

A-Engrossed
Senate Bill 1565

Ordered by the Senate February 16
Including Senate Amendments dated February 16

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes city or county to adopt exemption for newly constructed or installed industrial improvements with cost of initial investment of at least \$1 million **and not more than \$25 million**. Provides that qualified property must be owned or leased by applicant and used through final year of exemption for purpose and at location identified in application. [*Requires city or county to specify period of three to five years during which exemption is granted and decreasing percentage of exemption to be granted during specified period. Provides cap on exemption equal to specified percentage of real market value of qualified property.*] **Provides exemption shall be granted as 100 percent exemption for any three of five consecutive years unless city or county adopts other terms. Provides that ordinance or resolution granting exemption may not take effect unless rates of taxation of taxing districts whose governing bodies agree to grant exemption equal 75 percent or more of total combined rate of taxation.** Requires exemption to be granted to all eligible industrial improvements on same terms in effect on date application is submitted. Prohibits stacking of exemptions or special assessments other than exemption for commercial facilities under construction. Allows city or county to amend or terminate exemption, **subject to approval process of taxing districts described above**, but provides that industrial improvements granted exemption continue to receive exemption under terms in effect at time exemption was first granted. Authorizes city or county to grant deferral of property taxes instead of exemption within same parameters. Provides for clawbacks of tax exemption savings or deferred taxes upon disqualification of industrial improvements.

Sunset authority of city or county to adopt exemption or deferral on January 2, 2027. Provides that industrial improvements granted exemption or deferral before sunset date continue to receive exemption or deferral under terms in effect at time granted.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property tax benefits; and prescribing an effective date.

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

4 **SECTION 1. (1) As used in sections 1 to 4 of this 2016 Act:**

5 (a) **"Eligible property" means newly constructed or installed improvements classified as**
6 **industrial under rules established by the Department of Revenue pursuant to ORS 308.215**
7 **(1)(a)(C), and associated personal property, that have a cost of initial investment to the**
8 **purchaser of at least \$1 million and not more than \$25 million.**

9 (b) **"Qualified property" means eligible property for which an application has been ap-**
10 **proved under section 2 of this 2016 Act.**

11 (2)(a) **The governing body of a city or county may adopt an ordinance or resolution**
12 **granting a property tax exemption for eligible property located within the boundaries of the**
13 **city or county, respectively.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(b) The terms of the exemption must conform to the provisions of sections 1 to 4 of this**
2 **2016 Act. In addition, an ordinance or resolution adopted under this subsection may include**
3 **requirements for the exemption related to economic development, including but not limited**
4 **to the number of new or retained employees in the Oregon workforce of the taxpayer, mini-**
5 **imum compensation for new or retained employees, first source hiring agreements and local**
6 **procurement plans, that do not conflict with the provisions of sections 1 to 4 of this 2016**
7 **Act.**

8 **(3)(a) Qualified property must be:**

9 **(A) Owned or leased by the applicant filing the application under section 2 of this 2016**
10 **Act.**

11 **(B) Used through the final year of exemption for the purpose, and at the location, iden-**
12 **tified in the application filed under section 2 of this 2016 Act.**

13 **(b) The exemption:**

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

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

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

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

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

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

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

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

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

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

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

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

45 **(6)(a) A city or county may adopt at any time an ordinance or resolution amending the**

1 terms of an exemption granted pursuant to this section or a deferral granted pursuant to
2 section 3 of this 2016 Act, subject to approval of the taxing districts under subsection (5)(a)
3 of this section, or terminating the exemption or deferral.

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

8 (7) If a city or county proposes an ordinance or resolution providing for an exemption
9 on terms other than the terms provided in subsection (4)(a) of this section, the ordinance
10 or resolution may not take effect unless the governing body of the city or county, as appli-
11 cable, receives testimony from the county assessor at a public hearing on the question re-
12 garding the cost and administrability of the proposed terms of the exemption.

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

16 (b) Otherwise eligible property that has received another property tax exemption or spe-
17 cial assessment is not eligible for the exemption or deferral.

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

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

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

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

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

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

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

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

41 (B) On or before April 1 of the property tax year, if the application is accompanied by a
42 late filing fee of \$200 and the applicant demonstrates good and sufficient cause, as defined in
43 ORS 307.162, for failing to file a timely application or is a first-time filer, as defined in ORS
44 307.162.

45 (c)(A) An application may be filed as provided in paragraph (b) of this subsection

1 notwithstanding that there are no grounds for hardship as required for late filing under ORS
2 307.475.

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

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

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

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

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

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

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

15 (c) If the property is eligible for the exemption under paragraph (a) of this subsection
16 and the application meets the requirements of the ordinance or resolution of the city or
17 county, the governing body of the city or county shall:

18 (A) Approve the application; and

19 (B) Notify the assessor of the county in which the qualified property is located and, if the
20 qualified property is state-appraised industrial property, the Department of Revenue of the
21 approval and include with the notification such information as is necessary for the assessor
22 and department to perform their respective duties with respect to the qualified property.

23 (4) Provided all other requirements of ORS 305.275 are met, the cost of initial investment
24 of the qualified property as determined under this section may be appealed pursuant to ORS
25 305.275 even if, for purposes of ORS 305.275 (1)(a), the governing body of the city makes the
26 determination of the cost. The rejection of an application on any basis other than the cost
27 of initial investment may not be appealed.

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

30 (a) Shall enter on the assessment and tax roll the notation "potential additional tax li-
31 ability"; and

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

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

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

45 (2)(a) For each property tax year that qualified property is granted deferral pursuant to

1 this section, and until the taxes have been added to the assessment and tax roll under sub-
2 section (3) of this section, the assessor of the county in which the qualified property is lo-
3 cated:

4 (A) Shall enter on the assessment and tax roll the notation “deferred additional tax li-
5 ability”; and

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

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

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

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

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

19 (b) Deferred additional taxes collected pursuant to this section shall be deemed to be
20 assessed and imposed in the property tax year for which the taxes were imposed and de-
21 ferred.

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

27 (4) If any qualified property granted deferral under this section is sold or otherwise
28 transferred or is moved out of the county, the lien for the deferred additional taxes added
29 under this section shall attach and the deferred additional taxes are due and payable as of
30 the day before the sale or transfer or, if the qualified property is removed from the county,
31 five days before the removal, whichever is earlier.

32 **SECTION 4.** (1) If qualified property granted exemption pursuant to section 1 of this 2016
33 Act, or deferral pursuant to section 3 of this 2016 Act, is not used for the purpose, or at the
34 location, identified in the application approved under section 2 of this 2016 Act in any year
35 through the final assessment year of the exemption or deferral, the assessor of the county
36 in which the qualified property is located shall immediately disqualify the property for the
37 exemption or deferral and the disqualified property shall be assessed and taxed in the same
38 manner as other property is assessed and taxed.

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

44 (b) If the disqualified property was granted a deferral, deferred additional taxes shall be
45 assessed against the property for the first property tax year following the disqualification in

1 **an amount equal to the deferred taxes for all years for which the deferral was granted.**

2 **SECTION 5. (1) Sections 1 to 4 of this 2016 Act are repealed on January 2, 2027.**

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

7 **SECTION 6. This 2016 Act takes effect on the 91st day after the date on which the 2016**
8 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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