

House Bill 2375

Sponsored by Representative NATHANSON; Representatives BARNHART, GOMBERG, HELM, LININGER, LIVELY, WITT (Pre-session 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 **as introduced**.

Establishes Task Force on Accountability in Public Contracting with nine members appointed by President of Senate, Speaker of House of Representatives, Director of Oregon Department of Administrative Services, Director of Transportation, Attorney General, Secretary of State and Legislative Fiscal Officer. Directs task force to investigate and evaluate measures for improving accountability in public contracting among state contracting agencies and lowering risks to state. Specifies measures that task force must consider at minimum.

Sunset December 31, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to accountability in public procurement; and declaring an emergency.

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

SECTION 1. (1) The Task Force on Accountability in Public Contracting is established, consisting of nine members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate and shall designate one of the members as a co-chair of the task force.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives and shall designate one of the members as a co-chair of the task force.

(c) The Attorney General shall appoint an employee of the business transactions section of the Department of Justice.

(d) The Director of the Oregon Department of Administrative Services shall appoint the chief procurement officer of the Oregon Department of Administrative Services.

(e) The Director of Transportation shall appoint an employee of the Department of Transportation.

(f) The Secretary of State shall appoint a member of the Division of Audits of the Secretary of State's office.

(g) The Legislative Fiscal Officer shall appoint an employee of the Legislative Fiscal Office.

(2) The task force shall:

(a) Investigate and evaluate measures by which state contracting agencies, other than the offices of the Secretary of State and the State Treasurer, can improve accountability in public procurement and lower financial risks, the risks of liability and other risks to the State of Oregon, with specific reference at least to these measures:

(A) Requiring state contracting agencies to use only forms or templates for invitations to bid, requests for proposals, contracts and other solicitation and procurement documents

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 that the Oregon Department of Administrative Services and the Department of Justice have
2 approved for use;

3 (B) Raising the contract price threshold at which the Department of Justice must review
4 public contracts for legal sufficiency to \$200,000;

5 (C) Establishing a program of peer review among state contracting agencies that:

6 (i) Promotes best practices that are predicated on experience with previous procurement
7 successes and failures; and

8 (ii) Involves in each review at least two subject matter specialists that the Oregon De-
9 partment of Administrative Services recommends, together with support from the Depart-
10 ment of Justice;

11 (D) Specifying a period within which the Department of Justice must review procurement
12 documents and public contracts for legal sufficiency;

13 (E) Requiring state contracting agency employees that administer public contracts to
14 receive training and certification from the Oregon Department of Administrative Services
15 at levels commensurate with the responsibilities the employees have for contract adminis-
16 tration; and

17 (F) Requiring each state contracting agency that conducts a procurement to acknowledge
18 in writing before executing a public contract that:

19 (i) The procurement has undergone peer review and, if appropriate, the public contract
20 has received approval for legal sufficiency; and

21 (ii) The state contracting agency has received advice from the Oregon Department of
22 Administrative Services, the Department of Justice and other appropriate sources concern-
23 ing best procurement practices; and

24 (b) Investigate and evaluate the extent to which state contracting agencies can and
25 should conduct public procurements as projects, using professional project management
26 techniques and practices.

27 (3)(a) The task force may consult with experts, hear testimony from affected persons,
28 conduct studies and surveys and otherwise collect data and information from any source that
29 is necessary to carry out the task force's duties.

30 (b) The co-chairs of the task force may expand the task force's membership if the co-
31 chairs jointly deem an expansion necessary.

32 (4) A majority of the members of the task force constitutes a quorum for the transaction
33 of business.

34 (5) Official action by the task force requires the approval of a majority of the members
35 of the task force.

36 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-
37 ment to become immediately effective.

38 (7) The task force shall meet at times and places specified by the call of the co-chairs
39 or of a majority of the members of the task force.

40 (8) The task force may adopt rules necessary for the operation of the task force.

41 (9) The task force shall submit a report in the manner provided by ORS 192.245, and may
42 include recommendations for legislation, to an interim committee of the Legislative Assem-
43 bly related to public contracting as appropriate no later than September 15, 2016.

44 (10) The Oregon Department of Administrative Services shall provide staff support to the
45 task force.

1 (11) Members of the task force who are not members of the Legislative Assembly are not
2 entitled to compensation, but may be reimbursed for actual and necessary travel and other
3 expenses incurred by them in the performance of their official duties in the manner and
4 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
5 of the task force shall be paid out of funds appropriated to the Oregon Department of Ad-
6 ministrative Services for purposes of the task force.

7 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist
8 the task force in the performance of its duties and, to the extent permitted by laws relating
9 to confidentiality, to furnish such information and advice as the members of the task force
10 consider necessary to perform their duties.

11 SECTION 2. Section 1 of this 2015 Act is repealed on December 31, 2016.

12 SECTION 3. This 2015 Act being necessary for the immediate preservation of the public
13 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
14 on its passage.