

DRAFT

SUMMARY

Requires Oregon Health Authority to exercise procurement authority under Public Contracting Code and under supervision of Oregon Department of Administrative Services, for specified purposes.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to procurement authority for the Oregon Health Authority; creating
3 new provisions; amending ORS 279A.050, 413.033, 413.450, 413.520 and
4 475.225; and declaring an emergency.

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

6 **SECTION 1.** ORS 279A.050 is amended to read:

7 279A.050. (1)(a) Except as otherwise provided in the Public Contracting
8 Code, a contracting agency shall exercise all procurement authority in ac-
9 cordance with the provisions of the Public Contracting Code.

10 (b) [*When*] **If** a contracting agency has authority under this section to
11 carry out functions described in this section, or has authority to make pro-
12 curements under a provision of law other than the Public Contracting Code,
13 the contracting agency [*is not required to*] **need not** exercise [*that*] **the**
14 **contracting agency's** authority in accordance with the provisions of the
15 code if, under ORS 279A.025, the code does not apply to the contract or
16 contracting [*authority*] **agency**.

17 (2) Except as otherwise provided in the Public Contracting Code, for state
18 agencies the Director of the Oregon Department of Administrative Services
19 has all the authority to carry out the provisions of the Public Contracting

1 Code.

2 (3) Except as otherwise provided in the Public Contracting Code, the Di-
3 rector of Transportation has all the authority to:

4 (a) Procure or supervise the procurement of all services and personal
5 services to construct, acquire, plan, design, maintain and operate passenger
6 terminal facilities and motor vehicle parking facilities in connection with
7 any public transportation system in accordance with ORS 184.689 (5);

8 (b) Procure or supervise the procurement of all goods, services, public
9 improvements and personal services [*relating to the operation, maintenance*
10 *or construction of*] **that relate to operating, maintaining or constructing**
11 highways, bridges and other transportation facilities that are subject to the
12 authority of the Department of Transportation; and

13 (c) Establish standards for, prescribe forms for and conduct the prequali-
14 fication of prospective bidders on public improvement contracts [*related to*
15 *the operation, maintenance or construction of*] **that relate to operating,**
16 **maintaining or constructing** highways, bridges and other transportation
17 facilities that are subject to the authority of the Department of Transporta-
18 tion.

19 (4) Except as otherwise provided in the Public Contracting Code, the
20 Secretary of State has all the authority to procure or supervise the pro-
21 curement of goods, services and personal services related to programs under
22 the authority of the Secretary of State.

23 (5) Except as otherwise provided in the Public Contracting Code, the
24 State Treasurer has all the authority to procure or supervise the procure-
25 ment of goods, services and personal services related to programs under the
26 authority of the State Treasurer.

27 (6) The state agencies listed in this subsection have all the authority to
28 do the following in accordance with the Public Contracting Code:

29 (a) The Department of Human Services to procure or supervise the pro-
30 curement of goods, services and personal services under ORS 179.040 for the
31 department's institutions and the procurement of goods, services and per-

1 sonal services for [*the construction, demolition, exchange, maintenance, oper-*
2 *ation*] **constructing, demolishing, exchanging, maintaining, operating**
3 and equipping [*of*] housing for the purpose of providing care to individuals
4 with intellectual disabilities or other developmental disabilities, subject to
5 applicable provisions of ORS 427.335;

6 (b) The Oregon Health Authority to procure or supervise the procurement
7 of goods, services and personal services under ORS 179.040 and construction
8 materials, equipment and supplies for the authority's institutions and the
9 procurement of goods, services, personal services, construction materials,
10 equipment and supplies for [*the construction, demolition, exchange, mainte-*
11 *nance, operation*] **constructing, demolishing, exchanging, maintaining,**
12 **operating** and equipping [*of*] housing for [*persons*] **individuals** with chronic
13 mental illness, subject to applicable provisions of ORS 426.504;

14 (c) The State Department of Fish and Wildlife to procure or supervise the
15 procurement of construction materials, equipment, supplies, services and
16 personal services for public improvements, public works or ordinary con-
17 struction described in ORS 279C.320 that is subject to the authority of the
18 State Department of Fish and Wildlife;

19 (d) The State Parks and Recreation Department to procure or supervise
20 the procurement of all goods, services, public improvements and personal
21 services [*relating*] **related** to state parks;

22 (e) The Oregon Department of Aviation to procure or supervise the pro-
23 curement of construction materials, equipment, supplies, services and per-
24 sonal services for public improvements, public works or ordinary
25 construction described in ORS 279C.320 that is subject to the authority of
26 the Oregon Department of Aviation;

27 (f) The Oregon Business Development Department to procure or supervise
28 the procurement of all goods, services, personal services and public im-
29 provements related to its foreign trade offices operating outside the state;

30 (g) The Housing and Community Services Department to procure or su-
31 pervise the procurement of goods, services and personal services as provided

1 in ORS 279A.025 (2)(n);

2 (h) The Department of Corrections to procure or supervise the procure-
3 ment of construction materials, equipment, supplies, services and personal
4 services for public improvements, public works or ordinary construction de-
5 scribed in ORS 279C.320 that is subject to the authority of the Department
6 of Corrections;

7 (i) The Department of Corrections, subject to any applicable provisions
8 of ORS 279A.120, 279A.125, 279A.145 and 283.110 to 283.395, to procure or
9 supervise the procurement of goods, services and personal services under
10 ORS 179.040 for its institutions;

11 (j) The Department of Veterans' Affairs to procure or supervise the pro-
12 curement of real estate broker and principal real estate broker services re-
13 lated to programs under the department's authority;

14 (k) The Oregon Military Department to procure or supervise the pro-
15 curement of construction materials, equipment, supplies, services and per-
16 sonal services for public improvements, public works or ordinary
17 construction described in ORS 279C.320 that is subject to the authority of
18 the Oregon Military Department;

19 (L) The Department of Education, subject to any applicable provisions of
20 ORS 329.075, 329.085 and 329.485 and the federal No Child Left Behind Act
21 of 2001 (P.L. 107-110, 115 Stat. 1425), to procure or supervise the procurement
22 of goods, services, personal services and information technology [*relating*]
23 **related** to student assessment; and

24 (m) Any state agency to conduct a procurement when the agency is spe-
25 cifically authorized by any provision of law other than the Public Contract-
26 ing Code to enter into a contract.

27 (7)(a) Notwithstanding this section and ORS 279A.140 (1), the Director
28 of the Oregon Department of Administrative Services has exclusive author-
29 ity, unless the director delegates this authority, to procure or supervise the
30 procurement of:

31 (A) All price agreements on behalf of the state agencies identified in

1 subsection (6)(a) to (k) of this section under which more than one state
2 agency may order goods, services, [or] personal services, **construction ma-**
3 **terials, equipment or supplies;** and[, *except for contracts procured by the*
4 *Oregon Health Authority,*]

5 (B) All state agency information technology contracts.

6 (b) This subsection does not apply to contracts under which the contrac-
7 tor delivers to the state agency information technology products or services
8 incidental to the performance of personal services contracts described in
9 ORS chapter 279C or construction contracts described in ORS chapter 279C.

10 (c) A state agency identified in subsection (3) or (6)(a) to (k) of this sec-
11 tion may not establish a price agreement or enter into a contract for goods,
12 services, personal services, construction materials, equipment or supplies
13 without the approval of the director if the director has established a price
14 agreement for the goods, services, [or] personal services, **construction ma-**
15 **terials, equipment or supplies.**

16 **SECTION 2.** ORS 413.033 is amended to read:

17 413.033. (1) The Oregon Health Authority is under the supervision and
18 control of a director, who is responsible for [*the performance of*] **performing**
19 the duties, functions and powers of the authority.

20 (2) The Governor shall appoint the Director of the Oregon Health Au-
21 thority, who holds office at the pleasure of the Governor. The appointment
22 of the director [*shall be*] **is** subject to confirmation by the Senate in the
23 manner provided by ORS 171.562 and 171.565.

24 [(3)(a) *In addition to the procurement authority granted by ORS 179.040*
25 *and 279A.050, the director shall have all powers necessary to effectively and*
26 *expeditiously carry out the duties, functions and powers vested in the authority*
27 *by ORS 413.032, and the duties, functions and powers that are shared by or*
28 *delegated to the authority with respect to the following agencies:]*

29 [(A) *The Oregon Department of Administrative Services;*]

30 [(B) *The Department of Consumer and Business Services; and*]

31 [(C) *The Department of Human Services.*]

1 *[(b) With respect to procurements and contracts that the authority is au-*
2 *thorized to conduct or manage, the director may make procurements on behalf*
3 *of, and supervise the procurement, establishment and administration of con-*
4 *tracts entered into by, the departments described in paragraph (a) of this*
5 *subsection.]*

6 *[(c) Notwithstanding ORS 279B.085, the director may approve a special*
7 *procurement under paragraph (b) of this subsection that:]*

8 *[(A) Describes the proposed contracting procedure and the goods or services,*
9 *or the class of goods or services, to be acquired through the special procure-*
10 *ment;]*

11 *[(B) Is unlikely to encourage favoritism in the awarding of public contracts*
12 *or to substantially diminish competition for public contracts; and]*

13 *[(C) Is reasonably expected to result in substantial cost savings to the au-*
14 *thority or to the public.]*

15 *[(d) The director shall give public notice of the approval of a proposed*
16 *special procurement as provided by the authority by rule. The requirements*
17 *applicable to the Director of the Oregon Department of Administrative Services*
18 *under ORS 279B.400 apply to the Director of the Oregon Health Authority*
19 *with respect to special procurements under this subsection.]*

20 *[(e) Notwithstanding ORS 279C.335, the director may exempt a public im-*
21 *provement contract or a class of public improvement contracts that the au-*
22 *thority is authorized to conduct or manage from the competitive bidding*
23 *requirements of ORS 279C.335 (1) if the director makes the findings described*
24 *in ORS 279C.335 (2). The provisions in ORS 279C.335 (3) to (8) with respect*
25 *to the Director of the Oregon Department of Administrative Services apply to*
26 *the Director of the Oregon Health Authority for exemptions granted by the*
27 *director under this subsection.]*

28 *[(4)]* **(3)** The director *[shall have the power to obtain such other services*
29 *as]* **may at the director's discretion obtain services that** the director
30 considers necessary or desirable, **other than services that would require**
31 **the director to conduct a procurement or enter into a contract under**

1 **ORS chapter 279A, 279B or 279C. The services may include** *[including]*
2 participation in organizations of state insurance supervisory officials and
3 appointment of advisory committees. A member of an advisory committee so
4 appointed *[shall]* **may not** receive *[no]* compensation for services as a mem-
5 ber, but, subject to any other applicable law regulating travel and other ex-
6 penses of state officers, shall receive actual and necessary travel and other
7 expenses incurred in *[the performance of]* **performing** official duties.

8 *[(5)]* **(4)** The director may apply for, receive and accept grants, gifts or
9 other payments, including property or services from any governmental or
10 other public or private person, and may make arrangement *[for the]* **to** use
11 *[of]* the receipts, including *[the]* **for** undertaking *[of]* special studies and other
12 projects *[relating]* **that relate** to the costs of health care, access to health
13 care, public health and health care reform.

14 **SECTION 3.** ORS 413.450 is amended to read:

15 413.450. (1) The Oregon Health Authority shall approve continuing edu-
16 cation opportunities relating to cultural competency.

17 (2) The authority shall develop a list of continuing education opportu-
18 nities relating to cultural competency and make the list available to each
19 board, as defined in ORS 676.850.

20 (3) The continuing education opportunities may include, but need not be
21 limited to:

- 22 (a) Courses delivered either in person or electronically;
- 23 (b) Experiential learning such as cultural or linguistic immersion;
- 24 (c) Service learning; or
- 25 (d) Specially designed cultural experiences.

26 (4) The continuing education opportunities must teach attitudes, knowl-
27 edge and skills that enable a health care professional to care effectively for
28 patients from diverse cultures, groups and communities, including but not
29 limited to:

- 30 (a) Applying linguistic skills to communicate effectively with patients
31 from diverse cultures, groups and communities;

1 (b) Using cultural information to establish therapeutic relationships; and
2 (c) Eliciting, understanding and applying cultural and ethnic data in the
3 process of clinical care.

4 (5) The authority may accept gifts, grants or contributions from any
5 public or private source for the purpose of carrying out this section. Moneys
6 received by the authority under this subsection shall be deposited into the
7 Oregon Health Authority Fund established by ORS 413.101.

8 (6) The authority may contract with or award grant funding to a public
9 or private entity to develop the list of or offer approved continuing education
10 opportunities relating to cultural competency. [*The authority is not subject*
11 *to the requirements of ORS chapters 279A, 279B and 279C with respect to*
12 *contracts entered into under this subsection.*]

13 **SECTION 4.** ORS 413.520 is amended to read:

14 413.520. (1) The Oregon Health Authority, in collaboration with county
15 representatives, shall develop a plan for the administration of the statewide
16 gambling addiction programs and delivery of program services.

17 (2) The authority may appoint an advisory committee or designate an ex-
18 isting advisory committee to make recommendations to the authority con-
19 cerning:

20 (a) Performance standards and evaluation methodology;

21 (b) Fiscal reporting and accountability;

22 (c) Delivery of services; and

23 (d) A distribution plan for use of available funds.

24 (3) The distribution plan for the moneys available in the Problem Gam-
25 bling Treatment Fund shall be based on performance standards.

26 (4) The authority may enter into an intergovernmental agreement or other
27 contract, **subject to ORS chapters 279A, 279B and 279C**, for the delivery
28 of services related to programs for the prevention and treatment of gambling
29 addiction and other emotional and behavioral problems related to gambling.

30 (5) Before entering into an agreement or contract under subsection (4) of
31 this section, the authority must consider the experience, performance and

1 program capacity of those organizations currently providing services.

2 **SECTION 5.** ORS 475.225 is amended to read:

3 475.225. (1) The Oregon Health Authority shall carry out educational
4 programs designed to prevent and deter misuse and abuse of controlled sub-
5 stances. In connection with these programs it may:

6 (a) Promote better recognition of the problems of misuse and abuse of
7 controlled substances within the regulated industry and among interested
8 groups and organizations;

9 (b) Assist the regulated industry and interested groups and organizations
10 in contributing to the reduction of misuse and abuse of controlled sub-
11 stances;

12 (c) Consult with interested groups and organizations to aid them in solv-
13 ing administrative and organizational problems;

14 (d) Evaluate procedures, projects, techniques and controls conducted or
15 proposed as part of educational programs on misuse or abuse of controlled
16 substances;

17 (e) Disseminate the results of research on misuse and abuse of controlled
18 substances to promote a better public understanding of what problems exist
19 and what can be done to combat them; and

20 (f) Assist in the education and training of state and local law enforcement
21 officials in their efforts to control misuse and abuse of controlled substances.

22 (2) The authority shall encourage research on the medical use, misuse and
23 abuse of controlled substances. In connection with the research, and in
24 furtherance of the enforcement of ORS 475.005 to 475.285 and 475.752 to
25 475.980, it may:

26 (a) Establish methods to assess accurately the physiological, psycholog-
27 ical and social effects of controlled substances and identify their medical
28 uses, relative hazard potential, and potential for abuse;

29 (b) Make studies and undertake programs of research to:

30 (A) Develop new or improved approaches, techniques, systems, equipment
31 and devices to strengthen the enforcement of ORS 475.005 to 475.285 and

1 475.752 to 475.980;

2 (B) Determine patterns of use, misuse and abuse of controlled substances
3 and the social effects thereof; and

4 (C) Improve methods for preventing, predicting, understanding and deal-
5 ing with the misuse and abuse of controlled substances; or

6 (c) Enter into contracts with public agencies, institutions of higher edu-
7 cation, and private organizations or individuals for the purpose of conduct-
8 ing research, demonstrations or special projects which bear directly on
9 misuse and abuse of controlled substances.

10 (3) The authority may enter into contracts for educational and research
11 activities without performance bonds and without regard to ORS [279A.125,
12 279A.140, 279B.025, 279B.240, 279B.270, 279B.275, 279B.280,] 459A.475,
13 459A.480, 459A.485 and 459A.490.

14 **SECTION 6. The amendments to ORS 279A.050, 413.033, 413.450,**
15 **413.520 and 475.225 by sections 1 to 5 of this 2015 Act apply to procure-**
16 **ments that the Oregon Health Authority advertises or otherwise so-**
17 **licits on or after the operative date specified in section 7 of this 2015**
18 **Act.**

19 **SECTION 7. (1) The amendments to ORS 279A.050, 413.033, 413.450,**
20 **413.520 and 475.225 by sections 1 to 5 of this 2015 Act become operative**
21 **January 1, 2016.**

22 **(2) The Director of the Oregon Health Authority and the Director**
23 **of the Oregon Department of Administrative Services may take any**
24 **action before the operative date specified in subsection (1) of this sec-**
25 **tion that is necessary to enable the director to exercise, on and after**
26 **the operative date specified in subsection (1) of this section, all of the**
27 **duties, functions and powers conferred on the director by the amend-**
28 **ments to ORS 279A.050, 413.033, 413.450, 413.520 and 475.225 by sections**
29 **1 to 5 of this 2015 Act.**

30 **SECTION 8. This 2015 Act being necessary for the immediate pres-**
31 **ervation of the public peace, health and safety, an emergency is de-**

1 **clared to exist, and this 2015 Act takes effect on its passage.**

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