

A-Engrossed
Senate Bill 137

Ordered by the Senate April 20
Including Senate Amendments dated April 20

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business and Transportation)

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.

Changes definition of public works for purpose of applying prevailing rate of wage to include project that uses [*funds of private entity and*] \$750,000 or more of funds of public agency for constructing, reconstructing, painting or performing major renovation on road, highway, building, structure or improvement of any type.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to applications of the prevailing rate of wage to certain public works projects; creating new
3 provisions; amending ORS 279C.800; and declaring an emergency.

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

5 **SECTION 1.** ORS 279C.800 is amended to read:

6 279C.800. As used in ORS 279C.800 to 279C.870:

7 (1) "Fringe benefits" means [*the amount of*]:

8 (a) [*The rate of contribution*] **Contributions that** a contractor or subcontractor makes
9 irrevocably to a trustee or to a third person under a plan, fund or program; and

10 (b) [*The rate of*] Costs [*to the*] **that a** contractor or subcontractor [*that*] may [*be*] reasonably **be**
11 anticipated **to incur** in providing the following items, except for items that federal, state or local
12 law requires the contractor or subcontractor to provide:

13 (A) Benefits to workers pursuant to an enforceable written commitment to the workers to carry
14 out a financially responsible plan or program for:

15 (i) Medical or hospital care;

16 (ii) Pensions on retirement or death; or

17 (iii) Compensation for injuries or illness that result from occupational activity;

18 (B) Insurance to provide the benefits described in subparagraph (A) of this paragraph;

19 (C) Unemployment benefits;

20 (D) Life insurance;

21 (E) Disability and sickness insurance or accident insurance;

22 (F) Vacation and holiday pay;

23 (G) Costs of apprenticeship or other similar programs; or

24 (H) Other bona fide fringe benefits.

(2) "Housing" has the meaning given that term in ORS 456.055.

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 (3) "Locality" means the following district in which the public works, or the major portion
2 [thereof] of the public works, is to be performed:

3 (a) District 1, composed of Clatsop, Columbia and Tillamook Counties;

4 (b) District 2, composed of Clackamas, Multnomah and Washington Counties;

5 (c) District 3, composed of Marion, Polk and Yamhill Counties;

6 (d) District 4, composed of Benton, Lincoln and Linn Counties;

7 (e) District 5, composed of Lane County;

8 (f) District 6, composed of Douglas County;

9 (g) District 7, composed of Coos and Curry Counties;

10 (h) District 8, composed of Jackson and Josephine Counties;

11 (i) District 9, composed of Hood River, Sherman and Wasco Counties;

12 (j) District 10, composed of Crook, Deschutes and Jefferson Counties;

13 (k) District 11, composed of Klamath and Lake Counties;

14 (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;

15 (m) District 13, composed of Baker, Union and Wallowa Counties; and

16 (n) District 14, composed of Harney and Malheur Counties.

17 (4) "Prevailing rate of wage" means the rate of hourly wage, including all fringe benefits, that
18 the Commissioner of the Bureau of Labor and Industries determines is paid in the locality to the
19 majority of workers employed on projects of a similar character in the same trade or occupation.

20 (5) "Public agency" means the State of Oregon or a political subdivision of the State of Oregon,
21 or a county, city, district, authority, public corporation or public entity organized and existing under
22 law or charter or an instrumentality of the county, city, district, authority, public corporation or
23 public entity.

24 (6)(a) "Public works" includes, but is not limited to:

25 (A) Roads, highways, buildings, structures and improvements of all types, the construction, re-
26 construction, major renovation or painting of which is carried on or contracted for by any public
27 agency to serve the public interest;

28 (B) A project that uses [funds of a private entity and] \$750,000 or more of funds of a public
29 agency for constructing, reconstructing, painting or performing a major renovation on a [privately
30 owned] road, highway, building, structure or improvement of any type;

31 (C) A project that uses funds of a private entity for constructing a privately owned road, high-
32 way, building, structure or improvement of any type in which a public agency will use or occupy
33 25 percent or more of the square footage of the completed project;

34 (D) Notwithstanding the provisions of ORS 279C.810 (2)(a), (b) and (c), a device, structure or
35 mechanism, or a combination of devices, structures or mechanisms, that:

36 (i) Uses solar radiation as a source for generating heat, cooling or electrical energy; and

37 (ii) Is constructed or installed, with or without using funds of a public agency, on land, premises,
38 structures or buildings that a public body, as defined in ORS 174.109, owns; or

39 (E) Notwithstanding paragraph (b)(A) of this subsection and ORS 279C.810 (2)(b) and (c), con-
40 struction, reconstruction, painting or major renovation of a road, highway, building, structure or
41 improvement of any type that occurs, with or without using funds of a public agency, on real prop-
42 erty that the Oregon University System or an institution in the Oregon University System owns.

43 (b) "Public works" does not include:

44 (A) [The reconstruction or renovation of] **Reconstructing or renovating** privately owned prop-
45 erty that a public agency leases; or

1 (B) *[The]* **A private nonprofit entity's** renovation of publicly owned real property that is more
2 than 75 years old *[by a private nonprofit entity]* if:

3 (i) The real property is leased to the private nonprofit entity for more than 25 years;

4 (ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost
5 of the renovation; and

6 (iii) Contracts for the renovation were advertised or, if not advertised, were entered into before
7 July 1, 2003, but the renovation has not been completed on or before July 13, 2007.

8 **SECTION 2. The amendments to ORS 279C.800 by section 1 of this 2015 Act apply to**
9 **public works projects for which a contracting agency advertises or otherwise solicits or, if**
10 **the contracting agency does not advertise or solicit the public works project, to a contract**
11 **for a public works project into which a contracting agency enters on or after the operative**
12 **date specified in section 3 of this 2015 Act.**

13 **SECTION 3. (1) The amendments to ORS 279C.800 by section 1 of this 2015 Act become**
14 **operative on January 1, 2016.**

15 **(2) The Director of the Oregon Department of Administrative Services, the Director of**
16 **Transportation, the Attorney General, the Commissioner of the Bureau of Labor and Indus-**
17 **tries or a contracting agency that adopts rules under ORS 279A.065 may take any action**
18 **before the operative date specified in subsection (1) of this section that is necessary to enable**
19 **the director, the Attorney General, the commissioner or the contracting agency to exercise,**
20 **on and after the operative date specified in subsection (1) of this section, all of the duties,**
21 **functions and powers conferred on the director, the Attorney General, the commissioner or**
22 **the contracting agency by the amendments to ORS 279C.800 by section 1 of this 2015 Act.**

23 **SECTION 4. This 2015 Act being necessary for the immediate preservation of the public**
24 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
25 **on its passage.**