loans in distressed areas exempt from requirements of ORS 285.413 and 285.415.** The Economic Development Department may make loans in distressed areas, as defined by the department, without regard to the requirements for security and collateral under ORS 285.413 and 285.415 that are otherwise applicable. [1993 c.765 §79]

**Note:** 285.416 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285.417 Payment of moneys for project; applicant to pay percentage of loan principal to Oregon Business Development Fund.** (1) If the Oregon Economic Development Commission approves a loan for a business development project and the applicant has received all necessary permits required by federal, state and local agencies, the commission shall pay moneys for the project from the Oregon Business Development Fund, in accordance with the terms of the loan contract as prescribed by the commission.

(2) Immediately upon receiving the loan proceeds, the applicant shall pay to the commission one and one-half percent of the principal amount of the loan, to be paid back to the Oregon Business Development Fund. A maximum of three percent of the principal amount of the loan may be paid from the fund to local development groups for the purposes set forth in ORS 285.443 (1)(a). [Formerly 280.540]

**285.420 Authority to obtain moneys to repay fund.** Any county or municipality that enters into a contract with the Oregon Economic Development Commission for a business development project and repayment as provided in ORS 285.415 may obtain moneys for repayment to the Oregon Business Development Fund under the contract in the same manner as other moneys are obtained for purposes of the county or municipality or other moneys available to the developer. [Formerly 280.542]

**285.423** [Formerly 280.545; repealed by 1993 c.736 §80]

**285.425 Contract for loan service; fee.** The Economic Development Department may, by contract, provide for local business development funds to service outstanding loans from the Oregon Business Development Fund. The department may provide for a fee of up to two percent of the outstanding loan balance on such loans to compensate local business development funds for services provided under this section. [Formerly 280.547]

**285.427** [Formerly 280.550; repealed by 1993 c.736 §80]

**285.430 Report required.** The Oregon Economic Development Commission shall submit to the Legislative Assembly and the Governor a biennial report of the transactions of the Oregon Business Development Fund in such detail as will adequately indicate the condition of the fund. [Formerly 280.552]

**285.433 Director as agent; limitation on authority.** (1) The Oregon Economic Development Commission may appoint the Director of the Economic Development Department as its representative and agent in all matters pertaining to ORS 285.403 to 285.447.

(2) The director shall assure that all provisions of ORS 285.403 to 285.447 are complied with and that appropriately trained personnel are employed to properly administer the fiscal and other portions of ORS 285.403 to 285.447.

(3) The director shall have the authority in the director's sole discretion to approve loans for business development projects in the amount of \$50,000 or less and to disburse funds for such projects. [Formerly 280.555]

**285.435 Use of refinancing and other financial assistance.** Except as provided in ORS 285.437, if any business development project is refinanced or financial assistance is obtained from other sources after the execution of the loan from the state, those shall be first used to repay the state, unless provided otherwise by the committee, if the refinancing or financial assistance applies only to the business development project authorized and does not include any subsequent addition, expansion, improvement or further development. [Formerly 280.560]

**285.437 Authority to loan funds for joint governmental projects or match money; form of loan application; loan limit.** (1) The Oregon Economic Development Commission may authorize funds from the Oregon Business Development Fund to be used in appropriate joint governmental participation projects or as match money with any municipally, county, state or federally funded business development project author-

ized within a county or city, subject to the stipulations of ORS 285.403 to 285.447.

(2) Any application for a loan under this section shall be in such form as the commission prescribes and shall furnish such proof of federal, state or local approval as appropriate for funding of the business development project.

(3) The total amount of moneys loaned from the fund for federal, state or local joint business development project purposes shall not exceed \$250,000 per project. [Formerly 280.565]

**285.440 Loan contract; required provisions.** If the Oregon Economic Development Commission approves an application for the loan of moneys authorized by ORS 285.437, the commission shall enter into a loan contract, secured by good and sufficient collateral, with the applicant that provides, among other matters:

(1) That the loan bear interest at the same rate of interest as provided in ORS 285.415 (1).

(2) That the contract shall set forth a schedule of payments including interest and principal for the period of the loan, which shall not exceed the usable life of the contracted project or 25 years from the date of the contract, whichever is less, and shall set forth the manner of determining when loan payments are delinquent. The same schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by ORS 285.403 to 285.447, and the repayment schedule may require payments of varying amounts for collection of that accrued interest. However, the commission may make provisions for extensions of time in making repayment if the delinquencies are caused by acts of God or other conditions beyond the control of the applicant and the security will not be impaired thereby.

(3) Such provisions as the commission considers necessary to insure expenditure of the moneys loaned for the purposes provided in ORS 285.437, including all provisions of ORS 285.413. [Formerly 280.570]

**285.443 Oregon Business Development Fund; uses.** (1) There is created within the State Treasury a revolving fund known as the Oregon Business Development Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in this fund are continuously appropriated to the Oregon Economic Development Commission for the following purposes:

(a) Administrative expenses of the commission in processing applications, investigating proposed business development

projects and servicing outstanding loans. In any one year, administrative expenses charged under this paragraph may not be greater than the total revenues received in that year from fees provided for in subsection (2)(a) of this section, plus four percent of the total asset value of the fund.

(b) Payment of loans to applicants under ORS 285.403 to 285.447.

(c) Transfers of moneys as provided in ORS 285.395 (4)(a).

(d) Purchase or buy out of superior or prior liens or mortgages on or a security interest in any business development project financed in part by a loan from the fund, when the commission determines:

(A) A loan from the fund is in default and is in liquidation or at risk of being forced into liquidation by another creditor to the project;

(B) Such action is necessary to maintain or enhance the value of the commission's collateral in the project; and

(C) The amount of the purchase or buyout of superior or prior liens or mortgages on that project does not exceed \$500,000.

(2) The fund created by subsection (1) of this section shall consist of:

(a) Fees required by ORS 285.410 (2) and 285.417 (2).

(b) Repayment of moneys loaned to counties, municipalities or persons from the Oregon Business Development Fund, including interest on those moneys.

(c) Payment of such moneys as may be appropriated to the fund by the Legislative Assembly.

(d) Moneys obtained from any interest accrued from funds.

(e) Moneys from any grant made to the fund by any federal agency. [Formerly 280.575; 1993 c.18 §51; 1993 c.736 §33]

**285.445 Retention and use of payments, receipts and interest.** All payments, receipts and interest from outstanding indebtedness or any other source shall be retained and accumulated in the Oregon Business Development Fund and shall be used for the purposes of the fund. [Formerly 280.580]

**285.447 Status of loan to county or municipality.** A loan made to a county or municipality under ORS 285.403 to 285.447 shall not be a general obligation of that county or municipality, nor a charge upon the tax revenues of that county or municipality, nor a charge upon any other revenues or property of that county or municipality not specifically pledged thereto.

A loan made to a county or municipality under ORS 285.403 to 285.447 may be secured by the business development project for which the loan is made, as well as by any revenues derived from that project, and any nontax-derived revenues or property of the county or municipality not otherwise pledged or committed for other purposes. A county or municipality may repay any portion of a loan incurred under ORS 285.403 to 285.447 from any funds available to it. [Formerly 280.585]

## ECONOMIC DISLOCATIONS

**285.450 Definitions.** As used in ORS 285.450 to 285.463:

(1) "Community" means an area or locality in which the inhabitants have common economic or employment interests and which is undergoing an economic emergency. The term is not limited to a city, county or other political subdivision and need not, but may, be limited by political lines and boundaries. A large populous area under one or more governing bodies may be composed of several communities.

(2) "Employer," "mass layoff" and "plant closing" have the meanings given those terms on October 3, 1989, in the Worker Adjustment and Retraining Notification Act (P.L. 100-379). [Formerly 280.780; 1993 c.736 §34]

**285.453 Policy.** The Legislative Assembly declares that it is the policy of the State of Oregon to assist employers, workers and communities in this state in coping with the effects of plant closings, mass layoffs and other economic dislocations. [Formerly 280.775]

**285.457 Designation of agency to receive notice of plant closing or layoff.** The Job Training Partnership Act section in the Business Resources Division of the Economic Development Department is the state agency that shall be notified when an employer is required to provide written notice of a plant closing or mass layoff under section 3 of the Worker Adjustment and Retraining Notification Act (P.L. 100-379). [Formerly 280.785]

**285.460 Notice to employers of agency to receive closing or layoff notice; assistance programs.** (1) The Economic Development Department shall notify employers subject to the Worker Adjustment and Retraining Notification Act (P.L. 100-379) that the Job Training Partnership Act section in the Business Resources Division of the Economic Development Department is the state agency that must be notified when they are required to provide notice of a plant closing or mass layoff under the Worker Adjustment and Retraining Notification Act (P.L. 100-379).

(2) When notifying employers as provided in subsection (1) of this section, the department shall provide employers with a statement of the programs, projects, expenditures and other forms of assistance the department and other state agencies can provide to communities, employers and workers affected by a plant closing or mass layoff. [Formerly 280.790]

**285.463 Report of plant closings and layoffs; contents.** (1) The Economic Development Department shall prepare an annual report concerning plant closings and mass layoffs in this state. The report shall describe in detail each plant closing or mass layoff during the period covered by the report and the assistance and services provided to the affected employers, workers and communities. The report shall also contain the most recent information available relating to the current status of the employer, workers and community affected by each plant closing or mass layoff.

(2) The report prepared under this section shall be presented to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Joint Legislative Committee on Trade and Economic Development. [Formerly 280.795]

## PROGRAM FOR AFFECTED COMMUNITIES AND DISLOCATED TIMBER WORKERS

**Note:** Sections 6 to 13, 15 and 16(2), chapter 688, Oregon Laws 1991, provide:

**Sec. 6.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Dislocated Worker Fund. All moneys in the fund are continuously appropriated to the Economic Development Department for the purpose of carrying out this Act.

(2) The Economic Development Department, in consultation with the Employment Department, the Office of Community College Services and the State Job Training Partnership Administration, shall develop rules to allocate moneys from the Oregon Dislocated Worker Fund to provide assistance to dislocated timber workers, including but not limited to, training services, emergency medical assistance, child care, tuition or any activities authorized by the Economic Development Department.

(3) The intent of this section is to provide assistance to dislocated timber workers when federal funding is reduced, is inadequate or is otherwise not available.

(4) For the purposes of this section, "dislocated timber worker" includes persons who the Economic Development Department determines are likely to become dislocated based on employer notification of layoffs or other reliable information available to the department. [1991 c.688 §6]

**Sec. 7.** (1) Any individual or business firm may file with the Economic Development Department an application to borrow money from the Oregon Entrepreneurial Development Loan Fund as provided in sections 7 to 13 of this Act. The application shall be filed in such a manner and contain or be accompanied by such information as the department may require.

(2) Upon receipt of an application under this section, the Economic Development Department shall determine whether the applicant is eligible to receive a loan under this Act. If the department determines that an applicant is not eligible to receive a loan, the department shall:

(a) Reject the application with a written statement of the reason for that rejection; or

(b) Require the applicant to submit additional information concerning the application as may be necessary. [1991 c.688 §7]

**Sec. 8.** (1) The Economic Development Department may approve a loan requested in an application filed under section 7 of this Act if, after investigation, it finds that:

(a) The applicant is enrolled in a small business management program with a small business development center;

(b) The applicant has prepared a business plan for the business, which has been reviewed by a small business development center or other entity certified by the Economic Development Department to review business plans;

(c) The applicant has developed an expenditure plan for the use of the moneys received as a loan for the project under sections 7 to 13 of this Act; and

(d) The applicant is not effectively owned or controlled by another business entity or other person that, either by itself or when combined with the applicant, is not eligible for a loan under sections 7 to 13 of this Act.

(2) In addition to the requirements for loan approval described in subsection (1) of this section, in order to obtain a loan under sections 7 to 13 of this Act an applicant must also satisfy two of the following conditions:

(a) The business or proposed business, at the time of application, must not have been operating for more than 15 months.

(b) The business must have annual revenues of less than \$50,000 in the 12-month period immediately preceding the date of application.

(c) The business or proposed business is owned in whole or in part by a person certified as being severely disabled by the Vocational Rehabilitation Division of the Department of Human Resources or the Commission for the Blind. [1991 c.688 §8]

**Sec. 9.** (1) The Economic Development Department may approve an entrepreneurial development loan under sections 7 to 13 of this Act if, after investigation, it finds that:

(a) The loan has a reasonable prospect of repayment;

(b) The applicant provides funds for the project in the form of cash, property or business equity in an amount equal to 20 percent of the amount of the loan; and

(c) The applicant can provide such evidence of assurance for repayment as the department considers appropriate to the circumstances of the particular applicant. However, loans need not be secured with real property.

(2) The Economic Development Department may make an entrepreneurial development loan to any single applicant in an amount not exceeding \$15,000.

(3) Entrepreneurial development loans shall be made for a period not exceeding five years at a rate of interest that does not exceed 18 percent per annum.

(4) The Economic Development Department may defer repayment of a loan by an applicant for a period not exceeding six months. However, interest shall continue to accrue on the unpaid principal amount of the

loan during such period of deferred repayment. [1991 c.688 §9]

**Sec. 10.** An applicant who receives an entrepreneurial development loan under sections 7 to 13 of this Act may apply for another such loan. Notwithstanding the limit set forth in section 9 (2) of this Act, the maximum aggregate amount that may be loaned to a single applicant under this Act is \$25,000. [1991 c.688 §10]

**Sec. 11.** (1) The Economic Development Department shall appoint an Oregon Entrepreneurial Development Loan Fund Advisory Committee of not less than five members to advise the department on the operation of the loan program created by sections 7 to 13 of this Act. The individuals appointed to the advisory committee shall be representatives of the private sector financial community, public sector business finance groups, small business support organizations and owners and operators of small businesses. The advisory committee shall include at least one owner or operator of a small business who is a woman or a member of a minority group. The advisory committee shall also include at least one person who is a representative of disabled Oregonians.

(2) The Oregon Entrepreneurial Development Loan Fund Advisory Committee shall review all loan forms, contracts and other administrative materials to assure that the loan program created by sections 7 to 13 of this Act operates with administrative simplicity and efficiency to the greatest extent possible. [1991 c.688 §11]

**Sec. 12.** It is the intent of the Legislative Assembly that in the administration of sections 7 to 13 of this Act, the Economic Development Department work closely with regional economic development organizations, community development corporations, small business development centers and organizations that promote and assist small businesses owned and operated by women and minorities, as defined by ORS 285.403 (10). The Economic Development Department, to the maximum extent feasible and consistent with prudent financial controls, may delegate the administration and operation of the loan program created by sections 7 to 13 of this Act to local and community-based entities. To carry out the policy described in this section:

(1) The Economic Development Department may contract with any nonprofit corporation or agency with experience and expertise in business finance to administer all or any part of the loan program created by sections 7 to 13 of this Act.

(2) When entering into an agreement for the administration of the loan program by any nonprofit corporation or agency, the Economic Development Department may agree to waive any claims it may have against such corporation or agency for losses arising out of the normal course of business, so long as the corporation or agency does not act negligently or fraudulently in providing loans under sections 7 to 13 of this Act.

(3) When entering into an agreement to have a nonprofit corporation or agency administer the loan program created by sections 7 to 13 of this Act, the Economic Development Department may pay loan origination and loan servicing fees to the corporation or agency. The amount of such fees may be determined in the agreement between the department and the administering corporation or agency. [1991 c.688 §12]

**Sec. 13.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Entrepreneurial Development Loan Fund. All moneys in the fund are continuously appropriated to the Economic Development Department for the following purposes:

(a) Administrative costs of the department incurred in processing loan applications, investigating the eligibility of loan applicants and servicing outstanding loans;

(b) Paying for loan origination and loan servicing by contractors under sections 7 to 13 of this Act; and  
 (c) Payment of loans to applicants under sections 7 to 13 of this Act.

(2) The Oregon Entrepreneurial Development Loan Fund shall consist of:

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

(b) Interest earned on moneys in the fund; and

(c) Moneys received as repayment of principal and interest on loans made from the fund under sections 7 to 13 of this Act. [1991 c.688 §13].

**Sec. 15.** Notwithstanding the provisions of ORS 285.517 (3), the Economic Development Department shall adopt rules that provide that, for qualified loans made to businesses in distressed areas, as defined by the department, on or before June 30, 1995, the department shall transfer an amount that is not less than 150 percent of the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account of the institution. However, the total amount transferred under this section shall not exceed 40 percent of the moneys appropriated to the Capital Access Fund. [1991 c.688 §15; 1993 c.765 §80]

**Sec. 16.** (2) Sections 6, 7, 8, 9, 10, 11, 12, 13 and 15, chapter 688, Oregon Laws 1991, are repealed on June 30, 1999. [1991 c.688 §16; 1993 c.765 §81]

**285.465** [Formerly 280.710; repealed by 1993 c.736 §80]

## CREDIT ENHANCEMENT FUND

**285.466 Definitions for ORS 285.466 to 285.481.** As used in ORS 285.466 to 285.481:

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

(2) "Eligible project costs" includes productive equipment and machinery, working capital for operations and such other costs as the department, by rule, may provide.

(3) "Emerging small business" has the meaning given that term in ORS 200.005.

(4) "Financial institution" includes institutions listed in ORS 706.005 (33) and such other institutions defined by rule of the Economic Development Department as financial institutions for purposes of this Act.

(5) "Primary wood products" means logs, cants and commodity grades of lumber as recognized by the Western Wood Products Association and commodity grades of plywood, waferboard, oriented strand board and similar building panels as defined by the American Plywood Association.

(6) "Qualified business" means any existing or proposed business entity with an average annual employment not exceeding 200 employees that sells goods or services in markets for which national or international competition exists.

(7) "Qualified value-added business" means a business that has a business activity that has its primary economic effect in Oregon, with an average annual employment

that does not exceed 200 employees, and that is primarily engaged in the manufacture of value-added wood products or value-added agricultural products.

(8) "Value-added agricultural products" means agricultural products that have been processed, transformed or refined to the point where they may be distributed to a final consumer without further processing, transformation or refining. The term also includes agricultural products that are processed, transformed or refined for distribution to other than final consumers when such processing, transformation or refining represents a substantial increment in value as determined by the Economic Development Department in consultation with the State Department of Agriculture.

(9) "Value-added wood products" means intermediate components or finished products containing at least 50 percent solid or reconstituted wood based on volume or value, but not including primary wood products. "Value-added wood products" are the result of the physical alteration of the wood input by a change in the dimension or shape, the chemical composition, the physical appearance or other physical properties of the wood input. [1993 c.765 §66]

Note: 285.466 to 285.481 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285.467** [Formerly 280.715; repealed by 1993 c.736 §80]

**285.468 Legislative findings; purpose.**  
 (1) The Legislative Assembly finds that:

(a) Small and medium sized businesses in general, and firms that produce value-added wood products and value-added agricultural products in particular, are adversely affected by the current credit crisis.

(b) Small companies have historically had a difficult time obtaining credit, especially on terms that allow them to grow and to create jobs.

(c) The challenge for the public economic sector is to design programs, in conjunction with lending institutions in the private economic sector, that fill the gaps in credit availability.

(2) The Legislative Assembly declares that it is the purpose of the Credit Enhancement Fund established under ORS 285.471 (1) and (2) to:

(a) Create incentives and assistance to increase the flow of private capital to the value-added wood products and value-added agriculture industries.

(b) Promote industrial modernization and technology adoption.

(c) Encourage the retention and creation of family wage jobs. [1993 c.765 §§64,64a]

Note: See note under 285.466.

285.470 [Formerly 280.720; 1993 c.18 §53; repealed by 1993 c.736 §80]

**285.471 Credit Enhancement Fund; sources; uses.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Credit Enhancement Fund. All moneys in the fund are continuously appropriated to the department for the following purposes:

(a) Payment of claims pursuant to contracts for loan or credit guarantees under ORS 285.466 to 285.481.

(b) Payment of administrative costs of the department for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining the program established under ORS 285.466 to 285.481.

(c) Repayment of transfers of funds required or authorized by law.

(d) Purchase or buyout of superior or prior liens, mortgages or security interests.

(2) Moneys in the Credit Enhancement Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly, including moneys derived from the Executive Department Economic Development Fund.

(b) Proceeds from collateral assigned to the department.

(c) Interest earned on moneys in the fund.

(d) Transfers of moneys to the fund.

(e) Fees assessed for guarantees, as determined by the department.

(f) Moneys from gifts.

(g) Moneys from any grant made to the fund by any federal agency.

(3) In each biennium:

(a) Not less than 20 percent of all moneys available for loan guarantees from the Credit Enhancement Fund is reserved for loan guarantees to emerging small businesses.

(b) Not less than 50 percent of all moneys available for loan guarantees from the Credit Enhancement Fund is reserved for loan guarantees to qualified value-added businesses. [1993 c.765 §§65a,72]

Note: See note under 285.466.

285.473 [Formerly 280.725; repealed by 1993 c.736 §80]

**285.474 Duties of department under ORS 285.466 to 285.481.** (1) The Economic Development Department shall develop a program under which the department, under contracts with financial institutions, shall

provide loan guarantees or other forms of credit guarantees for qualified businesses for eligible project costs.

(2) In administering the program created by ORS 285.466 to 285.481, the department shall consult and cooperate with financial institutions in this state. The program shall be administered so that administrative procedures and application procedures are as responsive to the needs of qualified businesses and financial institutions as practicable, consistent with prudent investment and lending practices and criteria.

(3) The department shall prescribe by rule the loan or credit guarantee application procedure for a financial institution on behalf of a qualified business.

(4) When the department approves a loan or credit guarantee, the department shall enter into a loan or credit guarantee agreement with the financial institution. The agreement shall specify:

(a) The fee to be charged to the financial institution;

(b) The evidence of debt assurance of, and security for, the loan or credit guarantee;

(c) A loan guarantee or credit guarantee which does not exceed 15 years; and

(d) Such other terms and conditions considered necessary or desirable by the department. [1993 c.765 §65]

Note: See note under 285.466.

285.475 [Formerly 280.730; repealed by 1993 c.736 §80]

**285.476 Fees and terms for loan and credit guarantees for program under ORS 285.474 and under ORS 285.466 to 285.481.**

(1) When making loan or credit guarantees under the program established under ORS 285.474, the Economic Development Department shall establish fees and other terms for loan or credit guarantees that are calculated to reasonably assure that businesses with access to other forms of private capital will find it economical not to participate in the program.

(2) The department, with due regard for the possibility of losses and administrative costs, shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing.

(3) Not more than 25 percent of the amount of loan or credit guarantees entered into by the department under ORS 285.466 to 285.481 shall be for real property and build-ings.

(4) When making loan or credit guarantees under the program established under ORS 285.466 to 285.481, the department shall establish fees and other terms for loan or

credit guarantees that are calculated to reasonably assure that qualified businesses with access to other forms of private capital will find it economical not to participate in the program.

(5) With due regard for the possibility of losses and administrative costs, the department shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing. [1993 c.765 §§65b,69]

Note: See note under 285.466.

**285.477** [Formerly 280.735; repealed by 1993 c.736 §80]

**285.478 Advisory committee for ORS 285.466 to 285.481.** (1) The Economic Development Department shall form an advisory committee of seven members, consisting of:

(a) Two individuals who own or operate small businesses;

(b) Three representatives of recognized industry associations representing small business: one representative of small business, one representative of the value-added wood products industry and one representative of the value-added agricultural industry; and

(c) Two representatives of Oregon financial institutions: one representative of small, local financial institutions and one representative of larger financial institutions.

(2) The department shall consider the advice and recommendations of the advisory committee in developing and implementing the program provided for in ORS 285.466 to 285.481. [1993 c.765 §70]

Note: See note under 285.466.

**285.480** [Formerly 280.740; repealed by 1993 c.736 §80]

**285.481 Pledge to assure repayment of loans or other credit.** (1) The Economic Development Department is authorized to pledge up to \$75 million to assure the repayment of loan guarantees or other extensions of credit made to or on behalf of qualified businesses for eligible projects costs.

(2) If the balances in the Credit Enhancement Fund are insufficient to cover any claims by financial institutions that arise from loan and credit guarantees made under ORS 285.466 to 285.481, the Oregon Department of Administrative Services is directed to transfer in the fiscal year as often as appropriate any funds from the Executive Department Economic Development Fund to cover such principal, interest and claims, subject to the condition that no such transfer shall be made prior to the satisfaction of the allocation under ORS 391.130 to the Regional Light Rail Extension Construction Fund and the allocation to the Department of Environmental Quality for the debt services de-

scribed in section 1, chapter 537, Oregon Laws 1993. [1993 c.765 §71]

Note: See note under 285.466.

## SMALL BUSINESS DEVELOPMENT (Generally)

**285.500 Oregon Small Business Development Act.** ORS 271.510, 271.520, 285.310 to 285.320, 285.335, 285.345, 285.350, 285.360, 285.385, 285.393 to 285.397, 285.443, 285.503, 285.540 to 285.547, 657.471, 659.027 and 777.250 shall be known as the Oregon Small Business Development Act of 1983. [Formerly 280.905]

**285.503 Policy.** (1) The Legislative Assembly finds that:

(a) Small businesses comprise more than 97 percent of the business entities in this state.

(b) Small businesses provide more than three-quarters of the private sector jobs in this state.

(c) The small business contribution to the economy of this state exceeds the national average contribution and its continuance is vital to the economic health and growth of this state.

(d) All national economic indicators establish that the greatest source of future new jobs is in the small business sector of the economy.

(2) The purpose of the Oregon Small Business Development Act of 1983 is to encourage and assist the development and continued growth of small business in this state.

(3) As used in the Oregon Small Business Development Act of 1983, "small business" means a manufacturing business having 200 or fewer employees and all other forms of business having 50 or fewer employees.

(4) The provisions of ORS 285.500 and 657.471 are intended to assist in carrying out the Oregon Small Business Development Act of 1983. [Formerly 280.910]

## (Capital Access for Small Businesses)

**285.507 Definitions for ORS 285.507 to 285.527.** As used in ORS 285.507 to 285.527, unless the context requires otherwise:

(1) "Financial institution" means a financial institution, as defined in ORS 706.005.

(2) "Loss reserve account" means an account in the State Treasury or any financial institution which is established and maintained by the Economic Development Department for the benefit of a financial institution participating in the capital access program established under ORS 285.507 to 285.527.

(3) "Qualified business" means any person, conducting business for profit or not for profit, that is authorized to conduct business in the State of Oregon.

(4) "Qualified loan" means a loan or portion of a loan made by a financial institution to a qualified business for any business activity that has its primary economic effect in Oregon. The term does not include:

(a) A loan for the construction or purchase of residential housing.

(b) A loan for purchase of real property that is not used for the business operations of the borrower.

(c) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased. [Formerly 280.923]

**285.510 Policy.** (1) The Legislative Assembly finds that:

(a) There is a persistent shortage of equity capital available to small businesses in Oregon.

(b) Small businesses make important contributions to economic growth and vitality in this state.

(c) Many financial institutions in Oregon are limited in their ability to provide financing to small but rapidly growing businesses.

(2) It is the purpose of ORS 285.507 to 285.527 to establish a capital access program under which the State of Oregon will provide public fiscal resources to assist Oregon financial institutions to overcome obstacles and constraints in meeting the full range of economically sound financing needs of Oregon businesses. [Formerly 280.920]

**285.513 Contracts with financial institutions for capital access; contents of contract; status of information.** (1) The Economic Development Department may contract with any financial institution for the purpose of allowing the financial institution to participate in the capital access program established by ORS 285.507 to 285.527.

(2) A contract between the Economic Development Department and a financial institution under this section shall provide:

(a) For the creation of a loss reserve account by the department for the benefit of the financial institution.

(b) That the financial institution, qualified business and the department will deposit moneys to the credit of the institution's loss reserve account when the financial institution makes a qualified loan to a qualified business.

(c) That the department will pay moneys in the loss reserve account, not exceeding an amount equal to the total amount credited to

the loss reserve account, to the financial institution to reimburse the institution for any financial loss incurred as a result of any qualified loan made under the capital access program established by ORS 285.507 to 285.527.

(d) That the liability of the State of Oregon and the Economic Development Department to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the institution.

(e) That the financial institution shall provide such information as the department may require, including financial information that is identifiable with, or identifiable from, the financial records of a particular customer who is the recipient of a qualified loan.

(f) For such other terms as the department may require.

(3) A financial institution is not subject to ORS 192.555 (1) when the financial institution provides information to the Economic Development Department as required by subsection (2)(e) of this section. [Subsections (1) and (2) formerly 280.926; subsection (3) enacted as 1991 c.4 §4]

**285.515 Loss reserve accounts; limitation on amount.** (1) The Economic Development Department shall establish a loss reserve account for each financial institution with which the department makes a contract under ORS 285.513.

(2) The loss reserve account for a financial institution shall consist of moneys paid as fees by borrowers and the financial institution under ORS 285.517 and moneys transferred to the account from the Capital Access Fund under ORS 285.517.

(3) Notwithstanding ORS chapter 293 or 295, the department may establish and maintain loss reserve accounts with any financial institution under such policies as the department may adopt.

(4) All moneys in a loss reserve account established under ORS 285.507 to 285.527 are the property of the State of Oregon.

(5) The amounts transferred from the Capital Access Fund to a loss reserve account on behalf of any single qualified business shall not exceed \$150,000. [Formerly 280.929]

**285.517 Enrollment of qualified loan in program; procedure; fee; transfers to loss reserve account.** (1) When a financial institution participates in the capital access program established by ORS 285.507 to 285.527, if the financial institution decides to enroll a qualified loan under the capital access program in order to obtain the protection against loss provided by its loss reserve ac-

count, the financial institution shall notify the Economic Development Department of the loan within 10 days after the loan is made. The notification shall be in writing on a form prescribed by the department.

(2) When making a qualified loan that will be enrolled under the capital access program, the financial institution shall require the qualified business to which the loan is made to pay a fee of not less than two percent of the principal amount of the loan but not more than three and one-half percent of such principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subsection to the department for deposit in the loss reserve account for the institution.

(3) When depositing fees collected under subsection (2) of this section to the credit of the loss reserve account for a financial institution, the department shall transfer an amount that is not less than the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account for the institution. [Formerly 280.932]

**285.520 Claims for reimbursement of losses; amounts subject to reimbursement.** (1) The Economic Development Department shall establish procedures under which financial institutions participating in the capital access program established by ORS 285.507 to 285.527 may submit claims for reimbursement for losses incurred as a result of qualified loan defaults.

(2) Costs for which a financial institution may be reimbursed from its loss reserve account include loan principal, accrued interest on the principal, actual and necessary costs of seeking recovery of the principal amount and interest thereon and any other related costs.

(3) A financial institution may seek reimbursement of loan losses prior to the liquidation of collateral from defaulted loans. The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted loan. [Formerly 280.935]

**285.523** [Formerly 280.938; repealed by 1993 c.736 §80]

**285.525 Financial report of Capital Access Fund.** (1) The Economic Development Department shall annually prepare a report conforming to generally accepted accounting principles that describes the financial condition of the Capital Access Fund.

(2) The reports required under this section shall be submitted to the Governor and to the Joint Legislative Committee on Trade and Economic Development. [Formerly 280.941]

**285.527 Capital Access Fund; use; investment earnings; administrative expenses.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Capital Access Fund. All moneys in the fund are continuously appropriated to the Economic Development Department for the purpose of making payments to loss reserve accounts established under ORS 285.507 to 285.527.

(2) Moneys in the Capital Access Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings from such investment shall be credited to the Capital Access Fund.

(3) The Capital Access Fund shall consist of:

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

(b) Interest earned on moneys in the fund.

(c) Moneys returned to the fund from loss reserve accounts or other sources.

(4) The Economic Development Department may charge administrative costs to the fund to pay for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining loss reserve accounts under ORS 285.507 to 285.527. [Formerly 280.944]

**285.528 Transfers to Capital Access Fund when insufficient funds available.**

(1) Notwithstanding any other law, if at any time there are insufficient funds in the Capital Access Fund established by ORS 285.527 to continue the operation of the program authorized by ORS 285.507 to 285.527, the Director of the Economic Development Department may direct the transfer of unobligated funds from the Oregon Business Development Fund to the Capital Access Fund. Such transfers shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the capital access program.

(2) Notwithstanding any other law, if at any time after the transfer of funds provided for in subsection (1) of this section, there are insufficient funds in the Capital Access Fund established by ORS 285.527 to continue the operation of the program authorized by ORS 285.507 to 285.527, the Director of the Economic Development Department may direct the transfer of unobligated funds from the Credit Enhancement Fund to the Capital

Access Fund. Such transfers shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the capital access program. The use of funds so transferred shall continue to be governed by ORS 285.471 (3). [1993 c.765 §136]

Note: 285.528 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285.530 Reservation of Oregon Business Development Fund for small loans.** In each fiscal year of a biennium, not less than 17 percent of all moneys available for lending from the Oregon Business Development Fund is reserved for loans to businesses receiving loans in aggregate original principal amount not exceeding \$50,000. Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added to the amount reserved for loans to such businesses in the subsequent fiscal year. [Formerly 280.947]

#### (Local Business Development)

**285.533 Findings; policy.** (1) The Legislative Assembly finds that:

(a) Small businesses have been the major contributors to the increase in manufacturing jobs in Oregon.

(b) Community-based lending programs are particularly well suited to meeting the needs of small businesses that are unable to obtain from private financial institutions the capital that is necessary for expansion.

(c) An effective partnership between state and local economic development programs is essential to promoting the development of small businesses in this state.

(2) It is the policy of the State of Oregon and the purpose of ORS 285.425 and 285.533 to 285.537 to provide support for local development organizations that encourage and assist the development and expansion of small businesses in Oregon. [Formerly 280.960]

**285.535 "Local business development fund" defined.** As used in ORS 285.425 and 285.533 to 285.537, unless the context requires otherwise, "local business development fund" means a private nonprofit corporation or other nonprofit entity, a public corporation or public agency that makes loans or provides other financial assistance to businesses in this state for the purpose of promoting economic development. [Formerly 280.963]

**285.537 Coordination of marketing and finance programs.** The Economic Development Department shall work with local business development funds to strengthen the

coordination in the marketing of finance programs for small business, the review and analysis of loan applications and the operation of publicly operated business finance programs. [Formerly 280.966]

#### (Small Business Development Center)

**285.540 Purpose of ORS 285.540 to 285.547.** (1) The purpose of ORS 285.540 to 285.547 is to establish a statewide network of community college-based small business development centers.

(2) The Legislative Assembly finds that it is in the state's interest to help small businesses develop and improve skills in such areas as marketing, management and capital formation through a network of small business development centers because:

(a) Small business employers create most of the new jobs in Oregon and are vital to Oregon's long term economic recovery;

(b) Community colleges present the possibility of a statewide network able to link small business with college resources, expert resource people in the business community and with other training resources throughout the state; and

(c) While many factors affect the vitality of small business, training assistance in a form, location and time directly related to the problem to be solved is chief among them. [Formerly 341.785]

**285.543 Grants; application; prohibited uses; eligibility.** (1) The Economic Development Department may make available to community college and community college service districts on a justified need basis grants to assist in the formation and improvement of small business development centers. The grant application shall include:

(a) Evidence of the potential demand for assistance;

(b) Plans for involving other training resources and expert resource people from the business community in the program;

(c) An outline of training options to be available, including, but not limited to, time of day, length of training, training location and other considerations important to the small business community;

(d) A budget for the year for which a grant is requested, including college, client and Economic Development Department grant shares; and

(e) A plan for evaluating the effect of the program on small business clients served.

(2) The grants made under subsection (1) of this section are to be used by the community college or community college service district to:

(a) Provide funds for small business development center staff and support staff;

(b) Provide funds to retain expert resource persons from the business community;

(c) Provide funds to retain other training resources as necessary to enhance the training capability of the centers in certain skill areas or areas of the state in instances where the college or district can demonstrate it does not have the capacity or expertise to provide such resources; and

(d) Provide funds for other costs related to operation of the centers and provision of training to small business clients.

(3) In no case shall the grants made under subsection (1) of this section be used for the establishment, maintenance or expansion of other public or private institutions providing similar education services or to establish, maintain or expand satellite centers or business assistance programs operated by other public or private educational institutions.

(4) In order to be eligible for grants under subsection (1) of this section, existing programs shall be required to provide funds or in-kind contributions or some combination of funds and contributions in accordance with rules adopted by the Economic Development Department. [Formerly 341.795]

**285.545** [Formerly 341.803; repealed by 1993 c.742 §30]

**285.547 Short title.** ORS 285.540 to 285.547 shall be known and may be cited as the "Small Business Training Assistance Act." [Formerly 341.807]

**285.550 Programs to assist businesses procure contracts and grants.** In cooperation with other state and public agencies, community colleges may develop programs to assist Oregon businesses with the procurement of government contracts and grants. The small business development centers established under ORS 285.540 to 285.547 may assist with these programs. [Formerly 341.809]

**285.553 Legislative finding.** The Legislative Assembly finds:

(1) Child care is a growing business in this state and the United States.

(2) Child care is important for enabling women to participate fully in the economy and for equality of opportunity.

(3) Child care is an important source of opportunity for entrepreneurial advancement for women and members of minority groups who have traditionally been denied the opportunity to participate fully in the economy. [Formerly 341.813]

**285.555 Management training for family child care providers and owner opera-**

**tors of child care businesses.** (1) The small business development centers shall develop and offer special courses in management training for family child care providers and owner operators of child care businesses.

(2) As part of promotional efforts, the centers shall concentrate on encouraging women, family child care providers and members of minority groups to participate in programs developed under this section and ORS 285.553. [Formerly 341.818]

## ENTERPRISE ZONES

### (Nonurban Enterprise Zones)

**Note:** Sections 2 to 6, 14 and 15, chapter 773, Oregon Laws 1993, provide:

**Sec. 2.** (1) The director may approve the designation of up to seven areas as nonurban enterprise zones as provided in sections 3 and 4 of this 1993 Act for a period of 10 years from the date of designation.

(2) Areas designated as enterprise zones under section 4 of this 1993 Act shall be in addition to the 30 areas designated or redesignated as enterprise zones by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, and areas designated under ORS 285.583 and 285.587. [1993 c.773 §2]

**Sec. 3.** (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) One or more cities and counties may apply to the director for designation of an area situated partly within each city and partly in unincorporated territory within the counties as an enterprise zone.

(3) Any area proposed for designation as an enterprise zone must consist of a contiguous area of not more than 12 square miles in size with 12 miles or less as the greatest distance between any two points within the zone. The area of the zone shall be calculated by excluding that portion of the zone which lies below the ordinary high water mark of a navigable body of water, and any road, railroad, electric transmission line or pipeline rights of way that connect otherwise unconnected areas of an enterprise zone. Such areas shall not be more than five miles apart.

(4) 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 government units as described in subsections (1) and (2) 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 section 5 of this 1993 Act are met;

(d) 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

(e) Declare that the applicant will comply with ORS 285.577.

(5) When applying for designation of an enterprise zone within its boundaries under this section, 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, fire-fighting and police services.

(6) When applying for designation of an enterprise zone within its boundaries under this section, the applicant may include in the application proposals for local tax incentives and local regulatory flexibility.

(7) In the case of joint applications by more than one local government 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 that local government unit. Proposals for local tax incentives and local regulatory flexibility included in the application by a city or county for an enterprise zone are binding upon the city or county if an enterprise zone is designated wholly or partly within its boundaries. [1993 c.773 §3]

**Sec. 4.** (1) The department shall review each application for designation of an enterprise zone, and shall secure any additional information that the department considers necessary for the purpose of determining whether the area described in the application qualifies for designation as an enterprise zone.

(2) The department shall complete review of the application within 60 days of the last date designated for receipt of an application. After review of the applications, the department shall forward those qualified applications to the director. The director shall determine which applications have the greatest potential for accomplishing the purposes of ORS 285.570 to 285.617.

(3) The director may approve the designation of up to seven areas as nonurban enterprise zones for a period of 10 years from the date of designation. The determination by the director 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 cities or counties submitting the application shall be informed of that fact together with the reasons for the denial. Cities or counties may reapply at any time to the department for designation of an area as an enterprise zone. [1993 c.773 §4]

**Sec. 5.** An area proposed as a nonurban enterprise zone must consist of a contiguous area in which:

(1) Fifty percent or more of the households have incomes below 80 percent of the median income of this state or in which the unemployment rate is at least two percent greater than the state unemployment rate, based on the 1990 federal decennial census; or

(2) The department determines that there exists a level of economic hardship at least as severe as that described in subsection (1) of this section. [1993 c.773 §5]

**Sec. 6.** Sections 2 to 5, 14 and 15 of this Act are repealed on December 31, 2003. [1993 c.773 §6]

**Sec. 14.** Notwithstanding ORS 285.597 and 285.607, a new building or an addition to or modification of an existing building is qualified for the exemption allowed under ORS 285.597 if the property is leased to precertified business firms prior to completion of the construction, addition or modification of the property. [1993 c.773 §14]

**Sec. 15.** (1) The amendments to ORS 285.597 (1)(b), (5)(c) and (6)(a), 285.600 (1)(d) and (e) and 285.615 (1) made by sections 8, 9 and 12, chapter 25, Oregon Laws 1993, shall first apply in tax years beginning on or after July 1, 1993.

(2) Except as provided in subsection (1) of this section, sections 2 to 5 and 14 of this 1993 Act and the amendments to ORS 285.570, 285.577, 285.585, 285.587, 285.597 and 285.605 made by sections 7, 8, 9, 10, 11 and 12 of this 1993 Act shall apply only to exemptions for property of business firms that are precertified by a sponsor under ORS 285.613 after October 1, 1993. [1993 c.773 §15]

### (Generally)

**285.570 General definitions for ORS 285.570 to 285.617.** As used in ORS 285.570 to 285.617, unless the context requires otherwise:

(1) "Business firm" means a person operating or conducting one or more trades or businesses but does not include any governmental agency, municipal corporation or nonprofit corporation.

(2) "Eligible business firm" means a firm engaged in an activity described under ORS 285.603 which may file an application for precertification under ORS 285.613.

(3) "Employee" means a person who works more than 32 hours per week, but does not include persons with temporary or seasonal jobs or persons hired solely to construct qualified property.

(4) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the seven areas designated by the director under section 4, chapter 773, Oregon Laws 1993, and areas designated under ORS 285.583 or 285.587.

(5) "First-source hiring agreement" means an agreement between a precertified business firm and a publicly funded job training provider whereby the job training provider refers qualified candidates to the firm for new jobs and job openings in the firm.

(6) "Nonurban enterprise zone" means an enterprise zone located outside a regional or metropolitan urban growth boundary.

(7) "Precertified business firm" means an eligible business firm whose application for precertification has been approved under ORS 285.613 and which may apply for a property tax exemption under ORS 285.615.

(8) "Publicly funded job training provider" includes but is not limited to, community colleges, Job Training Partnership Act service providers, and other similar programs.

(9) "Qualified business firm" means a business firm described in ORS 285.600 whose application for a property tax exemption has been approved under ORS 285.615.

(10) "Qualified property" means property described under ORS 285.607.

(11) "Sponsor" means the city or county that applied for and received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part) or under ORS 285.583 or 285.587.

(12) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area located inside a regional or metropolitan urban growth boundary. [Formerly 284.115; 1993 c.773 §7]

**Note:** Section 22, chapter 1015, Oregon Laws 1989, provides:

**Sec. 22.** Sections 1 to 21 of this Act [284.115 to 284.285 (renumbered 285.570 to 285.620)] are repealed on December 31, 2002. [1989 c.1015 §22]

**Note:** Section 22, chapter 25, Oregon Laws 1993, provides:

**Sec. 22.** (1) Except as otherwise provided, the amendments to ORS 285.573, 285.575, 285.577, 285.585, 285.587, 285.593, 285.595, 285.597, 285.600, 285.607, 285.613, 285.615 and 285.617 made by sections 1 to 12 and 15 of this Act first apply to tax years beginning on July 1, 1993.

(2) Section 14 of this Act [285.616] applies to applications for exemption for the tax year beginning July 1, 1993. [1993 c.25 §22]

**285.573 Legislative findings.** The Legislative Assembly 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 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 285.570 to 285.620 to stimulate employment, business and industrial growth in those areas of this state by providing assistance to businesses and industries and by providing tax incentives in those areas. [Formerly 284.125; 1993 c.25 §1]

**Note:** See notes under 285.570.

**285.575 Duties of department.** In addition to any other powers granted by law, for the purpose of administering ORS 285.570 to 285.587 and 285.605, the department shall:

(1) Adopt any rules the department considers necessary to administer ORS 285.570 to 285.587 and 285.605.

(2) Assist a sponsor of an enterprise zone in its efforts to retain, expand, start or recruit eligible business firms.

(3) Assist an eligible business firm doing business within an enterprise zone to obtain the benefits of applicable incentive or inducement programs authorized by Oregon law.

(4) Take action necessary to participate in the federal enterprise zone program under ORS 285.583.

(5) Process sponsor requests for boundary amendments under ORS 285.585.

(6) Take action necessary to terminate or designate zones under ORS 285.587.

(7) Review and approve first-source hiring agreements under ORS 285.605.

(8) Submit a written report on the enterprise zone program to the Governor on or before February 15 in each year. The report shall describe actions taken by the department under this section, contain a summary of the information provided to the department by enterprise zone sponsors, the Department of Revenue and county assessors under ORS 285.577, 285.593 and 285.595, and include other information considered necessary by the department. The department shall provide copies of its report to county assessors, enterprise zone sponsors, the Department of Revenue and other interested parties. [Formerly 284.145; 1993 c.25 §2]

**Note:** See notes under 285.570.

**Note:** Section 18, chapter 773, Oregon Laws 1993, provides:

**Sec. 18. Status of zones designated or terminated by order of Governor.** All enterprise zones designated or terminated and redesignated under ORS 284.110 to 284.260 (1987 Replacement Part) by order of the Governor and all other enterprise zones designated by order of the Governor are declared valid and shall continue to exist until terminated. These enterprise zones exist by operation of this Act and independently of the orders creating them. The orders designating these enterprise zones are terminated on the effective date of this Act [November 4, 1993]. [1993 c.773 §18]

**285.577 Duties of zone sponsor.** (1) The sponsor of an enterprise zone shall:

(a) Appoint a local zone manager. Upon appointment of the local zone manager, the sponsor shall provide written notice thereof to the department, the county assessor and the Department of Revenue.

(b) Provide local tax incentives and local regulatory flexibility included in the application for designation or termination and redesignation of an enterprise zone to precertified or qualified business firms.

(c) Process applications from eligible business firms for precertification under ORS 285.613.

(d) Assist the county assessor in reviewing tax exemption applications under ORS 285.615.

(e) Prepare, implement and annually update a plan for marketing and managing the enterprise zone including strategies for retention, expansion, start-up and recruitment of eligible business firms.

(f) Identify property available for sale or lease to eligible business firms under ORS 285.580.

(g) If the enterprise zone is located inside a metropolitan statistical area with more than 400,000 residents, prepare a street index or other information necessary for precertified business firms to determine whether job applicants, at time of hire, live within the urban enterprise zone.

(h) Submit a written report to the department on or before January 15 in each year. The report shall describe actions taken by the sponsor under this section and shall include the estimated number of jobs to be created and estimated value of investments in qualified property to be made by precertified business firms, and other information considered necessary by the sponsor or required by the department. The sponsor shall provide copies of the report to the county assessor, the Department of Revenue and other interested parties.

(2) A sponsor of an enterprise zone may require that an application for precertification be accompanied by a filing fee of \$200 or up to one-tenth of one percent of the real market value of the property at the time of the precertification.

(3) If more than one city or county sponsors an enterprise zone, they shall act jointly in performing the duties imposed on a sponsor under ORS 285.570 to 285.617. [Formerly 284.155; 1993 c.25 §3; 1993 c.773 §8]

Note: See notes under 285.570.

#### **285.580 Availability of public property.**

Subject to the requirements of the Oregon Constitution and any applicable law, the State of Oregon and municipal corporations that own any real property within an enterprise zone that is zoned for use by eligible businesses and that is not used or designated for some public purpose shall make that real property available for lease or purchase by precertified or qualified business firms. Real property shall be leased or sold under this section only upon the condition that an eligible business firm promptly develop the real property for a use which has been precertified under ORS 285.613. [Formerly 284.165]

Note: See notes under 285.570.

**285.583 Department as agency for state participation in federal enterprise zone program.** (1) The department shall be the lead agency for state participation in a federal enterprise zone program. The director may take action necessary for such participation to the extent allowed by state law.

(2) Any area designated as a federal enterprise zone by an agency of the Federal Government may be designated as a state enterprise zone by the director at the request of a city or county within whose jurisdiction the federal enterprise zone is located. The request shall be in such form and shall include such information as is required by the department.

(3) The boundary of an existing state enterprise zone may be amended by the director at the request of the sponsor, to include the entire area of a federal enterprise zone with-

out regard to any limitation contained in ORS 285.585. [Formerly 284.175; 1993 c.773 §13]

Note: See notes under 285.570.

#### **285.585 Change of zone boundaries.** (1)

The sponsor of an enterprise zone may submit a request to the department to change the boundary of the enterprise zone. A request shall include:

(a) A resolution of the governing body of the sponsor requesting the change;

(b) A map clearly indicating the existing boundary and the proposed change thereto;

(c) A legal description of each area to be withdrawn from or added to the existing enterprise zone; and

(d) Other information required by the department.

(2) The amended enterprise zone shall:

(a) Add land zoned for use by eligible business firms:

(A) Which has or will have infrastructure facilities available; or

(B) Where road access exists or will be provided, water is or will be available onsite, sewage disposal is or will be provided onsite and necessary utility services are or will be provided;

(b) Continue to include any precertified or qualified business firms within the enterprise zone;

(c) Add residential areas only if the level of economic hardship therein is at least as severe as the original enterprise zone;

(d) Retain at least 50 percent of the lands in the original enterprise zone;

(e) Consist of a contiguous area of not more than 12 square miles in size. The area of the zone shall be calculated by excluding that portion of the zone which lies below the ordinary high water mark of a navigable body of water, and any road, railroad, electric transmission line or pipeline rights of way that connect otherwise unconnected areas of an enterprise zone. Such areas shall not be more than five miles apart; and

(f) Have 12 miles or less as the greatest distance between any two points within a zone amended under this section.

(3) A request under subsection (1) of this section may include a proposal to:

(a) Remove residential areas or land not zoned or available for use by eligible business firms; or

(b) Change the name of the enterprise zone.

(4) The boundary of an urban enterprise zone shall not be modified to include land

located outside a regional or metropolitan urban growth boundary.

(5) A request to modify the boundary of a nonurban enterprise zone to include land located outside an urban growth boundary shall satisfy the requirements of subsections (1) and (2) of this section and shall include a letter of commitment from an eligible business firm stating its intent to apply for precertification under ORS 285.613 for a proposed investment of \$1 million or more in qualified property and to create the equivalent of 20 or more full-time jobs.

(6) If an area to be added to an enterprise zone is under the jurisdiction of a city or county that is not a sponsor of the enterprise zone, the governing body of that city or county shall submit a resolution requesting the change and that it become a sponsor. The resolution may include a binding proposal for local tax incentives and regulatory flexibility to be effective within the portion of the enterprise zone to be under the jurisdiction of that city or county.

(7) The department shall review the request for a boundary change. If the request is incomplete or does not satisfy the requirements of this section, the department shall return the request to the sponsor. If the request is returned, the sponsor may submit a revised request at any time. If the request is complete and does satisfy the requirements of this section, the director shall order a change in the boundary of an enterprise zone based on the request of the sponsor and specify the effective date of the boundary change.

(8) A change in the boundary of an enterprise zone under this section shall not change the termination date of the enterprise zone under ORS 285.587. [Formerly 284.185; 1993 c.25 §4; 1993 c.773 §9]

Note: See notes under 285.570.

**285.587 Zone termination or redesignation.** (1) Enterprise zones designated or terminated and redesignated under ORS 284.110 to 284.260 (1987 Replacement Part) by order of the Governor before October 3, 1989, are declared valid and shall continue to exist until terminated. Any termination and redesignation of a zone under ORS 284.110 to 284.260 (1987 Replacement Part) shall not affect the eligibility of a qualified business firm for a property tax exemption under ORS 284.110 to 284.260 (1987 Replacement Part).

(2) The termination of an enterprise zone shall not affect the continuation of a qualified business firm's property tax exemption for which the firm qualified before the effective date of the termination of the enterprise zone.

(3) An enterprise zone previously designated or redesignated by order of the Governor shall terminate upon occurrence of any one of the following conditions:

(a) At the request of the sponsor;

(b) Ten years have elapsed since the enterprise zone was originally designated by order of the Governor; or

(c) December 31, 1998.

(4) The new enterprise zones designated by the director under section 4, chapter 773, Oregon Laws 1993, shall terminate upon the occurrence of any one of the following conditions:

(a) A request by the sponsor for termination of the enterprise zone;

(b) Ten years have elapsed since the enterprise zone was originally designated by the director; or

(c) December 31, 2003.

(5) The governing body of the sponsor may submit a resolution requesting termination of the enterprise zone to the department. The sponsor shall provide copies of the resolution to the county assessor and the Department of Revenue. After receipt of the request, the director shall order termination of the enterprise zone and shall specify the effective date of such termination.

(6) If a sponsor is unable or unwilling to carry out its responsibilities under ORS 285.577, the director shall order termination of the enterprise zone and shall specify the effective date of such termination. However, in the case of failure to provide tax incentives or regulatory flexibility included in the application for designation or for termination and redesignation as an enterprise zone, termination is not required if the sponsor provides new tax incentives or regulatory flexibility which have similar value, as determined by the department, to precertified or qualified business firms. A sponsor may reduce the time within which it will provide the tax incentives and regulatory flexibility it included in its application to a time period equal to the amount of time allowed for an exemption under ORS 285.597, without causing termination under this section.

(7) If no eligible business firm has been precertified or qualified for a property tax exemption under ORS 285.570 to 285.620 by April 1 of the fifth year after the original designation of an enterprise zone, the director may order termination of the enterprise zone and shall specify the effective date of such termination.

(8) If an enterprise zone is terminated by the director in the manner described by subsection (7) of this section, a new zone may

be designated. [Formerly 284.195; 1993 c.25 §5; 1993 c.773 §10]

Note: See notes under 285.570.

### (Tax Exemptions)

**285.590 Definitions for ORS 285.590 to 285.617.** As used in ORS 285.590 to 285.617, unless the context requires otherwise:

(1) "Existing business" means an eligible business firm operating in an enterprise zone or within 30 miles thereof before a precertification application was submitted to the sponsor.

(2) "Modification" means modernization, renovation or remodeling of an existing building or structure.

(3) "New business" means an eligible business firm that did not operate in an enterprise zone or within 30 miles thereof before a precertification application was submitted to the sponsor. [Formerly 284.205]

Note: See notes under 285.570.

**285.593 Duties of Department of Revenue.** In addition to any other powers granted by law, for the purpose of administering ORS 285.590 to 285.617, the Department of Revenue shall:

(1) Adopt any rules the Department of Revenue considers necessary to administer ORS 285.590 to 285.617.

(2) Assist the Economic Development Department, county assessors and the sponsors of enterprise zones in their efforts to precertify or qualify eligible business firms.

(3) Assist an eligible business firm doing business within an enterprise zone to obtain the benefits of applicable tax incentive or inducement programs administered or supervised by the Department of Revenue.

(4) Prepare forms and worksheets to be used by eligible business firms applying for precertification or by precertified business firms applying for a property tax exemption under ORS 285.613 or 285.615.

(5) Submit a written report to the Economic Development Department on or before January 15 in each year. The report shall describe actions taken by the Department of Revenue under this section and shall include the number of jobs created and the value of investments in qualified property made by qualified business firms in the current tax year, and other information considered necessary by the Department of Revenue or required by the Economic Development Department. The Department of Revenue shall provide copies of its report to county assessors, enterprise zone sponsors and other interested parties. [Formerly 284.215; 1993 c.25 §6]

Note: See notes under 285.570.

**285.595 Duties of county assessor.** The assessor of a county within which an enterprise zone is located shall:

(1) Assist the local zone manager and eligible or precertified business firms in determining whether property will qualify for a property tax exemption under ORS 285.597 and 285.607.

(2) Process applications from precertified business firms for property tax exemptions under ORS 285.615.

(3) Take action necessary under ORS 285.617 if a business firm or property is no longer qualified for the property tax exemption.

(4) Submit a written report to the Department of Revenue on or before December 1 in each year. The report shall describe actions taken by the assessor under this section and shall include the number of jobs created and the value of investments in qualified property made by qualified business firms in the current tax year, and other information considered necessary by the assessor or required by the Department of Revenue. The assessor shall provide copies of the report to the sponsors of enterprise zones located within the county, the Economic Development Department and other interested parties. [Formerly 284.225; 1993 c.25 §7]

Note: See notes under 285.570.

**285.597 Property tax exemptions.** (1) Upon compliance with ORS 285.615, qualified property of a qualified business firm shall be exempt from ad valorem taxation, if:

(a) The qualified property was constructed, added to, modified or installed in furtherance of the production of income;

(b) The property or portion of the property for which exemption is sought was in use or occupancy no later than August 31 of the tax year for which exemption is sought;

(c) The total cost of all of the qualified property for which application for exemption is made was at least \$25,000; and

(d) The property satisfies the requirements of ORS 285.607.

(2) The exemption allowed under this section shall be allowed only for property that is owned or leased by a qualified business firm that satisfies the requirements of ORS 285.600. If the property is leased by a qualified business firm, the qualified business firm must be required by the terms of the lease to pay or compensate the owner for the entire amount of property taxes assessed against the leased property during the lease term.

(3)(a) The exemption allowed under this section shall first apply to the tax year im-

mediately following completion of the construction, addition, modification or installation of the property. The exemption shall continue for the two succeeding tax years if the property continues to be owned or leased by the qualified business firm and located in the enterprise zone.

(b) An exemption for site preparation shall begin in the same tax year as the exemption for the associated new construction on the prepared site.

(c) If qualified property of a qualified business firm is sold or leased to another qualified business firm during the period of abatement, the purchasing or leasing firm is eligible to continue the exemption of the selling or leasing firm for the balance of the abatement period established under paragraphs (a) and (b) of this subsection.

(4) The exemption allowed under this section shall be 100 percent of the real market value of the qualified property in each of the tax years for which the exemption is available. If the qualified property is site preparation, an addition to or modification of an existing building or structure, the exemption shall be measured by the increase in value, if any, attributable to the site preparation, addition or modification.

(5)(a) No exemption shall be granted for property assessed for property tax purposes in the county in which the zone is located on or before the effective date of the:

(A) Designation of the zone; or

(B) Approval of a boundary change for the zone if the property is located in an area added to the zone.

(b) No exemption shall be granted for property constructed, added to, modified or installed in the zone or in the process of construction, addition, modification or installation in the zone on or before the effective date of the:

(A) Designation of the zone; or

(B) Approval of a boundary change for the zone if the property is located in an area added to the zone.

(c) No exemption shall be granted for any qualified property that was in use or occupancy within the zone for more than 12 months preceding the first tax year for which an application for exemption is made.

(d) No exemption shall be granted for any qualified property unless the property was in use or occupancy in the tax year immediately following completion of construction, addition, modification or installation.

(e) Except as provided in ORS 285.613 (6), no exemption shall be granted for qualified

property constructed, modified or installed after termination of an enterprise zone.

(6) A qualified business firm may apply for a tax exemption for additional qualified property initially occupied or used during or after the first tax year in which a tax exemption for the firm's initial investment in qualified property was approved if:

(a) The firm increased the number of employees of the firm by 10 percent or more within the enterprise zone no later than August 31 following the tax year in which the additional investment in qualified property was completed; and

(b) The firm meets the applicable requirements of this section and ORS 285.600 to 285.615. [Formerly 284.235; 1993 c.25 §8; 1993 c.773 §11]

Note: See notes under 285.570.

Note: Section 34, chapter 457, Oregon Laws 1991, provides:

Sec. 34. Notwithstanding ORS 285.597 (1)(b) or 285.615, if an application for exemption allowed under ORS 285.597 (enterprise zone exemption) is filed on or after January 1, 1992, and before July 15, 1992, for any otherwise qualified property, to qualify initially, pursuant to the application, for the exemption for the tax year beginning July 1, 1992, and the two tax years immediately following:

(1) The property need not be in actual use or occupancy before March 1, 1992, but need only be in actual use or occupancy before July 1, 1992; and

(2) The construction, addition, modification or installation need not have been completed or substantially completed until immediately prior to the actual use or occupancy. [1991 c.457 §34]

Note: Section 16, chapter 773, Oregon Laws 1993, provides:

Sec. 16. Qualified business firm for years ending before June 30, 1996. (1) Notwithstanding ORS 285.600 (1)(d):

(a) With the approval of the sponsor of the enterprise zone, an existing business firm is a qualified business firm if it makes an investment of \$25 million or more in qualified property within an enterprise zone with a loss of employment.

(b) Approval to extend the property tax benefit to an eligible business firm under this section shall be documented by resolution of the governing body of the sponsor. The resolution shall specify the minimum number of employees that the firm must retain for the firm to be a qualified business firm throughout the exemption period. The resolution may include other conditions for the firm to be a qualified business firm. A copy of the resolution shall be attached to the firm's application for the property tax exemption. If the firm does not retain the number of employees specified or does not satisfy the conditions, if any, it shall be disqualified and the county assessor shall take action as required under ORS 285.617.

(2) Notwithstanding ORS 285.615 (1), a business firm that is a qualified business firm by reason of subsection (1) of this section may file an application for the tax exemption allowed under ORS 285.597 for the tax year beginning on July 1, 1993, if:

(a) The resolution of the governing body of the sponsor that grants approval to extend the property tax benefit to an eligible firm under this section is adopted during the 1993 calendar year; and

(b) The application is filed with the county assessor before December 31, 1993.

(3) This section applies only to applications for the tax exemption allowed under ORS 285.597 for tax years ending not later than June 30, 1996. [1993 c.773 §16]

**Note:** Sections 17 to 21, chapter 25, Oregon Laws 1993, provide:

**Sec. 17.** (1) Notwithstanding ORS 285.597 (5)(c) and 285.615 (1), a qualified business firm may apply for exemption of qualified property from ad valorem taxation under ORS 285.570 to 285.617 for the 1991-1992 tax year and the two succeeding tax years if:

(a) The property continues to qualify for exemption;

(b) The firm completed construction, modification or installation of the qualified property within an enterprise zone after December 31, 1990; and

(c) The firm used or occupied the property and otherwise qualified for the exemption on or after January 1, 1991, and before July 1, 1991.

(2) An application for exemption under subsection (1) of this section shall be filed with the county assessor no later than December 31, 1993.

(3) If taxes have been assessed against qualified property that is eligible for exemption under this section, the taxes and any related interest or penalties shall be canceled upon granting of the exemption.

(4) If any property described in subsection (1) of this section was not included on the assessment and tax roll for 1991-1992 because the property was qualified for cancellation of taxes under ORS 307.330 and 307.340 as provided by section 56a, chapter 459, Oregon Laws 1991, a qualified business firm may apply under this section for exemption for that property for the 1992-1993 tax year and the two succeeding tax years. The application must be filed within the time specified in subsection (2) of this section. [1993 c.25 §17]

**Sec. 18.** (1) If a qualified business firm that completed construction of qualified property on or before December 31, 1990, and used or occupied that property before June 30, 1991, was granted exemption under ORS 284.115 to 284.280 (1989 Replacement Part) before the effective date of chapter 459, Oregon Laws 1991, that exemption shall not be revoked due to the amendments made by sections 1 to 4, chapter 459, Oregon Laws 1991.

(2) If a qualified business firm that completed construction of qualified property on or before December 31, 1990, and used or occupied that property before June 30, 1991, was denied exemption under ORS 284.115 to 284.280 (1989 Replacement Part), because of the amendments made by sections 1 to 4, chapter 459, Oregon Laws 1991, then notwithstanding ORS 285.597 (5)(c) and 285.615 (1), the qualified business firm may apply for exemption of the qualified property from ad valorem taxation under ORS 285.570 to 285.617 for the 1991-1992 tax year and the two succeeding tax years as provided in section 17 of this Act. [1993 c.25 §18]

**Sec. 19.** (1) Notwithstanding ORS 285.597 (5)(c) and 285.615 (1), a qualified business firm may apply for exemption of qualified property from ad valorem taxation under ORS 285.570 to 285.617 for the 1993-1994 tax year, if the firm completed construction, modification or installation of the qualified property within an enterprise zone after December 31, 1992, and used or occupied the property and otherwise qualified for the exemption on or after January 1, 1993, and before August 31, 1993.

(2) An application for exemption under subsection (1) of this section shall be filed with the county assessor no later than December 31, 1993.

(3) If taxes have been assessed against qualified property that is eligible for exemption under this section, the taxes and any related interest or penalties

shall be canceled upon granting of the exemption. [1993 c.25 §19]

**Sec. 20.** (1) Notwithstanding ORS 285.597 (5)(c) and 285.615 (1), a qualified business firm may apply for exemption of qualified property from ad valorem taxation under ORS 285.570 to 285.617 for the 1992-1993 tax year and the two succeeding tax years if:

(a) The property continues to qualify for exemption;

(b) The firm completed construction, modification or installation of the qualified property within an enterprise zone on or after January 1, 1992, and before July 1, 1992; and

(c) The firm otherwise qualified for the exemption and did not use or occupy the property or complete hiring before July 1, 1992, but did use or occupy the property and complete hiring no later than August 31, 1992.

(2) An application for exemption under subsection (1) of this section shall be filed with the county assessor no later than December 31, 1993.

(3) If taxes have been assessed against qualified property that is eligible for exemption under this section, the taxes and any related interest or penalties shall be canceled upon granting of the exemption. [1993 c.25 §20]

**Sec. 21.** If any qualified business firm having property that is eligible for exemption under section 17, 18, 19 or 20 of this Act makes a timely application for exemption that is approved, and if the firm paid taxes for any of the years for which the exemption is granted, those taxes shall be refunded from the unsegregated tax collections account of the county in which the property is located. Interest shall be paid on the refund, calculated in the manner provided for under ORS 311.812 (3). Application for refunds under this section shall be made to the county by June 30, 1994, or six months after the date on which the exemption is approved, whichever is later. [1993 c.25 §21]

### 285.600 Qualifications for exemption.

(1) A business firm is qualified to receive a property tax exemption under ORS 285.597 for its qualified property only if:

(a) The firm is an eligible business firm described in ORS 285.603;

(b) The firm has business operations located inside an enterprise zone;

(c) The firm owns or leases qualified property located inside an enterprise zone;

(d) If the firm is an existing business, the employment of the firm, no later than August 31 following the tax year in which the investment in qualified property was completed, is not less than 110 percent of the average annual employment of the firm within the enterprise zone, calculated over the 12 months preceding the date of application for precertification;

(e) If the firm is a new business, the firm hired one or more employees to work within the enterprise zone after precertification and no later than August 31 following the tax year in which the investment in qualified property was completed;

(f) The firm satisfies the hiring requirements of ORS 285.605;

(g) The firm did not diminish employment outside the enterprise zone under subsection (4) of this section;

(h) The firm did not substantially curtail employment within the enterprise zone in the second or third year of the property tax exemption as described in ORS 285.617; and

(i) The firm complies with all local, state and federal laws applicable to the firm's business.

(2) Notwithstanding subsection (1)(d) of this section, an existing business firm is a qualified business firm if it completes an investment of \$25 million or more in qualified property, in the tax year preceding the first tax year for which the exemption is being sought, within an enterprise zone with less than a 10 percent increase in employment but without loss of employment.

(3)(a) Notwithstanding subsection (1)(d) of this section, with the approval of the sponsor of the enterprise zone, an existing business firm is a qualified business firm if it completes an investment of \$25 million or more in qualified property, in the tax year preceding the first tax year for which the exemption is being sought, within an enterprise zone with a loss of employment.

(b) Approval to extend the property tax benefit to an eligible business firm under this subsection shall be documented by resolution of the governing body of the sponsor. The resolution shall specify the minimum number of employees that the firm must retain for the firm to be a qualified business firm throughout the exemption period. The resolution may include other conditions for the firm to be a qualified business firm. At the request of the existing business firm, the sponsor may modify the resolution prior to the firm's initial filing for the property tax exemption. A copy of the resolution shall be attached to the firm's applications for precertification and for the property tax exemption. If the firm does not retain the number of employees specified or does not satisfy the conditions, if any, it shall be disqualified and the county assessor shall take action as required under ORS 285.617.

(4) Notwithstanding subsections (1) to (3) of this section, a business firm is not qualified to receive a property tax exemption if the firm or any other firm under common control closes or permanently curtails operations in another part of the state more than 30 miles from the nearest boundary of the enterprise zone in which the firm seeks a property tax exemption. This subsection applies to the transfer of any part of the business firm's operations to an enterprise zone from another part of the state, if the closure or permanent curtailment in the other part

of the state diminished employment after precertification and before the initial application for the exemption.

(5) A business firm that moves its operations from a site or sites within 30 miles from the nearest boundary of the enterprise zone may qualify to receive a property tax exemption only if the employment of the firm, no later than August 31 following the tax year in which the investment in qualified property was completed, has been increased to not less than 110 percent of the average annual employment of the firm within the zone and the site or sites from which the employees were transferred, calculated over the 12 months preceding the date of application for precertification.

(6) As used in this section, "employment of the firm" means the number of employees employed by the firm. [Formerly 284.245; 1993 c.25 §9]

Note: See notes under 285.570.

**285.603 Eligibility.** (1) Except as provided in subsections (3) and (4) of this section, to be an eligible business firm, a business firm must:

(a) Receive at least 75 percent of its annual gross receipts from within the zone from activities other than the sale of property or services to the general public for personal or household use or consumption; and

(b) Be engaged in the business of providing goods, products or services to other businesses through activities such as manufacturing, assembly, fabrication, processing, shipping or storage.

(2) The following business firms are not eligible business firms:

(a) Firms that receive 25 percent or more of their annual gross receipts from within the zone from the sale of property or services to the general public for personal or household use or consumption.

(b) Firms engaged in business activities such as retail sales or services, child care, housing, retail food service, health care, tourism, entertainment, financial services, leasing space to others, property management, construction or other similar activities.

(3) Notwithstanding subsection (1) or (2) of this section, a business firm that operates a hotel, motel or destination resort may be a qualified business firm regardless of the percentage of gross receipts attributable to sale of services for personal consumption.

(4) Notwithstanding any other provision of this section, if a business firm described in subsection (2) of this section engages in an activity described in subsection (1) of this

section, the business firm may be a qualified business firm if the activity is performed at a location that is separate from the activity of the firm that is described in subsection (2) of this section. For purposes of determining whether a business firm described in this subsection satisfies the requirements of ORS 285.600, only the operations of the firm that are described in subsection (1) of this section and employees working a majority of their time in those operations shall be considered.

(5) Two or more corporations that otherwise meet the requirements of this section may elect to be treated as one eligible business firm if 100 percent of the common stock of the corporations is owned by the same person or persons, or if one of the corporations owns 100 percent of the common stock of the other or others. [Formerly 284.254]

Note: See notes under 285.570.

**285.605 Hiring requirements.** (1) A pre-certified business firm shall enter into a first-source hiring agreement with a publicly funded job training provider for the period of property tax exemption.

(2) Notwithstanding ORS 285.597 (3)(a), if a firm is located in an urban enterprise zone situated inside a metropolitan statistical area of less than 400,000 residents, the sponsor may set a period of abatement of up to five consecutive tax years if the qualified business firm agrees with the sponsor, in writing:

(a) That at least 50 percent of all new employees hired to comply with ORS 285.600 (1)(d) or (e) within any year for which property tax exemption is claimed, immediately prior to being hired, shall reside within the regional or metropolitan urban growth boundary;

(b) To compensate all new employees at an average rate of not less than 150 percent of the county's average annual wage until the end of the tax exemption period. If the zone is in more than one county, the county with the highest average annual wage shall be used; and

(c) To meet any additional requirements that the zone sponsor may reasonably request.

(3) A firm qualified under ORS 285.600 (2) or (3) shall satisfy the applicable requirements of subsection (2) of this section for any employees hired to work for the firm within the enterprise zone after the firm is pre-certified and until the end of the tax exemption period.

(4) Notwithstanding ORS 285.597 (3)(a), if an enterprise zone is located inside a metropolitan statistical area with more than 400,000 residents, the exemption allowed under ORS 285.597 shall first apply to the tax

year immediately following the completion of the construction, addition, modification or installation of the property. The exemption shall continue for the period of abatement set by the sponsor at the time of precertification. The sponsor shall determine the period of abatement that shall be no less than three consecutive tax years. However, the sponsor may set a longer period of abatement that does not exceed five consecutive tax years if, instead of the hiring requirements specified in subsection (5) of this section, the qualified business firm agrees with the sponsor, in writing:

(a) To meet, in addition to the requirements described in paragraph (b) or (c) of this subsection, any other requirements that the zone sponsor may reasonably request; and either

(b) That at least 50 percent of all new employees hired to comply with ORS 285.600 (1)(d) or (e) within any year for which a property tax exemption is claimed are residents of the enterprise zone for a period of at least 90 days before their employment date; or

(c) To compensate 70 percent of those new employees who are residents of the enterprise zone at an average rate of not less than 150 percent of this state's minimum hourly wage until the end of the tax exemption period.

(5) If a firm is located in an urban enterprise zone situated inside a metropolitan statistical area of more than 400,000 residents:

(a) At least 25 percent of all new employees hired to comply with ORS 285.600 (1)(d) or (e) within any year for which a property tax exemption is claimed shall reside within the boundaries of the enterprise zone for a period of at least 90 days before their employment date. As used in this paragraph, "new employees" includes employees hired on or after the date of precertification of the qualified business firm under ORS 285.613.

(b) If for any tax year in the period of abatement, a qualified firm fails to satisfy the hiring requirement described in paragraph (a) of this subsection, the qualified business firm shall pay the sponsor an amount equal to the property taxes that had been abated for the qualified property during the tax year in which the failure occurred. If a qualified firm fails to meet the requirements set forth in paragraph (a) of this subsection and this results in substantial curtailment as defined in ORS 285.617 (3), then the provisions of ORS 285.617 shall apply.

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

(d) Notwithstanding paragraphs (b) and (c) of this subsection, if the qualified business firm fails to satisfy the hiring requirements described in paragraph (a) of this subsection for longer than one year during the period of abatement, the sponsor shall notify the county assessor in writing and the assessor shall disqualify the property under ORS 285.617 (1) and (2).

(6) Notwithstanding ORS 285.597 (3)(a), if a firm is located in a nonurban enterprise zone, the sponsor may set a period of abatement up to five consecutive tax years if the qualified business firm agrees with the sponsor, in writing:

(a) That at least 50 percent of all new employees hired to comply with ORS 285.600 (1)(d) or (e) within any year for which a property tax exemption is claimed, immediately prior to being hired, shall reside in the county or counties within which the enterprise zone is located;

(b) To compensate all new employees at an average rate of not less than 150 percent of the county's average annual wage until the end of the tax exemption period. If the zone is in more than one county, the county with the highest average annual wage shall be used; and

(c) To meet any additional requirements which the zone sponsor may reasonably request. [Formerly 284.259; 1993 c.773 §12]

**Note:** 285.605 was added to and made a part of ORS chapter 285 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**Note:** See notes under 285.570.

**285.607 Qualified property or business firm.** (1) The property tax exemption provided under ORS 285.597 shall be available only for qualified property of a qualified business firm.

(2) The following kinds of property are qualified for the exemption allowed under ORS 285.597:

(a) A new building or structure with a cost of \$25,000 or more.

(b) An addition to or modification of an existing building or structure. The total cost of qualifying additions or modifications to an existing building or structure shall be at least \$25,000 in one tax year. In order to satisfy the minimum investment requirement, the cost of two or more additions or modifications made in one tax year to a single building or structure may be aggregated.

(c) Site preparation that was necessary for and undertaken within six months before qualifying new construction.

(d) Any real property machinery or equipment, whether new, used or reconditioned, that is newly purchased, leased or transferred into the enterprise zone from outside the county within which the zone is located and installed in property owned or leased by a qualified business firm.

(e) Any single item of personal property machinery or equipment, whether new, used or reconditioned, that is newly purchased, leased or transferred into the enterprise zone from outside the county within which the zone is located and installed in property owned or leased by a qualified business firm and:

(A) That has a cost of at least \$1,000 if the property is used exclusively for producing tangible goods; or

(B) That has a cost of at least \$50,000.

(f) A new building and associated structures owned by a governmental body that are leased to one or more qualified business firms.

(g) Any property otherwise described in this section that is owned or leased and operated by a business firm operating a hotel, motel or destination resort, to the extent that the property is located on the same site as the hotel, motel or destination resort and is used primarily to serve overnight guests of the hotel, motel or destination resort. For purposes of this paragraph, property is primarily used to serve guests if at least 50 percent of any receipts from such use are paid by guests.

(h) Any property otherwise described in this section that is owned or leased and operated by a business firm described in ORS 285.603 (4), to the extent that the property is used exclusively in an activity described in ORS 285.603 (1).

(3) The following property is not qualified for exemption under ORS 285.597:

(a) Land.

(b) Self-propelled motorized vehicles.

(c) Property excluded under ORS 285.597

(5). [Formerly 284.263; 1993 c.25 §10]

**Note:** See notes under 285.570.

**285.610 When exemption available to hotel, motel or destination resort property.** (1) Property owned or leased and operated by a business firm as a hotel, motel or destination resort may not receive an exemption under ORS 285.615, unless the sponsor has exercised an option to exempt such property located within the zone.

(2) A sponsor may exercise the option described in subsection (1) of this section by notifying the Department of Revenue of its desire to exempt such property within the zone. Unless the sponsor notifies the Department of Revenue on or before December 1, 1989, of its option to exempt hotel, motel and destination resort property located within the zone, such property shall not be eligible for an exemption under ORS 285.615 within that zone. [Formerly 284.265]

**Note:** See notes under 285.570.

**285.613 Precertification for exemption.**

(1) Any eligible business firm proposing to apply for the tax exemption provided under ORS 285.597 shall, before the commencement of construction, modification or installation of qualified property in an enterprise zone, and before the hiring of eligible employees, apply for precertification with the sponsor of the zone. The application shall be made on a form prescribed by the Department of Revenue.

(2) The application shall contain the following information:

(a) A description of the nature of the firm's business operations in the enterprise zone;

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

(c) An estimate of the number of employees that will be hired by the firm;

(d) A commitment to meet all requirements of ORS 285.600; and

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

(3) If the sponsor determines that the business firm is eligible under ORS 285.603 and that the firm has committed to meet the requirements of ORS 285.600, the sponsor shall precertify the business firm by approving the application. The sponsor's approval shall be prima facie evidence that the eligible business firm will be qualified for the property tax exemption under ORS 285.597. A sponsor shall not be liable in any way if the assessor or Department of Revenue later determines that a precertified business firm is not qualified for a property tax exemption. The sponsor shall provide copies of an approved application to the applicant, county assessor, the Department of Revenue and the Economic Development Department.

(4) If the sponsor fails or refuses to precertify the business firm, the business firm may appeal to the Director of the Department of Revenue under ORS 305.275 and 305.280. The business firm shall provide copies of the firm's appeal to the sponsor,

county assessor and the Economic Development Department.

(5) Notwithstanding the fact that an enterprise zone has been terminated under ORS 285.587 (3)(a) or (4) to (7) or that a zone boundary has been changed, an eligible business firm that has obtained precertification under this section shall be entitled to a property tax exemption under ORS 285.597, if:

(a) No later than one year after the zone termination or boundary change is effective, the firm commences construction, modification or installation of the qualified property identified in its application for precertification.

(b) The firm completes construction, modification or installation of the qualified property within a reasonable time, as determined by the Department of Revenue, and without interruption of construction or installation activity.

(c) The firm satisfies all other requirements of ORS 285.600 and the precertification.

(6) If an enterprise zone is terminated under ORS 285.587 (3)(b) or (c), the exemption under ORS 285.597 shall be granted only if the construction, modification or installation is in progress on the effective date of the termination of the zone, and the business firm satisfies subsection (5)(b) and (c) of this section.

(7) Precertification under this section shall not assure that property constructed, modified or installed by the precertified business firm will receive property tax exemption under ORS 285.597.

(8) Notwithstanding any other provision of this section, if a business firm satisfies the requirements of ORS 285.600 and has constructed, modified or installed qualified property eligible for exemption under ORS 285.597, the Department of Revenue, for good cause, may waive the precertification requirement of this section and ORS 285.615 (1). [Formerly 284.270; 1993 c.25 §11; 1993 c.773 §17]

**Note:** See notes under 285.570.

**285.615 Application for exemption upon completion of construction or modification; effect of exemption.** (1) After July 1 and no later than September 1 of the tax year immediately following completion of construction or modification or the installation of qualified property, a precertified business firm may apply for the exemption allowed under ORS 285.597. The application shall be made on a form prescribed by the Department of Revenue and shall be filed with the county assessor. If the property for which exemption is sought is leased by the

business firm, the application shall be made by both the owner and the lessee of the property.

(2) An application filed under this section shall contain:

(a) A statement that:

(A) The business firm satisfies the requirements of ORS 285.600 as a qualified business firm; and

(B) The business firm has been precertified by the enterprise zone sponsor.

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

(3) The business firm shall attach to the exemption application a copy of the precertification from the sponsor. The statement made pursuant to subsection (2)(a) of this section shall be prima facie evidence that the firm is a qualified business firm.

(4) If the assessor determines the property for which exemption is sought satisfies the requirements of ORS 285.597, the assessor shall grant the exemption. Thereafter, for each tax year that the property is exempt from taxation, the assessor shall:

(a) Enter on the assessment roll, as a notation, the real market value of the property as if it were not exempt under ORS 285.597.

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

(c) Indicate on the assessment and tax roll that the property is exempt and is subject to potential additional taxes as provided in ORS 285.617, by adding the notation "enterprise zone exemption (potential additional tax)."

(5) If the assessor denies an exemption applied for under this section, the business firm may appeal the denial to the Director of the Department of Revenue under ORS 305.275 and 305.280.

(6) The assessor shall provide copies of each exemption application filed under this section to the enterprise zone sponsor, the Department of Revenue and the Economic Development Department.

(7) If an application required by subsection (1) of this section relates to principal or secondary industrial property as defined by ORS 306.126 and is filed with the Department of Revenue within the time required by subsection (1) of this section, the application shall be deemed timely filed with the assessor. [Formerly 284.275; 1993 c.25 §12; 1993 c.270 §75]

Note: See notes under 285.570.

Note: Section 76, chapter 270, Oregon Laws 1993, provides:

Sec. 76. The amendments to ORS 285.615 by section 75 of this Act apply to tax years beginning on or after July 1, 1994. [1993 c.270 §76]

**285.616 Late application for exemption; filing fee.** (1) Notwithstanding ORS 285.615 (1), an application for exemption under ORS 285.615 may be filed under this section at any time prior to September 15 of the tax year for which exemption is first sought. However, any application filed after the time for filing specified in ORS 285.615 (1) must be accompanied by a late filing fee in the greater of the amounts of \$200 or one-tenth of one percent of the real market value of the property, determined as of July 1 of the tax year to which the application pertains, by the assessor for this purpose. If the application is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, no exemption shall be allowed for the tax year based upon an application filed pursuant to this section.

(2) An application may be filed under this section whether or not there are grounds for hardship as required for late filing under ORS 307.475.

(3) The value of the property used to determine the late filing fee under this section is appealable in the same manner as other acts of the county assessor.

(4) Any filing fee collected under this section shall be deposited to the county general fund. [1993 c.25 §14]

**285.617 Notice to assessor if property or business becomes unqualified for exemption.** (1) The county assessor of any county in which an enterprise zone is situated shall be notified in writing:

(a) When property granted exemption from taxation under ORS 285.615 is sold, exchanged, transported or otherwise disposed of for use outside the enterprise zone. The notice under this paragraph shall be provided to the assessor by the qualified business firm or by the owner of the qualified property leased by the qualified business firm not later than the 60th day after the date of sale, exchange, transportation or other disposal of the property.

(b) When a qualified business firm closes or substantially curtails the operation of the trade or business in which property granted exemption from taxation under ORS 285.615 is used. The notice under this paragraph shall be provided to the assessor by the qualified business firm closing or curtailing operations or by the owner of the qualified property leased by the qualified business firm not later than the 60th day after the date on

which closure or substantial curtailment is determined to have occurred.

(2) When an assessor receives written notice under subsection (1) of this section, the assessor shall disqualify the property for the following tax year and 100 percent of the additional taxes calculated under ORS 285.615, together with interest as provided in ORS 311.213, shall be assessed against the property for each year for which the property had been granted exemption.

(3) For the purposes of ORS 285.600 and this section:

(a) Operation of a new business shall be considered to be substantially curtailed when the number of employees is reduced at the end of a tax year by more than 85 percent from the highest number of employees at the end of any tax year during which the business firm received a property tax exemption under ORS 285.597, or when the number of employees at the end of a tax year has been reduced for a period longer than one year by more than 50 percent from the highest number of employees in any tax year during which the firm was receiving a property tax exemption under ORS 285.597.

(b) Operation of an existing business shall be considered to be substantially curtailed when the average annual number of employees is reduced at the end of the first tax year of exemption and all subsequent qualifying years below 110 percent of the average annual number of employees at facilities of the firm located within the enterprise zone on the date of application for precertification.

(4) 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 subsections (1) and (3) of this section the assessor shall:

(a) Compute the amount of taxes and interest described in subsection (2) 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.

(5) The amount determined to be due under subsections (2) and (4) of this section:

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

(b) Shall be added to the tax extended against the land on the next general property tax roll to be collected and distributed in the

same manner as the remainder of the property taxes.

(6) The assessor shall at all times be authorized to demand and receive reports by registered or certified mail from owners or lessees of the use of the qualified property and the employment status of the qualified business firm. 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 of such removal to the Department of Revenue and the owners or lessees of the qualified property and apply the penalties provided in this section.

(7) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [Formerly 284.280; 1993 c.25 §15]

Note: See notes under 285.570.

#### (Miscellaneous)

**285.620 Short title for ORS 285.570 to 285.617.** ORS 285.570 to 285.617 shall be known and may be cited as the Oregon Enterprise Zone Act of 1989. [Formerly 284.285]

Note: See notes under 285.570.

### REGIONAL ECONOMIC DEVELOPMENT

**285.630 Definitions for ORS 285.630 to 285.647 and 285.655.** As used in ORS 285.630 to 285.647 and 285.655, unless the context requires otherwise:

(1) "Key industry" has the meaning given that term in ORS 285.765.

(2) "Region" means groups of counties designated by the Economic Development Department as provided in ORS 285.635 (3).

(3) "Regional strategy" is an economic development plan that extends over a period of six years or longer to build or enlarge at least two but not more than three key industries selected by the region and its citizens. [Formerly 284.010; 1993 c.789 §1]

**285.633 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 285.630 to 285.647 and 285.655 is:

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

(b) To encourage the coordination of regional strategies with the statewide key industries program;

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

(d) To coordinate private and public resources to support economic development. [Formerly 284.015]

**285.635 Standards; content.** (1) The department, by rule, 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 retain, increase or lead to an increase in the number of family wage jobs in this state.

(3) The department shall establish regions, based on information and advice received from county governing bodies and on historical, cultural and economic links among counties. A region shall consist of at least two contiguous counties. However, the boundaries of a region established by the department shall not be changed for the duration of the regional strategy developed for the region under ORS 285.640 or prior to July 1, 1999.

(4) The department shall require each region to examine its economy and to select its strategy accordingly.

(5) The department shall notify the Housing and Community Services Department of any proposed regional strategy with a related workforce increase at the time the department receives the region's completed regional strategy proposal under ORS 285.637.

(6) All regions of this state shall be eligible to participate in the program operated under ORS 285.630 to 285.647 and 285.655. [Formerly 284.020; 1993 c.789 §2]

**285.637 Regional strategy content.** Regional economic development strategies shall serve as a basis for state financial assistance to projects to aid a regional economy. Each 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 key industries 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 analysis of barriers to development of the selected key industries in the region and an identification of the means to overcome those barriers;

(4) A long-term action plan extending over a period of 6 to 10 years to implement the regional strategy, including actions by:

(a) Local governments;

(b) The private sector;

(c) State government; and

(d) Federal Government;

(5) A two-year action plan with a prioritized list of activities to be undertaken or funded by the state from lottery proceeds and other sources;

(6) 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;

(7) Performance measurements for meeting the objective set forth in ORS 285.635 (2). Each region shall develop an evaluation plan, as part of its strategy document, for measuring and monitoring strategy performance. As a minimum requirement, the evaluation plan shall include a method and time schedule for monitoring achievement of the long-term goals and objectives and the two-year action plan of the region. The plan shall also include criteria for measuring long-term and short-term economic effects; and

(8) An overall strategy management and project implementation plan that demonstrates that a region has the capacity to allocate resources and insures that such resources are effectively used. [Formerly 284.025; 1993 c.789 §3]

**285.640 Adoption of regional strategy; regional strategy boards; notice; hearing; review; approval; effect of failure to submit strategy.** (1) The governing body of each county of this state shall be responsible for the submission of a regional strategy as provided in ORS 285.637. The governing body of a county shall designate a regional strategy board to develop the strategy recommendation. The regional strategy board shall consist of individuals selected from the general public. A majority of the members of the regional strategy board shall be individuals who primarily represent the private economic sector.

(2) The regional strategy board shall be responsible for developing the regional strategy for the county.

(3) The regional strategy board shall hold a public hearing in each county in the region prior to a vote by the governing bodies of the counties to recommend to the Governor the regional strategy described in ORS 285.637.

(4) In developing the list provided for in ORS 285.637 (5), a regional strategy board

shall consult with firms in the industries targeted by the strategy, cities, ports, special districts, regional workforce quality committees and federally recognized Oregon Indian tribes located in the region.

(5) Regions shall select a strategy and submit recommendations for the strategy to the department for review by the Oregon Economic Development Commission. The department shall work with regions to refine strategy requests and assure compliance with the requirements of ORS 285.630 to 285.647 and 285.655. The Oregon Economic Development Commission shall make recommendations on approval of the strategy to the Governor for final approval or shall return the strategy to the regional strategy board for further modification.

(6) Regions that fail to submit regional strategies to the department within 11 months after the beginning of the biennium and do not receive final approval of those strategies within 15 months after the beginning of the biennium may not continue to participate in the regional strategies program established by ORS 285.630 to 285.647 and 285.655 or receive moneys from the Regional Strategies Fund for the program for that biennium. The department shall reallocate any moneys designated for regions that fail to meet the deadlines to regions remaining in the regional strategies program.

(7) After a regional strategy is developed by a regional strategy board, adopted by the governing bodies of the counties and approved by the Governor, the regional strategy board, in each biennium, shall refine the strategy and recommend a two-year action plan to implement the strategy during that biennium. The action plan shall be adopted by the governing bodies of the counties, reviewed by the Oregon Economic Development Commission and must be approved by the Governor before taking effect.

(8) A regional strategy shall not be approved by the Oregon Economic Development Commission or by the Governor unless those portions of the strategy relating to key industries are submitted to a statewide organization representing the affected key industries for its review and comment. For the purposes of this subsection, the Economic Development Department shall determine which statewide organizations represent the affected key industries. If the department determines that no statewide organization exists, the provisions of this subsection shall not apply to the relevant portions of a regional strategy. [Formerly 284.030; 1993 c.736 §49a]

**285.643 Governor to adopt strategy; modification; coordination with other economic development strategies.** (1) Af-

ter considering the recommendations submitted, the Governor may 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. Regions using regional strategies funds for tourism or industrial marketing projects must, as a condition for receiving the funds, demonstrate that the projects complement and are consistent with existing statewide marketing campaigns. The department shall work with regions to insure coordination among statewide marketing efforts and regional tourism and industrial marketing projects funded through the regional strategies program established under ORS 285.630 to 285.647 and 285.655.

(3) The department shall discourage competition among regions for existing Oregon businesses and economic activity. [Formerly 284.035; 1993 c.789 §5]

**285.645 All counties to be included in region.** In carrying out the provisions of ORS 285.630 to 285.647 and 285.655, the department shall work to assure that all counties are included in a region with an adopted strategy and that each regional strategy is approved for implementation. [Formerly 284.040; 1993 c.789 §6]

**285.647 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. [Formerly 284.045]

**285.650 Regional Strategies Fund.** (1) There is created a Regional Strategies Fund, separate and distinct from the General 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 171.845, 280.518 and 285.630 to 285.655.

(2) The department may use moneys in the Regional Strategies Fund to pay for the administrative expenses of operating the regional strategies program under ORS 285.630 to 285.647 and 285.655.

(3) The fund shall not be used 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. [Formerly 284.050; 1993 c.789 §7]

**285.651 Expenditure of Regional Strategies Fund; distribution.** (1) In each biennium, the Economic Development Department shall expend:

(a) Not less than 75 percent of the moneys in the Regional Strategies Fund as regional guideline funds for:

(A) Technical assistance and staff support for regional strategy development; and

(B) Projects implementing an approved regional strategy.

(b) Not more than 25 percent of the moneys in the Regional Strategies Fund for multiregion projects selected by the Governor that implement the approved regional strategies of two or more regions. Funding for multiregion projects under this paragraph shall be awarded, at the discretion of the Governor, according to the quality of the defined projects. Multiregion projects that receive funding under this paragraph must support the development of the key industries included in the regional strategies for the regions.

(2) In each biennium, a regional strategy board may dedicate a portion of regional guideline funds for technical assistance and staff support for regional strategy development and refinement. The portion of funds so dedicated shall be determined by the department. The department shall provide regional strategy boards with these funds prior to strategy approval.

(3) In each biennium, a regional strategy board may not dedicate more than 25 percent of regional guideline funds to provide grants or loans to individual private businesses for fixed asset acquisition. Such funds must be used to make grants and loans that are consistent with the regional strategy and that support the development of the key industries included in the regional strategy. The terms and conditions of grants or loans to be made under this subsection must be contained in the regional strategy at the time it is submitted for state review.

(4) After a regional strategy is adopted, the department in each calendar quarter shall provide regional guideline funds, less any moneys used for technical assistance and staff support for strategy development, to the region. Moneys received under this subsection shall be used for development of projects based upon an evaluation by the regional strategy board of the merit and readiness of the projects. Projects that receive such financial assistance must be consistent with the approved regional strategy.

(5) In each biennium, each regional strategy board shall submit a report to the Governor and the Legislative Assembly that

describes the expenditure of moneys received under this section and indicates the success, as defined by specified performance measurements, of the funded projects in achieving the regional strategy goals described in ORS 285.635 (2). Future grants to a regional strategy board shall be based on the performance of the board. [1993 c.789 §8]

**Note:** 285.651 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**285.653 Strategic Reserve Fund; sources; uses.** (1) There is created a Strategic Reserve Fund, separate and distinct from the General 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 statewide strategies for economic development.

(2) The fund shall not be used to retire any debt or, except upon approval of the Joint Ways and Means Committee or, if the Legislative Assembly is not in session, the Emergency Board, to pay administrative expenses of the department. Expenses that are project related shall not be considered to be administrative expenses of the department.

(3) The department is directed in the preparation of statewide strategies under this section, after considering the goals and policies of the Oregon Development Board established under section 2, chapter 908, Oregon Laws 1989, 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. The fund shall be used to assist economic development projects of public entities, industry groups or businesses with significant long-term, regional or statewide economic impacts, to provide interim financing mechanisms to augment existing public or private sector programs or to analyze statewide, long-term economic issues and opportunities.

(4) The department shall notify the Housing and Community Services Department of any proposed Strategic Reserve Fund project with a related workforce increase at least two weeks before the signing of the contract for state participation in the project. [Formerly 284.055]

**285.655 Short title.** ORS 285.630 to 285.647 and 285.655 shall be known as the

Regional Economic Development Act.  
[Formerly 284.060]

**RURAL REVITALIZATION AND  
LEADERSHIP DEVELOPMENT  
PROGRAM**

**285.670 Definitions for ORS 285.670 to 285.678.** As used in ORS 285.670 to 285.678:

(1) "Community" means an area or locality in which the body of inhabitants has common economic or employment interests. The term is not limited to a city, county or other political subdivision and need not, but may be, limited by political boundaries.

(2) "Rural area" means an area located entirely outside of the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth boundaries of the Cities of Eugene, Springfield, Keizer, Salem and Medford.

(3) "Rural community" means a community located in a rural area. [1991 c.684 §2]

**285.672 Legislative findings.** (1) The Legislative Assembly finds that:

(a) The rural communities of Oregon need assistance in assessing their economic opportunities, planning for long-term economic development and participating effectively in state economic development programs;

(b) Strong community leaders are essential to the ability of a rural community to identify economic opportunities and problems, build a consensus on community development issues and coordinate the development and implementation of plans to address those issues;

(c) Rural areas of Oregon, more than the urban areas of this state, suffer from significantly higher levels of unemployment, lower average wages and high levels of worker displacement due to advances in technology and timber supply shortages;

(d) These distressed rural communities in particular need strong, visionary leadership to guide them through the economic changes of the next decade, which may be a period of growing global competition, severe timber shortages and declining employment in rural areas;

(e) Rural areas have limited resources with which to acquire the technical assistance and leadership necessary to adequately respond to economic change; and

(f) Federal and state investment in community and leadership development in rural areas is insufficient.

(2) The Legislative Assembly therefore declares that it is the policy of the State of

Oregon to promote economic stability and development in rural areas of this state.

(3) The Legislative Assembly further declares that the rural revitalization and leadership development program established by ORS 285.670 to 285.678 is intended to promote such state policy by providing rural communities with technical assistance for the assessment of their economic opportunities and the development of strategic plans for immediate and long-term economic development and by improving the leadership skills of individuals likely to become leaders in rural communities. [1991 c.684 §1]

**285.674 Technical assistance; leadership training.** (1) Rural communities participating in the rural revitalization program established by ORS 285.670 to 285.678 shall be provided with technical assistance to:

(a) Assess their economic strengths, weaknesses, opportunities and threats;

(b) Develop short term and long term strategic plans based on the assessment;

(c) Assist the communities in developing organizational structures and other activities needed to implement and sustain their strategic plans; and

(d) Resolve problems that may arise in communities as they work to implement their strategic development plans.

(2) The program of leadership training carried on under ORS 285.670 to 285.678 shall develop the skills of individuals enrolled in the program by:

(a) Exposing program participants to a broad range of regional, national and international issues affecting rural areas.

(b) Teaching participants about effective management techniques, group problem solving methods and consensus building processes.

(c) Providing participants with training to improve their technical and analytical skills.

(d) Educating participants about the functions of local, state and national governments and the state legislative process.

(e) Teaching participants about the elements of effective leadership.

(f) Providing participants with opportunities to apply leadership skills to community development work.

(3) The Economic Development Department shall insure that the community development and leadership training efforts carried out under the rural revitalization program are coordinated with existing state and local community development and leadership training programs in a manner that contributes to the quality and effectiveness

of the programs established by ORS 285.670 to 285.678, maximizes the use of available resources and expands development and training opportunities for communities and rural residents. The department shall coordinate programs under ORS 285.670 to 285.678 with other programs including, but not limited to, federal programs, the regional strategies program established under ORS 285.630 to 285.655, the special public works program established under ORS 285.700 to 285.753, state workforce and job training programs, programs offered by the Oregon State University Extension Service and leadership training programs offered by local chambers of commerce. [1991 c.684 §3]

**285.676 Private, nonprofit corporation.**

(1) The Economic Development Department, in cooperation with private businesses, state universities and other interested parties, shall establish a private, nonprofit corporation to carry out the purposes of ORS 285.670 to 285.678.

(2) The Director of the Economic Development Department shall establish an initial board of directors with no more than 15 members including, but not limited to, a majority of members who are representatives from business and rural Oregon, the Director of the Economic Development Department or the deputy director, the Director of the Oregon State University Extension Service or the associate director and an individual skilled in leadership training. The board shall be chaired by a member from the private sector who is elected by a majority of the board. After the initial members of the board of directors are determined, the board, as part of its responsibilities, shall determine the subsequent membership of the board. [1991 c.684 §4]

**285.677 Reports.** The Economic Development Department shall submit reports to the Joint Legislative Committee on Trade and Economic Development concerning the operation, costs and results of the programs carried out under ORS 285.670 to 285.678. A report required by this section shall be submitted to the joint committee not less than annually. [1991 c.684 §6]

**285.678 Short title.** ORS 285.670 to 285.677 shall be known as and may be referred to as the Rural Revitalization and Leadership Development Act. [1991 c.684 §7]

**COMMUNITY DEVELOPMENT  
BANK FUND**

**285.680 Definitions for ORS 285.680 to 285.690.** As used in ORS 285.680 to 285.690, "fund" means the Community Development Bank Fund. [Formerly 280.507]

**285.683 Findings; purpose.** (1) The Legislative Assembly finds that:

(a) Local government is experiencing increasing difficulty in obtaining necessary financing for eligible community development projects, such as public works projects, causing project delays and significant increased costs to property owners and municipalities.

(b) The improvement, expansion and new construction of eligible community development projects contributes to orderly economic growth by providing the framework necessary to attract industry to this state and to promote increased employment opportunities and other community improvements which are for the benefit of the people of Oregon.

(c) It is important, therefore, that state agencies authorized to distribute state or federal funds for such improvements be able to provide programs and allocate moneys that will provide the greatest impetus to community development opportunities in Oregon.

(2) Since municipalities in this state often suffer from a lack of available financing for eligible community development projects, it is the purpose of ORS 285.680 to 285.690 to provide financial assistance to municipalities in order that they may develop and construct community development projects and may construct, improve and repair facilities necessary for orderly community development. [Formerly 280.510]

**285.685 Community Development Bank Fund; investments; administration; costs.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Community Development Bank Fund. All moneys in the fund are continuously appropriated to provide financing for community development projects.

(2) Moneys in the Community Development Bank Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings from such investments and other program income shall be credited to the Community Development Bank Fund.

(3) The Community Development Bank Fund shall consist of:

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

(b) Recaptured moneys from the Oregon Community Development Grant Program.

(c) Interest earnings on moneys loaned to cities and counties under the Oregon Community Development Grant Program for short-term financing of community development projects.

(d) Repayment of loans to municipalities made under the Oregon Community Development Grant Program, including interest earnings.

(4) The department, or the agency assigned principal responsibility for administration of the moneys received from the federal Housing and Urban Development Community Development Block Grant Program for Small Cities, shall be the agency for the State of Oregon for the administration of the fund.

(5) The department shall adopt rules and policies for the administration of the fund.

(6) The department may establish a program for short-term financing of eligible community development projects using federal Community Development Block Grant moneys allocated to the state but not yet drawn from the federal treasury.

(7) The department may charge program administrative costs to the fund to pay for administrative expenses incurred to the department for processing applications and investigating community development projects. [Formerly 280.513]

**285.687 Use of funds.** All payments, receipts and interest from outstanding indebtedness shall be retained and accumulated in the Community Development Bank Fund and used for the purposes specified in ORS 285.683. [Formerly 280.515]

**285.690 Application of federal statutes.** All federal overlay statutes associated with moneys received from the federal Housing and Urban Development Community Development Block Grant Program for Small Cities shall continue to apply to the use of those moneys in the fund received from sources described in ORS 285.685 (3)(c) and (d). [Formerly 280.517]

## PACIFIC NORTHWEST ECONOMIC REGION COMPACT

**285.693 Legislative finding.** The Legislative Assembly finds that:

(1) There is a new emerging global economy in which countries and regions located in specific areas of the world are forging new cooperative arrangements.

(2) These new cooperative arrangements are increasing the competitiveness of the participating countries and regions, thus increasing the economic benefits and the overall quality of life for the citizens of the individual countries and regions.

(3) The Pacific Northwest states of Alaska, Idaho, Montana, Oregon and Washington and the Canadian provinces of Alberta and British Columbia are in a strategic position to act together, as a region,

thus increasing the overall competitiveness of the individual states and provinces that will provide substantial economic benefits for all of their citizens. [1991 c.659 §1]

**285.695 Compact.** The Pacific Northwest Economic Region is established by law and entered into by the State of Oregon as a party, and is in full force and effect in accordance with the terms of ORS 285.693 and this section.

## THE PACIFIC NORTHWEST ECONOMIC REGION

### ARTICLE I

#### POLICY AND PURPOSE

States and provinces participating in the Pacific Northwest Economic Region shall seek to develop and establish policies that: Promote greater regional collaboration among the seven entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific Northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: International trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific Northwest Economic Region may take the form of uniform legislation enacted by two or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

### ARTICLE II

#### ELIGIBLE PARTIES AND EFFECTIVE DATE

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon and Washington. This agreement establishing the Pacific Northwest Economic Region shall become effective when it is executed by one state, one province and one additional state and/or province in a form deemed appropri-

ate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

### ARTICLE III

#### ORGANIZATIONAL STRUCTURE

Each state and province participating in this agreement shall appoint representatives to the Pacific Northwest Economic Region. The organizational structure of the Pacific Northwest Economic Region shall consist of the following: A delegate council consisting of four legislators and the governor or the governor's designee from each participating state and four representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one legislator from each participating state and/or province who is a member of the delegate council and four of the seven governors and premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four governor or premier members of the executive committee shall be chosen by the governors and premiers from among the governors and premiers on the delegate council. At least one of the four members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific Northwest Economic Region.

### ARTICLE IV

#### DUTIES AND RESPONSIBILITIES

The delegate council shall have the following duties and responsibilities: Facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific Northwest Economic Region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific Northwest Economic Region. The executive committee shall perform the following duties and responsibilities: Elect the president and vice-president of the Pacific Northwest Economic Region; approve and implement general organiza-

tional policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of and, if appropriate, apply for, (1) tax-exempt status under the laws and regulations of the United States or any state or subdivision thereof and (2) similar status under the laws and regulations of Canada or any province or subdivision thereof, and approve such rules, regulations, organizational policies and staffing structure for the Pacific Northwest Economic Region and take such further actions on behalf of the Pacific Northwest Economic Region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax-exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific Northwest Economic Region. The rules and regulations of the Pacific Northwest Economic Region shall establish the procedure for voting.

### ARTICLE V

#### MEMBERSHIP OF POLICY COMMITTEES

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators and governors and premiers to sit on these committees in accordance with its own rules and regulations concerning such appointments.

### ARTICLE VI

#### GENERAL PROVISIONS

This agreement shall not be construed to limit the powers of any state or province or to repeal or prevent the enactment of any legislation.

[1991 c.659 §2; 1993 c.134 §1]

### INFRASTRUCTURE PROJECTS

#### (Generally)

**285.700 Definitions for ORS 285.700 to 285.750.** As used in ORS 285.700 to 285.750, unless the context requires otherwise:

(1) "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, a domestic water supply district organized under ORS chapter 264, a water authority or sanitary authority organized under ORS 450.600 to 450.989, a water improvement district organized under ORS chapter 552, a water control district organized under ORS chapter 553, a sanitary district organized un-

der ORS 450.005 to 450.245, a county service district organized under ORS chapter 451 or a tribal council of an Indian tribe in this state.

(2) "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. The cost of property acquisition directly related to the infrastructure project and acquisition of easements or rights of way necessary to accomplish construction of the infrastructure project are eligible for assistance under ORS 285.700 to 285.750. Purchase of off-site property for project-related purposes such as wetland mitigation or other uses not directly related to the infrastructure are not eligible for assistance.

(b) A project, in consultation with the Department of Transportation, the Public Utility Commission and other affected agencies, for the acquisition, reconstruction or rehabilitation 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 operation or maintenance costs if the project also includes acquisition, reconstruction or rehabilitation.

(c) A safe drinking water project, in consultation with the Water Resources Department, the Health Division of the Department of Human Resources or the Department of Land Conservation and Development, for improving a drinking water system for the purpose of achieving or maintaining compliance with applicable state or federal drinking water quality regulations.

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

(4) "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.

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

(6) "Solid waste disposal site" has the meaning given to the term "disposal site" by ORS 459.005.

(7) "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.

(8) "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.

(9) "Nonurban infrastructure projects" includes all those projects which do not meet the definition of urban infrastructure projects. [Formerly 284.310; 1993 c.577 §39]

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

(2) Since municipalities in this state often suffer from a lack of available financing for such projects, it is the purpose of ORS 285.700 to 285.750 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 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. [Formerly 284.320; 1993 c.686 §1]

**285.705 Allowable project costs.** (1) For purposes of ORS 285.700 to 285.750, the total project costs of an infrastructure project may include costs for preliminary planning or legal, fiscal and economic investigations, re-

ports and studies to determine the economic and engineering feasibility of the project. Such planning costs may be paid for with a loan or grant from the Special Public Works Fund, by technical assistance grants or loans awarded to eligible municipalities, or by a municipality itself.

(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 285.700 to 285.750. Proposals for technical assistance grants shall be processed under ORS 285.707, 285.710 (2)(a), 285.717 (2) and 285.720 (2) in the same manner as other project proposals. [Formerly 284.330; 1993 c.686 §2]

**285.707 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 practicable, 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 285.700 to 285.750, 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 disbursement in future years under ORS 285.720 (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.

(6) The department shall notify the Housing and Community Services Department of any proposed Special Public Works Fund project with a related workforce increase at the time the department receives the completed application for the project. [Formerly 284.340; 1993 c.18 §54]

**285.710 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. [Formerly 284.360]

**285.713 Review of feasibility study.** Upon receipt of an application filed as provided in ORS 285.710, 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. [Formerly 284.370]

**285.715 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 285.710 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 285.700 to 285.750;

(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 285.700 to 285.750, 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 285.700 to 285.750;

(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 285.717 (1)(a) to (e); and

(8) The proposed infrastructure project is consistent with rules adopted under ORS 285.707. [Formerly 284.380]

**285.717 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 285.700 to 285.750 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 285.700 to 285.750 based upon a reasonable and prudent expectation of the municipality's ability to repay any amount borrowed. [Formerly 284.390]

**285.720 Maximum amounts of grants; standards.** (1) The maximum amount of any grant to a municipality made from the Special Public Works Fund under ORS 285.707 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 equaling a larger percentage of total project costs for projects with greatest economic need.

(4) A grant contract under ORS 285.717 (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. [Formerly 284.400]

**285.723 Conditions for loans or purchase of municipal bonds.** (1) Any contract under ORS 285.717 (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, repay-

ment 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 285.727 (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. [Formerly 284.410]

**285.725 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. [Formerly 284.415]

**285.727 Effect of failure to comply or default.** (1) If a municipality fails to comply with a contract entered into under ORS 285.700 to 285.750, 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 285.700 to 285.750, 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. [Formerly 284.420]

**285.730 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. [Formerly 284.425]

**285.733 Special Public Works Fund; uses.** (1) There is created the Special Public Works Fund, separate and distinct from the General Fund. All moneys credited to the Special Public Works Fund are appropriated continuously and shall be used for the purposes outlined in ORS 285.700 to 285.750. 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 285.700 to 285.750.

(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 293.820 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 285.700 to 285.750.

(5) Out of moneys in the Special Public Works Fund, the department may make technical assistance grants and loans to municipalities of less than 5,000 residents. A technical assistance grant shall not exceed

\$10,000. A technical assistance loan shall not exceed \$20,000. No more than \$250,000 or one percent of the value of the fund, whichever is less, shall be expended on technical assistance grants and loans in any biennium. [Formerly 284.440]

**285.735 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. [Formerly 284.445]

**285.737 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 285.700 to 285.750. 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. As used in this section, "administrative expenses" includes the department's costs for investigating, approving and monitoring municipalities that apply for funding of infrastructure projects and servicing and collecting outstanding loans and grants made to municipalities. [Formerly 284.455]

**285.740 Standards for eligibility for revenue bond financing.** (1) The Economic Development Department shall adopt by rule standards by which to determine the eligibility for revenue bond financing under ORS 285.740 to 285.750 of infrastructure projects that have qualified under ORS 285.707 to 285.717 and 285.727.

(2) In adopting rules establishing guidelines or criteria for awarding loans or grants for drinking water projects, the department shall coordinate the department's rulemaking process with the Water Resources Department and the Health Division of the Department of Human Resources in order to assure that rules adopted under this subsection are consistent with rules adopted under ORS 431.120 and 541.845. The rules adopted under this subsection shall:

(a) Require the installation of meters on all new service connections to any distribution lines funded under ORS 285.700, 285.737, 285.755 to 285.763, 285.950 to 285.968, 431.120, 541.700, 541.705, 541.755, 541.765, 541.830, 541.845 and this section; and

(b) Require a plan, to be adopted by the municipality, for installation of meters on all service connections throughout the drinking water system.

(3) Upon determining an infrastructure project eligible for revenue bond financing

under ORS 285.740 to 285.750, the department shall forward the application to the State Treasurer, who shall determine whether to issue revenue bonds.

(4) Notwithstanding ORS 285.700 (2)(a) and 285.705 (1), when an infrastructure project is determined to be eligible for revenue bond financing under ORS 285.740 to 285.750, the costs for preliminary planning or legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of the project are included within the total project costs of the project and may be paid from bond proceeds.

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

(6) 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 285.700 to 285.750. 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.

(7) The department is authorized to establish separate accounts within the fund for separate bond issues.

(8) As used in this section, "service connection" does not include fire hydrants, fire sprinkler system connections, line blow-offs and drains, stand-by emergency interties, valve controlled drinking fountains and other similar intermittently used connections. [Formerly 284.490; 1993 c.686 §3]

**285.743 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. [Formerly 284.500]

**285.745 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 285.740 to 285.750. [Formerly 284.510]

**285.747 Application of law to revenue bonds.** (1) ORS 285.360 to 285.380 and 285.390 apply to revenue bonds issued under ORS 285.740 to 285.750.

(2) The proceeds of revenue bonds issued and sold under ORS 285.740 to 285.750 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 285.707 to 285.717, 285.723 and 285.727 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. [Formerly 284.520]

**285.750 Terms of revenue bonds.** (1) Revenue bonds issued under ORS 285.740 to 285.750:

(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 285.740 to 285.750.

(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 \$200 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. [Formerly 284.530; 1993 c.686 §4]

**285.753 Administration costs chargeable to Special Public Works Fund.** Notwithstanding any other provision of ORS 285.700 to 285.750, the costs of administering infrastructure and community development projects that are related to the purpose of the community development block grant program may be charged to the Special Public Works Fund and used as a match for federal funds available for the administration of community development block grant funds. [Formerly 284.535]

**(Safe Drinking Water)**

**285.755 Definitions for ORS 285.755 to 285.763 and 285.950 to 285.968.** As used in ORS 285.755 to 285.763 and 285.950 to 285.968:

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

(2) "Fund" means the Water Fund.

(3) "Municipality" has the meaning given that term in ORS 285.700.

(4) "Safe drinking water project" means a project for constructing or improving a drinking water system or a water development project, as defined in ORS 541.700 (6)(a), (b) and (d) to (f), that is owned and operated by a municipality.

(5) "Waste water system improvement project" means a project for constructing or improving a system for waste water collection or treatment, including storm drainage systems.

(6) "Water project" means a safe drinking water project or a waste water system improvement project. [1991 c.944 §12; 1993 c.765 §85]

**285.757 Water Fund; uses; sources; coordination with other agencies on safe drinking water projects.** (1) There is established in the State Treasury, separate and distinct from the General Fund, the Water Fund. All moneys in the fund are continuously appropriated to the Economic Development Department to provide financing for water projects.

(2)(a) Moneys in the Water Fund may be obligated to water projects.

(b) Moneys shall be used primarily to make loans to municipalities. The department may make a loan only if:

(A) The municipality applying for the loan certifies to the department that adequate funds will be available to repay the loan; and

(B) The department determines that the amount of the loan applied for is based on a reasonable and prudent expectation of the municipality's ability to repay the loan.

(c) The department may award a grant only if a loan is not feasible due to:

(A) Financial hardship to the municipality, as determined by the department, based on consideration of anticipated water service charges or anticipated waste water service charges that exceed the statewide average for such charges, the per capita income of the municipality and such other factors as the department by rule may establish; and

(B) Special circumstances of the water project.

(d) The department may determine the amount of grant or loan funding on a case-by-case basis.

(e) The amount of grants made under ORS 285.755 to 285.763 and 285.950 to 285.968 shall not exceed 50 percent of the moneys allocated to the fund from proceeds of the Oregon State Lottery.

(3) The moneys in the fund may also be used to assist the department in selling revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285.755 to 285.763 and 285.950 to 285.968.

(4) With the approval of the State Treasurer, moneys in the Water Fund may be invested as provided by ORS 293.701 to 293.820. The earnings from such investments and other program income shall be credited to the Water Fund.

(5) The Water Fund shall consist of:

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

(b) Moneys transferred to the fund by the Economic Development Department from the Special Public Works Fund created by ORS 285.733.

(c) Moneys transferred to the fund by the Water Resources Commission from the Water Development Fund created by Article XI-I(1) of the Oregon Constitution.

(d) Moneys from any federal, state or other grants.

(e) Proceeds of revenue bonds issued under ORS 285.952.

(f) Earnings on the fund.

(6) The department shall administer the fund.

(7) The department shall adopt rules and policies for the administration of the fund. The department shall coordinate its rule-making regarding safe drinking water projects with the Water Resources Department

and the Health Division of the Department of Human Resources. The rules adopted under this subsection for safe drinking water projects shall:

(a) Require the installation of meters on all new service connections to any distribution lines funded with moneys from the fund or from the proceeds of revenue bonds issued under ORS 285.950 to 285.954.

(b) Require a plan, to be adopted by a municipality receiving financial assistance from the fund, for installation of meters on all service connections throughout the drinking water system not later than two years after the completion of a safe drinking water project.

(8)(a) The department may charge administrative costs to the fund, but not to moneys segregated in the account created by subsection (10) of this section, to pay for administrative expenses incurred by the department for processing applications, investigating water projects, monitoring recipients of financing for water projects and servicing and collecting outstanding financial awards made for water projects.

(b) To the extent permitted by federal law, administrative expenses of the department as limited in paragraph (a) of this subsection that are paid from the fund shall not exceed four percent of the moneys allocated to the fund in any biennium. Administrative expenses of the department as limited in paragraph (a) of this subsection may be paid from bond proceeds.

(9) The department may establish other accounts within the Water Fund for the payment of water projects costs, reserves, debt service payments, credit enhancements, costs of issuing revenue bonds, administrative and operating expenses or any other purpose necessary to carry out ORS 285.755 to 285.763 and 285.950 to 285.968.

(10) There is created within the Water Fund a separate and distinct account for the proceeds from the sale of water development general obligation bonds issued for safe drinking water projects and credited to the special account under this section. Any investment earnings thereon shall be segregated in and continuously appropriated to a special, separately accounted for subaccount of this account. Moneys credited to this account shall be maintained separate and distinct from moneys credited to subaccounts created under subsection (9) of this section. Notwithstanding ORS 285.760 or subsection (4) of this section, all repayments of moneys loaned from the account created by this subsection, including interest on such moneys, shall be credited to the Water Development Administration and Bond Sinking Fund cre-

ated by ORS 541.830. [1991 c.944 §13; 1993 c.765 §86]

**285.760 Use of receipts from projects.** All payments, receipts and interest from financial awards made for water projects shall be retained and accumulated in the Water Fund and used to finance water projects including payments to holders of revenue bonds issued under ORS 285.952. [1991 c.944 §14; 1993 c.765 §87]

**285.763 When constitutional restrictions apply to use of certain funds.** If moneys are transferred to the Water Fund from the sources described in ORS 285.757 (5)(b) to (e), all constitutional restrictions, statutes and rules regulating the use of the moneys transferred from these funds shall apply to the use of those moneys in the Water Fund. [1991 c.944 §15; 1993 c.765 §88]

### KEY INDUSTRY DEVELOPMENT PROJECTS

**285.765 Definitions for ORS 285.765 to 285.780.** As used in ORS 285.765 to 285.780, unless the context requires otherwise:

(1) "Flexible networks" means groups of three or more private sector firms working cooperatively to manufacture, sell or market products, develop technologies or create or disseminate information.

(2) "High performance manufacturing practices" means methods for organizing work which devolve greater decision-making responsibility onto front-line workers, including but not limited to employee involvement, total quality control, just-in-time production and other related innovations.

(3) "Key industries" means traded sector industries that make a major contribution to the economy of Oregon, including but not limited to, forest products, agricultural products, high technology, primary and fabricated metals, fisheries, interstate tourism, film and video production, biotechnology, software, environmental services, plastics and aerospace.

(4) "Network brokers" means persons who are trained to assist private sector firms to form flexible networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination and other activities.

(5) "Traded sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists. [1991 c.783 §2]

**285.767 Policy.** (1) The Legislative Assembly declares that it is the policy of the State of Oregon, working with private firms, industry associations and others, to encour-

age cooperative sector-based strategies to promote industrial competitiveness.

(2) The Legislative Assembly declares that it is also the policy of this state that programs to develop particular sectors of this state's economy, to the maximum extent feasible, include firms of all sizes. To promote that policy, the Economic Development Department shall undertake such efforts as are necessary to assure representative participation by small firms under ORS 285.765 to 285.780.

(3) The Legislative Assembly further declares that it is the policy of this state to emphasize industry development in those sectors of the economy in which Oregon firms face national and international competition. [1991 c.783 §1]

**285.770 Key industry development activities.** For key industries, the Economic Development Department shall undertake a program of key industry development activities which may include, but are not limited to, all of the following:

(1) Focus groups and other meetings and related studies to identify key industry members and issues of common concern within an industry.

(2) State technical and financial support for formation of industry associations, publication of association directories and related efforts to create or expand the activities of industry associations.

(3) Helping establish research consortia.

(4) Joint training and education programs and curricula related to the specific needs of key industries.

(5) Cooperative market development activities.

(6) Analysis of the need, feasibility and cost for establishing product certification and testing facilities and services.

(7) Providing for methods of electronic communication and information dissemination among firms and groups of firms to facilitate network activity. [1991 c.783 §3]

**285.773 Network broker training program; grants.** (1) The Economic Development Department shall develop a network broker training program designed to provide persons with the necessary knowledge, skills and abilities to assist private firms in the formation of flexible networks.

(2) The Economic Development Department shall promote the concept of flexible networks and provide network feasibility grants that are awarded to not fewer than three firms per grant and that do not exceed \$10,000 per grant. [1991 c.783 §4]

**285.775 Awards program.** The Economic Development Department shall develop an awards program to identify and recognize firms and groups of firms that have developed and effectively employ high performance manufacturing practices. The department shall provide information on high performance workplaces to businesses and industry groups as part of all key industry activities. The program developed under this section may be included as part of the key industries program developed under ORS 285.770. [1991 c.783 §5]

**285.777 Department authority to contract for purposes of ORS 285.765 to 285.780.** (1) The Economic Development Department may contract with any public or private entity for the implementation of all or any part of the duties and responsibilities conferred upon the department by ORS 285.765 to 285.780.

(2) In carrying out ORS 285.765 to 285.780, the Economic Development Department shall not allocate more than 15 percent of the funds provided for the purposes of ORS 285.765 to 285.780 for the benefit of any single key industry.

(3) In carrying out this Act, the Economic Development Department shall give priority to the implementation of the activities described in ORS 285.773. [1991 c.783 §6]

**285.780 Preference to projects related to key industries.** When allocating moneys from the Strategic Reserve Fund created by ORS 285.653, the Governor and the Economic Development Department shall give preference to projects related to key industries. [1991 c.783 §7]

## PORTS

### (Generally)

**285.800 Policy.** (1) The Legislative Assembly finds that:

(a) The ports of this state are directly and actively involved in creating and carrying out at the local level the economic development objectives and programs of the State of Oregon.

(b) Ports in this state provide effective local assistance to state economic and transportation development efforts.

(c) Ports in Oregon develop and market facilities and services to support important existing industries in this state, such as agriculture, aviation, maritime commerce, international trade, tourism, recreation, fishing, wood products and transportation.

(d) Port facilities, including roads, railroads, airports, harbors and navigation channels, are an integral element of the transportation infrastructure of this state.

(e) The ports in this state have few technical or institutional resources to deal with multiple state and federal programs.

(f) Ports in this state need coordinating and planning assistance from the State of Oregon in order to be competitive in national and international markets and to continue to contribute to economic development efforts in this state.

(2) Therefore, the Legislative Assembly declares that it is the policy of this state to include Oregon's ports in planning and implementing economic development and transportation programs. To that end, the Economic Development Commission and the Ports Division may work to:

(a) Coordinate with the Department of Transportation and other state agencies, commissions and advisory committees engaged in activities affecting ports to facilitate port planning and development;

(b) Promote local cooperation in statewide planning and development of the ports;

(c) Promote long-term economic self-sufficiency of the ports;

(d) Encourage cost-effective investments with prudent financial consideration of port development projects; and

(e) Facilitate ports in their efforts to expand and respond to greater domestic and international market opportunities. [Formerly 777.003; 1993 c.474 §1]

**285.805 Definitions for ORS 285.805 to 285.820.** As used in ORS 285.805 to 285.820, unless the context requires otherwise, "port" means the Port of Portland and any municipal corporation established pursuant to ORS 777.005 to 777.725 and 777.915 to 777.953. [Formerly 777.805; 1993 c.736 §35]

**285.807** [Formerly 777.810; repealed by 1993 c.736 §80]

**285.810 Department to provide managerial assistance and technical services; cooperation with other agencies.** (1) The Economic Development Department shall provide managerial assistance and technical referral services to ports.

(2) The department shall:

(a) Disseminate such research and technical information as is available to the department; and

(b) Provide managerial assistance to ports and the safety committees created under section 19, chapter 651, Oregon Laws 1991, requesting such assistance.

(3) The department shall work cooperatively with existing organizations and agencies that provide research and technical services, including, but not limited to:

(a) The Division of State Lands;

(b) The State Marine Board; and

(c) The Sea Grant College and marine extension services at Oregon State University. [Formerly 777.817; 1993 c.736 §36]

**285.813 Department employees.** Subject to the approval of the director and any applicable provisions of the State Personnel Relations Law, the chief administrative officer of the division may appoint such subordinate officers and employees as are necessary to the accomplishment of the duties and powers assigned to the division and prescribe their duties and fix their compensation. [Formerly 777.830]

**285.815 Commission and department functions; approval required for creation of new ports; coordinating, planning and research on international trade.** (1) The commission, through the department, shall be the statewide coordinating, planning and research agency for all ports and port authorities in this state to insure the most orderly, efficient and economical development of the state port system.

(2) Notwithstanding any other provision of law, after July 1, 1969, no port or port authority may be formed without the prior approval of the commission.

(3) The commission, through the department, shall be the statewide coordinating, planning and research agency for port activities involving international trade and international trade development and industrial, commercial and recreational development. [Formerly 777.835; 1993 c.736 §37]

### (Regions)

**285.817 Port regions.** The following port regions are established:

(1) Coastal Region. Tillamook, Lincoln, Lane, Douglas, Coos and Curry Counties.

(2) Lower Columbia Region. Clatsop, Columbia, Clackamas, Washington and Multnomah Counties.

(3) Mid-Columbia Region. Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

(4) Interior Region. Those counties not included within the Coastal Region, the Lower Columbia Region or the Mid-Columbia Region. [Formerly 777.840]

**285.820 Regional meetings required; report to commission.** (1) At least four times each year, and at such other times and places as the commission may direct, representatives of each port and port authority within a region established by ORS 285.817 shall meet to discuss and solve problems of common interest within the region. Except for meetings directed by the commission, re-

gional meetings shall be held at such times and places as are designated by a majority of the representatives. The representatives shall choose from among their number a chairman and other officers for such terms and with such duties and powers as the representatives determine necessary for the performance of their duties.

(2) The chairman of each regional meeting shall cause a summary of the proceedings to be delivered to the department. [Formerly 777.845]

#### (Emergency Assistance)

**285.825 Definition of "port emergency."** As used in ORS 285.825 to 285.837, "port emergency" means any condition existing within a port that will probably result within 60 days in a default by the port in payment of principal or interest of bonds issued by the port or in payment of any other debt or obligation incurred by the port, which will have an adverse material effect on the financial condition of the port and will adversely affect the credit of the state. [Formerly 777.630; 1993 c.736 §38]

**285.827 Determination of port emergency; application for assistance.** (1) When the Oregon Economic Development Commission or the board of commissioners of the port determines that a port emergency exists, any Oregon port district with a population of fewer than one million inhabitants may file with the department an application to receive money from the Oregon Port Revolving Fund under ORS 285.843. The application shall be filed in such a manner and contain or be accompanied by such information as the department may prescribe.

(2) Upon receipt of an application filed under this section, the department shall determine whether a port emergency exists with regard to the applicant. In making its determination, the department may seek the assistance of the Secretary of State and the State Treasurer.

(3) If the commission determines that a port emergency does not exist, the commission may, within 60 days, either reject the application or require the applicant to submit additional information as may be necessary.

(4) The commission may, by its own action, declare that a port emergency exists in any Oregon port district with a population of fewer than one million inhabitants. After declaring a port emergency under this subsection, the commission shall notify the affected port district of the declaration within 10 days. [Formerly 777.635; 1993 c.736 §39]

**285.830 Emergency loans; conditions for approval; prohibited uses of loan pro-**

**ceeds.** (1) The Oregon Economic Development Commission may approve a loan from the Oregon Port Revolving Fund under ORS 285.843 to prevent a default by the applicant if:

(a) After review by the commission it finds that a port emergency exists with regard to the applicant;

(b) There is a high probability that a loan from the Oregon Port Revolving Fund under ORS 285.843 will prevent a default by the applicant;

(c) Moneys from the Oregon Port Revolving Fund under ORS 285.843 are or will be available for the loan; and

(d) The applicant agrees to the terms imposed by the commission under ORS 285.833 for making the loan.

(2) The commission shall not provide loans to port districts under this section for regular port operating expenses. Loans received by ports under ORS 285.825 to 285.837 shall not be used for regular port operating expenses. [Formerly 777.640; 1993 c.736 §40]

**285.833 Additional conditions.** The Oregon Economic Development Commission may, as a condition for making a loan under ORS 285.830, require an applicant to:

(1) Have an audit and examination of the applicant's financial condition and financial operations performed as provided in ORS 297.405 to 297.555 and to agree to correct deficiencies noted in the audit report.

(2) To the extent permitted by the Constitution and laws of this state, levy the special tax provided by ORS 777.430 (2).

(3) Submit a new tax base to the electors of the port district for approval.

(4) If the new tax base submitted to the electors of the port district is not approved, adopt a resolution by the commissioners of the port initiating dissolution of the port under ORS chapter 198. [Formerly 777.645; 1993 c.736 §41]

**285.835** [Formerly 777.650; repealed by 1993 c.736 §80]

**285.837 Payment to ports.** Loans made to ports under ORS 285.825 to 285.837 may be paid in a lump sum or in installments for a specified period of time. Loans for a single port emergency, when paid in installments, may extend beyond the biennium in which the first payment of the loan is made. [Formerly 777.555; 1993 c.736 §42]

**285.840** [Formerly 777.660; repealed by 1993 c.736 §80]

**285.843 Source of emergency loan moneys; port eligibility; security for loan; priority.** (1) Notwithstanding ORS 285.915 (1), but subject to subsection (4) of this section, moneys in the Oregon Port Revolving

Fund that are not required for other uses, may be used by the Oregon Economic Development Commission for payments of loans to port districts under ORS 285.825 to 285.837.

(2) A port district is eligible for a loan under ORS 285.825 to 285.837 only when the port district is ineligible under ORS 285.883 (5) for a loan for a port development project. Notwithstanding ORS 285.885, the commission may establish the amount of a loan and the terms for repayment of the loan made under ORS 285.825 to 285.837 as the commission considers appropriate under the circumstances until the port district obtains a new tax base or is dissolved under ORS 285.833.

(3) When a loan is made to a port district under ORS 285.825 to 285.837, if the port is thereafter dissolved under ORS 285.833 (4) and ORS chapter 198, the liens and other security accepted by the commission as collateral for the loan shall be subordinate to all other liens, security interests and contract rights in the port's property held by other creditors of the port.

(4) The amount of \$250,000 is established as the maximum limit for payment of loans to ports out of moneys in the Oregon Port Revolving Fund under ORS 285.825 to 285.837. ORS 285.915 (3) shall not affect or limit the making of such loans. [Formerly 777.665; 1993 c.736 §43]

### (Planning and Marketing)

**285.850 Port Planning and Marketing Fund; uses; sources; investment.** (1) There is created within the State Treasury, separate and distinct from the General Fund, the Port Planning and Marketing Fund. All moneys in the Port Planning and Marketing Fund are appropriated continuously to the Economic Development Department and shall be used by the department for:

(a) Administrative expenses of the department in processing grant applications and investigating proposed planning or marketing projects related to ports.

(b) Payment of grants under ORS 285.850 to 285.863 to ports incorporated under ORS 777.010 and 777.050.

(2) The Port Planning and Marketing Fund shall consist of:

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

(b) Moneys obtained from gifts or grants received under ORS 285.086.

(c) Moneys obtained from interest earned on the investment of such moneys.

(3) Moneys in the Port Planning and Marketing Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings

from such investments shall be credited to the Port Planning and Marketing Fund. [Formerly 777.727; 1993 c.736 §44]

**285.853** [Formerly 777.729; repealed by 1993 c.736 §80]

**285.857 Grant purposes; application; standards; prohibited funding.** (1) The Economic Development Department may make grants, as funds are available, to any port incorporated under ORS chapter 777 or 778 for:

(a) A planning project conducted under ORS 285.815 or any other planning project necessary for improving the port's capability to carry out its authorized functions and activities relating to trade and commerce; or

(b) A marketing project necessary for improving the port's capability to carry out its authorized functions and activities relating to trade and commerce.

(2) Any port may file with the department an application for a grant from the Port Planning and Marketing Fund to finance a specific planning project or marketing project.

(3) An application under this section shall be filed in such a manner and contain or be accompanied by such information as the department may prescribe.

(4) Upon receipt of an application, the department shall determine whether the planning project or marketing project is eligible for funding under ORS 285.850 to 285.863. If the department determines that the project is not eligible, it shall within 60 days:

(a) Reject the application; or

(b) Require the applicant to submit additional information as may be necessary.

(5) The department may approve a grant for a planning project or a marketing project described in an application filed under this section if, after investigation by the department, it finds that:

(a) The project meets the standards and criteria established by the department for grant financing from the Port Planning and Marketing Fund; and

(b) Moneys in the Port Planning and Marketing Fund are or will be available for the project.

(6) Grants to ports under ORS 285.850 to 285.863 shall not exceed \$25,000 and shall not exceed 75 percent of the total cost of the project.

(7) The department shall not fund any program that subsidizes regular port operating expenses. [Formerly 777.732; 1993 c.736 §45]

**285.860 Funding priorities.** (1) The Ports Division shall develop marketing grant

funding priorities considering such factors as community need and whether the project will lead to economic diversification, development of a new or emerging industry and redevelopment of existing public facilities. The division shall give priority to regional or cooperative projects, and projects that leverage other marketing efforts by the state or other local government units.

(2) The division shall review all proposals to avoid duplication of marketing efforts among ports, and to maintain consistency with the applicable county or city comprehensive plans. [Formerly 777.736]

**285.863 Annual report.** The Economic Development Department shall provide an annual report to the Legislative Committee on Trade and Economic Development on the marketing and planning program. [Formerly 777.738; 1993 c.736 §46]

#### (Oregon Port Revolving Fund)

**285.870 Definitions for ORS 285.870 to 285.943.** As used in ORS 285.870 to 285.943, unless the context requires otherwise:

(1) "Business development project" means the engineering, improvement, rehabilitation, construction, operation or maintenance, in whole or in part, including the preproject planning costs of any business development project authorized by ORS 777.250 (1). The term does not include a flexible manufacturing space project.

(2) "Flexible manufacturing space project" means a project for the acquisition, construction, improvement or rehabilitation, in whole or in part, of any building suitable for the conduct of manufacturing processes and, by design, able to be readily modified when necessary to accommodate the operations of the tenants of the building. The term includes any preproject planning activities for a flexible manufacturing space project.

(3) "Fund" means the Oregon Port Revolving Fund.

(4) "Port development project" means the engineering, improvement, rehabilitation, construction, operation or maintenance, in whole or in part, including the preproject planning costs of any project authorized by ORS 777.105 to 777.258, except projects authorized primarily by ORS 777.250 (1).

(5) "Port district" means any municipal corporation incorporated, or proposed to be incorporated, pursuant to ORS 777.005 to 777.725 and 777.915 to 777.953 or ORS chapter 778. [Formerly 777.850; 1993 c.736 §47]

**285.873 Application for port development money.** Any Oregon port district may file with the Oregon Economic Development

Commission an application to borrow money from the Oregon Port Revolving Fund for a port development project as provided in ORS 285.870 to 285.943. The application shall be filed in such a manner and contain or be accompanied by such information as the commission may prescribe. [Formerly 777.852]

**285.875 Commission review of application; fee.** (1) Upon receipt of an application filed, as provided in ORS 285.873, the Oregon Economic Development Commission shall determine whether the plans and specifications for the proposed port development project set forth in or accompanying the application are satisfactory. If the commission determines that the plans and specifications are not satisfactory, they may within 60 days:

(a) Reject the application.

(b) Require the applicant to submit additional information of the plans and specifications as may be necessary.

(2) The commission shall charge and collect from the applicant, at the time the application is filed, a fee of not to exceed \$100. Moneys referred to in this subsection shall be paid into the Oregon Port Revolving Fund. [Formerly 777.854]

**285.880 Private development contracts not prohibited.** Nothing in ORS 285.870 to 285.943 is intended to prevent an applicant from employing a private engineering firm and construction firm to perform the engineering and construction work on a proposed port development project. [Formerly 777.856]

**285.883 Qualifications for approval of port development funding.** The commission may approve a port development project proposed in an application filed as provided in ORS 285.873, if, after investigation, the commission finds that:

(1) The proposed port development project is feasible and a reasonable risk from practical and economic standpoints, and the loan has reasonable prospect of repayment.

(2) Moneys in the Oregon Port Revolving Fund are or will be available for the proposed port development project.

(3) There is a need for the proposed port development project, and the applicant's financial resources are adequate to provide the working capital needed to assure success of the project.

(4) The applicant has received all necessary permits required by federal, state or local agencies.

(5) The applicant has not received or entered into a contract or contracts exceeding \$1 million with the commission, under authority of ORS 285.870 to 285.943, for the previous 365 days, and provided that no ap-

plicant may have more than \$1.5 million in outstanding loans at any one time.

(6) The standards under ORS 285.025 have been met. [Formerly 777.858; 1993 c.736 §48]

**285.885 Loan from fund; repayment plan; project inspection; enforcement of contract.** If the Oregon Economic Development Commission approves the project, the commission, on behalf of the state, and the applicant may enter into a loan contract of not more than \$500,000, secured by good and sufficient collateral, which shall set forth, among other matters:

(1) A plan for repayment by the applicant to the Oregon Port Revolving Fund moneys borrowed from the fund used for the port, flexible manufacturing space project or business development project and interest on such moneys used at a rate of interest for port development projects and flexible manufacturing space projects of not less than five percent or for business development projects of not less than one percent less than the prevailing interest rate on United States Treasury bills of comparable term, as determined by the commission. The repayment plan, among other matters:

(a) Shall provide for commencement of repayment by the port district of moneys used for the project and interest thereon no later than one year after the date of the loan contract or at such other time as the commission may provide. However, upon approval by the commission, a repayment plan for a flexible manufacturing space project may provide that no interest shall accrue until the building is at least 25 percent occupied or until three years after the date of the loan contract, whichever is earlier.

(b) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances if approved by the commission.

(c) Shall provide for such evidence of debt assurance of, and security for, repayment by the applicant as are considered necessary by the commission.

(d) Shall set forth a schedule of payments and the period of loan which shall not exceed the usable life of the contracted project or 20 years from the date of the contract, whichever is less, and shall also set forth the manner of determining when loan payments are delinquent. The payment schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may require payments of varying amounts for collection of such accrued interest.

(e) Shall set forth a procedure for formal declaration of default of payment by the commission, including formal notification of all relevant federal, state and local agencies; and further, a procedure for notification of all relevant federal, state and local agencies that declaration of default has been rescinded when appropriate.

(f) Shall provide for partial or complete repayment, in excess of scheduled payments, of any outstanding principal loan amount without penalty. If any prepayment is made, that amount shall not be included in any computation for the purposes of ORS 285.883 (5).

(2) Provisions satisfactory to the commission for field engineering and inspection, the commission to be the final judge of completion of the contract.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Oregon Port Revolving Fund for use in the project.

(4) Such further provisions as the commission considers necessary to insure expenditure of the funds for the purposes set forth in the approved application.

(5) That the commission may institute appropriate action or suit to prevent use of the facilities of a project financed by the Oregon Port Revolving Fund if the port is delinquent in the repayment of any moneys due the Oregon Port Revolving Fund. [Formerly 777.860]

**285.887 Project moneys from port revolving fund.** If the Oregon Economic Development Commission approves a loan for a port development project, the commission shall pay moneys for such project from the Oregon Port Revolving Fund, in accordance with the terms of the loan contract as prescribed by the commission. [Formerly 777.862]

**285.890 Filing of lien against port; notice of satisfaction.** (1) If the Oregon Economic Development Commission accepts a lien against any port district's real or personal property as collateral required by ORS 285.885, the commission shall file notice of the loan with the recording officer of each county in which is situated any real or personal property of the port district. The notice shall contain a description of the encumbered property, the amount of the loan, and a statement that loan payments are liens against such property.

(2) Upon payment of all amounts loaned to a port district pursuant to ORS 285.870 to 285.943, the commission shall file with each recording officer referred to in subsection (1) of this section, a satisfaction notice that indicates repayment of the loan. [Formerly 777.864]

**285.893 Powers to enforce loan agreement.** (1) The Oregon Economic Development Commission may institute proceedings to foreclose any lien for delinquent loan payments.

(2) If a port district fails to comply with a contract entered into pursuant to ORS 285.885, the commission may seek appropriate legal remedies to secure the loan, and may contract with any port project developer for continuance of the port development project and for repayment of moneys from the Oregon Port Revolving Fund used therefor and interest thereon.

(3) The commission may also provide by contract or otherwise for a port development project until the project is assumed by the new port project developer. [Formerly 777.866]

**285.895 Sources of loan repayment moneys.** A port district that enters into a contract with the Oregon Economic Development Commission for a port development project and repayment as provided in ORS 285.885 may obtain moneys for repayment to the Oregon Port Revolving Fund under the contract in the same manner as other moneys are obtained for purposes of the port district or other moneys available to the developer. [Formerly 777.868]

**285.897** [Formerly 777.870; repealed by 1993 c.736 §80]

**285.900** [Formerly 777.872; repealed by 1993 c.736 §80]

**285.903** [Formerly 777.874; repealed by 1993 c.736 §80]

**285.905 Duties of director.** The Oregon Economic Development Commission may appoint the director as their representative and agent in all matters pertaining to ORS 285.870 to 285.943. The director shall assure that all provisions of ORS 285.870 to 285.943 are complied with and that appropriately trained personnel are employed pursuant to ORS 285.813 to properly administer the fiscal and other portions of ORS 285.870 to 285.943. [Formerly 777.876]

**285.907 Reimbursement to port revolving fund upon refinancing of project.** Except as provided in ORS 285.910, if any port development project is refinanced or financial assistance is obtained from other sources after the execution of the loan from the state, all such funds shall be first used to repay the state if such refinancing or financial assistance applies only to the port development project authorized and does not include any subsequent addition, expansion, improvement or further development. [Formerly 777.878]

**285.910 Joint financing; port revolving fund limit.** (1) The Oregon Economic Development Commission may authorize funds

from the Oregon Port Revolving Fund to be used in appropriate joint governmental participation projects or as match money with any port, state or federally funded port development project authorized within a port district, subject to the stipulations of ORS 285.870 to 285.943.

(2) Any application for a loan under this section shall be in such form as the commission prescribes and shall furnish such proof of federal, state or local approval as appropriate for funding of the port development project.

(3) The total amount of moneys loaned from the fund for federal, state or local joint port development project purposes shall not exceed \$500,000 per project. [Formerly 777.880]

**285.913 Loan contract under joint financing programs.** If the Oregon Economic Development Commission approves an application for the loan of moneys authorized by ORS 285.910, the commission shall enter into a loan contract, secured by good and sufficient collateral, with the port district that provides, among other matters:

(1) That notices of any liens against the property be filed with the recording officer of each county as provided for in ORS 285.890 (1) and (2).

(2) That the loan bear interest at the same rate of interest as provided in ORS 285.885 (1).

(3) That the contract shall set forth a schedule of payments including interest and principal for the period of the loan, which shall not exceed the usable life of the contracted project or 20 years from the date of the contract, whichever is less, and shall set forth the manner of determining when loan payments are delinquent. The same schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by ORS 285.870 to 285.943, and the repayment schedule may require payments of varying amounts for collection of such accrued interest. However, the commission may make provisions for extensions of time in making repayment if the delinquencies are caused by acts of God or other conditions beyond the control of the port district and the security will not be impaired thereby.

(4) Such provisions as the commission considers necessary to insure expenditure of the moneys loaned for the purposes provided in ORS 285.910, including all provisions of ORS 285.883.

(5) That the commission may cause to be instituted appropriate proceedings to foreclose liens as provided for in ORS 285.893 (1) and (2) for delinquent loan payments and shall pay the proceeds of any such foreclo-

sure, less their expenses incurred in foreclosing, into the Oregon Port Revolving Fund. [Formerly 777.882]

**285.915 Oregon Port Revolving Fund; creation; purposes; sources; debt limit.** (1) There is created within the State Treasury a revolving fund known as the Oregon Port Revolving Fund, separate and distinct from the General Fund. Moneys in this fund are continuously appropriated to the Oregon Economic Development Commission for the following purposes:

(a) Administrative expenses of the commission in processing applications and investigating proposed port development projects.

(b) Transfer of funds pursuant to ORS 285.917.

(c) Payment of loans to port districts pursuant to ORS 285.870 to 285.943.

(d) Administrative expenses of the department relating to ports. In any one year, administrative expenses charged under this paragraph may not be greater than the total revenues received in that year from fees provided for in subsection (2)(a) of this section, plus three percent of the total asset value of the fund.

(2) The fund created by subsection (1) of this section shall consist of:

(a) Application fees required by ORS 285.875 (2).

(b) Repayment of moneys loaned to port districts or others from the Oregon Port Revolving Fund, including interest on such moneys.

(c) Payment of such moneys as may be appropriated to the fund by the Legislative Assembly.

(d) Moneys obtained from any interest accrued from such funds.

(3) Outstanding debt on the fund shall not exceed 95 percent of all deposits, accounts payable, and other assets of the fund.

(4) No money shall be expended from the Oregon Port Revolving Fund for any economic development study costing more than \$25,000 unless a work plan and budget for such study has been provided to the Legislative Committee on Trade and Economic Development. [Formerly 777.884; 1993 c.736 §49]

**Note:** Sections 19 and 20, chapter 607, Oregon Laws 1987, provide:

**Sec. 19. Transfers to Port Planning and Marketing Fund.** (1) Notwithstanding ORS 285.915 (1) and 285.920, available moneys in the Oregon Port Revolving Fund that were accrued as earned income of the fund may be transferred to the Port Planning and Marketing Fund created under ORS 285.850.

(2) Notwithstanding ORS 285.850 (1)(b), moneys transferred to the Port Planning and Marketing Fund under this section may be used for payments of grants

under ORS 285.850 to 285.863 to ports incorporated under ORS 285.805 to 285.943 or ORS chapter 777 or 778.

(3) In addition to and notwithstanding any other law, an amount not to exceed 1.5 percent of the assets of the Oregon Port Revolving Fund as calculated on July 1 of each year shall be transferred to the Port Planning and Marketing Fund under this section. [1987 c.607 §19; 1991 c.539 §2]

**Sec. 20.** Section 19, chapter 607, Oregon Laws 1987, is repealed on July 1, 1995. [1987 c.607 §20; 1991 c.539 §3]

**285.917 Reimbursement of General Fund for initial fund appropriation.** (1)

When the Oregon Economic Development Commission determines that moneys in sufficient amounts are available in the Oregon Port Revolving Fund, the State Treasurer shall reimburse the General Fund without interest in an amount equal to the amount allocated by the Legislative Assembly pursuant to section 25, chapter 838, Oregon Laws 1977. The moneys used to reimburse the General Fund under this section shall not be considered a budget item on which a limitation is otherwise fixed by law.

(2) In lieu of the repayment to the General Fund required by subsection (1) of this section, the commission may prepare an annual certification to the Oregon Department of Administrative Services stating the amount of actual administrative expenses charged pursuant to ORS 285.915 (1)(d). The Oregon Department of Administrative Services shall use this certification to reduce the amount of repayment to the General Fund required by section 25, chapter 838, Oregon Laws 1977.

(3) The certification allowed by subsection (2) of this section may be retroactive to July 1, 1979. [Formerly 777.886]

**285.920 Use of fund proceeds.** All payments, receipts and interest from outstanding indebtedness shall be retained in the Oregon Port Revolving Fund and accumulated for new project disbursement, and repayment of funds allocated pursuant to ORS 285.917 and section 25, chapter 838, Oregon Laws 1977. All interest earnings of the fund from whatever source shall be retained and accumulated in the Oregon Port Revolving Fund and shall be used for port development projects, and repayment of funds allocated pursuant to section 25, chapter 838, Oregon Laws 1977. [Formerly 777.888; 1993 c.18 §55]

**Note:** See note under 285.915.

**285.923 When alternative method of financing port development project permitted.** If the Oregon Economic Development Commission finds that a port development project is eligible for approval under ORS 285.883 except that moneys in the Oregon Port Revolving Fund are not available for the proposed project, the commission

may finance the project as provided in ORS 285.923 to 285.940. [Formerly 777.892]

**285.925** [Formerly 777.894; repealed by 1993 c.736 §80]

**285.927 Issuance of bonds; determining factors.** In determining whether to issue revenue bonds under ORS 285.923 to 285.940, the State Treasurer shall consider:

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

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

(3) Such other relevant factors as the State Treasurer considers necessary to protect the financial integrity of the state. [Formerly 777.896]

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

(1) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the moneys repaid to the Oregon Port Revolving Fund, including interest on such moneys, and define and segregate such revenues or provide for the payment thereof to a trustee;

(2) Make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; and

(3) Enter into and perform such contracts and agreements with political subdivisions and state agencies as the respective governing bodies of the same may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of such facilities, which contracts and agreements may establish a board, commission or such other body as may be deemed proper for the supervision and general management of the facilities of the eligible project. [Formerly 777.898]

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

(a) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by moneys repaid to the Oregon Port Revolving Fund, including interest on such moneys, to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project and issued in the manner prescribed by ORS 286.010, 286.020 and 286.105 to 286.135, and

refunding bonds may be issued to refinance such revenue bonds.

(b) The State Treasurer shall designate the underwriter, trustee and bond counsel and enter into appropriate agreements with each to carry out the provisions of ORS 285.923 to 285.940.

(2) Any trustee designated by the State Treasurer to carry out all or part of the powers specified in ORS 285.335 must agree to furnish financial statements and audit reports for each bond issue. [Formerly 777.900]

**285.935 Method of issuing bonds; use of bond proceeds; repayment of loans made with bond proceeds.** (1) ORS 285.360 to 285.380 and 285.390 apply to revenue bonds issued under ORS 285.923 to 285.940.

(2) The proceeds of revenue bonds issued and sold under ORS 285.923 to 285.940 shall be deposited in the Oregon Port Revolving Fund and used for the payment of a loan to a port district for a port development project described in ORS 285.923 and for which project the revenue bonds were issued.

(3) A loan made with money derived from the sale of revenue bonds under this section shall be made as other loans under ORS 285.870 to 285.943 are made, except that the loan contract, notwithstanding ORS 285.913 (3), shall set forth a schedule of payments which shall not exceed the usable life of the contracted project. [Formerly 777.902]

**285.940 Limitations of bonds; recitals.** (1) Revenue bonds issued under ORS 285.923 to 285.940:

(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 repaid to the Oregon Port Revolving Fund, including interest on such moneys, under the provisions and for the purposes of ORS 285.923 to 285.940.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys repaid to the Oregon Port Revolving Fund, including interest on such moneys, under the provisions of and for the purposes of ORS 285.923 to 285.940.

(c) Shall not exceed, for all bonds issued, a total value of \$3 million.

(2) Each bond issued under ORS 285.923 to 285.940 shall recite in substance that the bond, including interest thereon, is payable

solely from the revenue pledged to the payment thereof. No such bond shall constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. However, nothing in ORS 285.923 to 285.940 is intended to impair the rights of holders of bonds to enforce covenants made for the security thereof as provided under ORS 285.935. [Formerly 777.904]

**285.943 Short title.** ORS 285.870 to 285.920 shall be known as the Oregon Port Revolving Fund Act. [Formerly 777.910]

### REVENUE BOND FINANCING OF SAFE DRINKING WATER PROJECTS

**285.950 Standards for eligibility of water projects; determination to issue bonds.** (1) The Economic Development Department shall adopt by rule standards to determine the eligibility of a water project for revenue bond financing under ORS 285.755 to 285.763 and 285.950 to 285.968.

(2) Upon determining that a water project is eligible for revenue bond financing, the department shall forward a description of the project to the State Treasurer. The State Treasurer shall determine whether to issue revenue bonds. [1993 c.765 §91]

**285.952 Duties of State Treasurer.** If the State Treasurer determines that revenue bonds shall 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 Water Fund and pledged to finance or refinance in whole or in part the cost of a water project. The revenue bonds issued under this section shall be issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance the revenue bonds.

(2) The State Treasurer shall designate and enter into agreements with the underwriter, trustee and bond counsel to carry out the provisions of ORS 285.755 to 285.763 and 285.950 to 285.968. [1993 c.765 §92]

**285.954 Nature of revenue bonds.** (1) Revenue bonds issued under ORS 285.952:

(a) Shall not be payable from nor charged upon any fund other than the revenue pledged to the payment of the revenue bonds, except as provided in this section, nor shall the state be subject to any liability on the bonds. No holder of revenue 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 on the bonds, nor to enforce payment of the bonds against any property of the state except those moneys pledged in the Water Fund, under the pro-

visions of ORS 285.755 to 285.763 and 285.950 to 285.968.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys paid to the Water Fund.

(c) Shall not exceed, for all bonds outstanding, a total principal amount of \$200 million.

(2) A revenue bond issued under ORS 285.952 shall not constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. [1993 c.765 §93]

**285.956 Repayment plans for loan; authority of municipalities.** (1) Any loan of moneys to a municipality by the state shall include a plan for repayment by the municipality of moneys borrowed from the Water Fund for a water project and interest on those moneys at a rate expressly specified. 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) May set forth the allocation of special assessments or contractual responsibilities 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 that 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 fund by entering into a loan contract with the Economic Development Department. Moneys borrowed from the fund shall be repaid:

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

(b) From amounts withheld under ORS 285.968;

(c) From the general fund of the municipality;

(d) From any combination of the provisions of paragraphs (a) to (c) of this subsection; or

(e) From any other sources.

(3) A loan contract under subsection (2) of this section may provide that a portion of the proceeds of the loan be applied to fund a reserve fund to secure the repayment of the loan or secure the repayment of revenue bonds issued to fund the loan.

(4) A loan contract under subsection (2) of this section shall be authorized by an ordinance or resolution that is adopted with prior notice of at least 14 days. Notice shall be published at least once in a newspaper of general circulation within the municipality. [1993 c.765 §94]

**285.958 Authority of department.** In addition to any other powers granted by law in relation to a water project, the Economic Development Department, acting through the State Treasurer or the State Treasurer's designee, may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient for the exercise of the powers granted by this section, or for 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 water projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Water Fund. [1993 c.765 §95]

**285.960 Deposit and use of bond proceeds.** (1) Proceeds of revenue bonds issued and sold under ORS 285.950 to 285.954 that are to be used to fund loans to municipalities for water projects shall be deposited in the Water Fund.

(2) Proceeds of revenue bonds issued and sold under ORS 285.950 to 285.954 that are to be used to pay the costs of issuing the revenue bonds or that are to be applied to fund a reserve fund for the revenue bonds shall be deposited either in the Water Fund or in a trust account or fund held by any trustee for the revenue bonds. Moneys on deposit in the Water Fund may be transferred to any trustee for the revenue bonds to be applied to the payment of the costs of issuing the revenue bonds or to be applied to fund a reserve fund for the revenue bonds. [1993 c.765 §96]

**285.962 Other forms of financial assistance.** In addition to making loans to municipalities for water projects, the Economic Development Department may provide any other form of financial assistance that the department may consider appropriate for the financing of water projects. [1993 c.765 §97]

**285.964 Technical assistance grants and loans; eligibility; purpose; amount.** Out of the moneys in the Water Fund, the Economic Development Department may make technical assistance grants and loans to municipalities with fewer than 5,000 residents. Technical assistance grants and loans shall be for the purpose of completing preliminary planning, legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of water projects. A technical assistance grant shall not exceed \$10,000. A technical assistance loan shall not exceed \$20,000. [1993 c.765 §98]

**285.966 Use of moneys in Water Fund.** Not less than 33 percent of the moneys appropriated to the Water Fund shall be used to provide financial assistance to nonurban water projects and not less than 33 percent shall be used to provide financial assistance to urban water projects. [1993 c.765 §99]

**285.968 Repayment to Water Fund.** (1) If a municipality fails to comply with a contract entered into under ORS 285.956, the Economic Development Department may seek appropriate legal remedies to secure any repayment due the Water Fund. If any municipality defaults on payments due the fund, the State of Oregon may withhold any amounts otherwise due the municipality to apply to the indebtedness. The department may waive the right to withhold moneys under this subsection.

(2) Moneys withheld under subsection (1) of this section shall be deposited in the 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. [1993 c.765 §100]