

B-Engrossed
House Bill 3203

Ordered by the House June 26
Including House Amendments dated April 21 and June 26

Sponsored by Representative CLEM (at the request of Northwest Utility Contractors Association, Oregon Building Trades Council, Oregon Pavement Association, Associated General Contractors, Oregon Concrete and Asphalt Producers Association, Associated Builders and Contractors)

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.

Requires contracting agency to perform analysis to determine whether constructing public improvement with contracting agency's own equipment and personnel will result in least cost to contracting agency. Specifies elements of cost analysis. Requires contracting agency to file analysis with Commissioner of Bureau of Labor and Industries. **Specifies threshold at which estimated cost of constructing public improvement triggers requirement to perform analysis and escalates threshold in biennial increments until July 1, 2025.**

[Requires] **Permits** commissioner to investigate contracting agency's alleged violation of Act *[and certain other statutes. Requires commissioner to investigate alleged violation]* in response to complaint from construction contractor or trade association that represents construction contractors **or if commissioner discovers or has reason to believe that violation of Act has occurred. Requires contractor or trade association to pay filing fee of \$250 to submit complaint.** Permits commissioner to require contracting agency to negotiate and enter into agreement to comply with requirements of Act **if commissioner finds that contracting agency has violated Act within previous five years** and to enter final order that sets forth terms of agreement between contracting agency and construction contractor or trade association.

Permits party to agreement with contracting agency made in accordance with order of commissioner to **submit complaint asking commissioner to enforce agreement** *[bring action in court of this state to enforce terms of agreement. Permits court to enjoin contracting agency from violation or grant writ of mandamus to compel contracting agency to perform action under agreement]*. **Requires commissioner to investigate complaint and, if commissioner finds substantial evidence of violation, to issue order to cease and desist from violation or conduct contested case hearing. Permits commissioner to impose civil penalty of not more than \$5,000 on local contracting agency that commissioner finds has violated Act or breached agreement, or civil penalty of not more than \$20,000 if commissioner finds that violation was willful.**

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to an analysis required before a contracting agency constructs a public improvement with
3 the agency's own equipment and personnel; creating new provisions; amending ORS 279A.010
4 and 279C.305; and prescribing an effective date.

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

6 **SECTION 1.** ORS 279C.305 is amended to read:

7 279C.305. (1) *[It is]* The policy of the State of Oregon **is** that contracting agencies shall make
8 every effort to construct public improvements at the least cost to the contracting agency.

9 (2)(a) Not less than 30 days *[prior to adoption of the contracting agency's]* **before adopting a**
10 budget for the subsequent budget period **or before starting to construct a public improvement,**
11 each contracting agency shall prepare and file with the Commissioner of the Bureau of Labor and
12 Industries a list of every public improvement *[known to the contracting agency]* that the contracting
13 agency plans to fund in the budget period, identifying each improvement by name and estimating the

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 total on-site construction costs. The list *[shall]* **must** also *[contain a statement as to]* **state** whether
2 the contracting agency intends to perform the construction through a private contractor. *[If the*
3 *contracting agency intends to perform construction work using the contracting agency's own equipment*
4 *and personnel on a project estimated to cost more than \$125,000, the contracting agency shall also show*
5 *that the contracting agency's decision conforms to the policy stated in subsection (1) of this section. The*
6 *list is a public record and may be revised periodically by the agency.]*

7 **(b) If the contracting agency intends to use the contracting agency's own equipment or**
8 **personnel to perform construction work on a public improvement, and the estimated value**
9 **of the construction work that the contracting agency intends to perform with the contract-**
10 **ing agency's own equipment or personnel exceeds \$200,000, the contracting agency shall file**
11 **with the commissioner not later than 180 days before construction begins on the public im-**
12 **provement an analysis that shows that the contracting agency's decision conforms to the**
13 **policy stated in subsection (1) of this section. The list and the analysis are public records and**
14 **the contracting agency may periodically revise the list or analysis.**

15 **(3) As part of the analysis required under subsection (2)(b) of this section, a contracting**
16 **agency shall:**

17 **(a) Estimate the cost of contracting with a private contractor to construct the public**
18 **improvement, including in the estimate all necessary and related costs that the private**
19 **contractor would incur to construct the public improvement;**

20 **(b) Estimate the costs the contracting agency would incur in constructing the public**
21 **improvement with the contracting agency's own equipment or personnel and include in the**
22 **estimate:**

23 **(A) The cost of labor, including all benefits the contracting agency pays to or on behalf**
24 **of employees of the contracting agency who will work on the public improvement, workers'**
25 **compensation insurance premiums and the cost of traveling to and from the site of the**
26 **public improvement;**

27 **(B) The cost of equipment, including costs associated with leasing, renting or acquiring**
28 **and owning the equipment, costs for transporting the equipment to and from the site of the**
29 **public improvement, costs for depreciation and costs for insuring, operating, storing, re-**
30 **pairing and maintaining the equipment;**

31 **(C) The costs of administration and overhead the contracting agency will incur, including**
32 **insurance, shop and office costs that are allocable to the public improvement;**

33 **(D) The cost of tools and materials;**

34 **(E) The costs associated with any contracts into which the contracting agency must en-**
35 **ter;**

36 **(F) The commercially reasonable value of quality control testing if the contracting**
37 **agency would require a private contractor that constructed the public improvement to un-**
38 **dergo quality control testing; and**

39 **(G) Any other necessary and related costs that the contracting agency will incur to**
40 **construct the public improvement with the contracting agency's own equipment or person-**
41 **nel; and**

42 **(c) Compare the cost the contracting agency estimates under paragraph (a) of this sub-**
43 **section with the cost the contracting agency estimates under paragraph (b) of this sub-**
44 **section.**

45 *[(3)]* **(4)(a) Before a contracting agency constructs a public improvement with *[its]* the con-**

1 **tracting agency's own equipment or personnel[:], the contracting agency shall prepare plans,**
2 **specifications and estimates of the unit cost of each classification of construction work that**
3 **are sufficient to control the performance of the construction work and ensure satisfactory**
4 **construction quality, if the estimated value of the construction work that the contracting**
5 **agency will perform with the contracting agency's equipment or personnel exceeds \$200,000.**

6 *[(a) If the estimated cost exceeds \$125,000, the contracting agency shall prepare adequate plans and*
7 *specifications and the estimated unit cost of each classification of work. The estimated cost of the work*
8 *must include a reasonable allowance for the cost, including investment cost, of any equipment used.*
9 *As used in this paragraph, "adequate" means sufficient to control the performance of the work and to*
10 *ensure satisfactory quality of construction by the contracting agency personnel.]*

11 (b) The contracting agency shall *[cause to be kept and preserved]* **prepare and preserve** a full,
12 true and accurate account of the **actual** costs of performing the **construction** work, including all
13 *[engineering and administrative expenses and the cost, including investment costs, of any equipment*
14 *used]* **categories of costs described in subsection (3)(b) of this section.** The final account of the
15 costs is a public record.

16 *[(4)]* **(5)** Subsections (2) *[and (3)]* **to (4)** of this section do not apply to a contracting agency
17 *[when] if:*

18 (a) The public improvement is *[to be used for the distribution or transmission of]* **for distributing**
19 **or transmitting** electric power*[:]; or*

20 (b) **The contracting agency did not receive a responsive quotation for constructing the**
21 **public improvement from a responsible bidder or proposer after soliciting quotes for con-**
22 **structing the public improvement, if the solicitation:**

23 **(A) Occurred within one year before the date on which construction began; and**

24 **(B) Allowed a commercially reasonable time in which to perform the construction.**

25 *[(5)]* **(6)(a) Except as provided in paragraph (b) of this subsection,** for purposes of this sec-
26 tion, resurfacing *[of]* highways, roads or streets at a depth of two or more inches and at an estimated
27 cost that exceeds *[\$125,000]* **\$175,000** is a public improvement.

28 (b) **A public improvement does not include:**

29 **(A) Maintenance patching, chip seals or other seals as a maintenance treatment on**
30 **highways, roads, streets or bridges; or**

31 **(B) Maintenance resurfacing for a single road, highway or street if the total cost of the**
32 **resurfacing exceeds \$175,000 but is less than \$750,000, provided that the cost of resurfacing**
33 **any one location on the road, highway or street does not exceed \$175,000 and provided that**
34 **the contracting agency does not artificially separate the resurfacing into smaller projects in**
35 **order to avoid the application of this section.**

36 **SECTION 2.** ORS 279C.305, as amended by section 1 of this 2017 Act, is amended to read:

37 279C.305. (1) The policy of the State of Oregon is that contracting agencies shall make every
38 effort to construct public improvements at the least cost to the contracting agency.

39 (2)(a) Not less than 30 days before adopting a budget for the subsequent budget period or before
40 starting to construct a public improvement, each contracting agency shall prepare and file with the
41 Commissioner of the Bureau of Labor and Industries a list of every public improvement that the
42 contracting agency plans to fund in the budget period, identifying each improvement by name and
43 estimating the total on-site construction costs. The list must also state whether the contracting
44 agency intends to perform the construction through a private contractor.

45 (b) If the contracting agency intends to use the contracting agency's own equipment or person-

1 nel to perform construction work on a public improvement, and the estimated value of the con-
2 struction work that the contracting agency intends to perform with the contracting agency's own
3 equipment or personnel exceeds [~~\$200,000~~] **\$225,000**, the contracting agency shall file with the com-
4 missioner not later than 180 days before construction begins on the public improvement an analysis
5 that shows that the contracting agency's decision conforms to the policy stated in subsection (1) of
6 this section. The list and the analysis are public records and the contracting agency may period-
7 ically revise the list or analysis.

8 (3) As part of the analysis required under subsection (2)(b) of this section, a contracting agency
9 shall:

10 (a) Estimate the cost of contracting with a private contractor to construct the public improve-
11 ment, including in the estimate all necessary and related costs that the private contractor would
12 incur to construct the public improvement;

13 (b) Estimate the costs the contracting agency would incur in constructing the public improve-
14 ment with the contracting agency's own equipment or personnel and include in the estimate:

15 (A) The cost of labor, including all benefits the contracting agency pays to or on behalf of em-
16 ployees of the contracting agency who will work on the public improvement, workers' compensation
17 insurance premiums and the cost of traveling to and from the site of the public improvement;

18 (B) The cost of equipment, including costs associated with leasing, renting or acquiring and
19 owning the equipment, costs for transporting the equipment to and from the site of the public im-
20 provement, costs for depreciation and costs for insuring, operating, storing, repairing and maintain-
21 ing the equipment;

22 (C) The costs of administration and overhead the contracting agency will incur, including in-
23 surance, shop and office costs that are allocable to the public improvement;

24 (D) The cost of tools and materials;

25 (E) The costs associated with any contracts into which the contracting agency must enter;

26 (F) The commercially reasonable value of quality control testing if the contracting agency would
27 require a private contractor that constructed the public improvement to undergo quality control
28 testing; and

29 (G) Any other necessary and related costs that the contracting agency will incur to construct
30 the public improvement with the contracting agency's own equipment or personnel; and

31 (c) Compare the cost the contracting agency estimates under paragraph (a) of this subsection
32 with the cost the contracting agency estimates under paragraph (b) of this subsection.

33 (4)(a) Before a contracting agency constructs a public improvement with the contracting
34 agency's own equipment or personnel, the contracting agency shall prepare plans, specifications and
35 estimates of the unit cost of each classification of construction work that are sufficient to control
36 the performance of the construction work and ensure satisfactory construction quality, if the esti-
37 mated value of the construction work that the contracting agency will perform with the contracting
38 agency's equipment or personnel exceeds [~~\$200,000~~] **\$225,000**.

39 (b) The contracting agency shall prepare and preserve a full, true and accurate account of the
40 actual costs of performing the construction work, including all categories of costs described in
41 subsection (3)(b) of this section. The final account of the costs is a public record.

42 (5) Subsections (2) to (4) of this section do not apply to a contracting agency if:

43 (a) The public improvement is for distributing or transmitting electric power; or

44 (b) The contracting agency did not receive a responsive quotation for constructing the public
45 improvement from a responsible bidder or proposer after soliciting quotes for constructing the public

1 improvement, if the solicitation:

2 (A) Occurred within one year before the date on which construction began; and

3 (B) Allowed a commercially reasonable time in which to perform the construction.

4 (6)(a) Except as provided in paragraph (b) of this subsection, for purposes of this section, re-
5 surfacing highways, roads or streets at a depth of two or more inches and at an estimated cost that
6 exceeds [~~\$175,000~~] **\$193,750** is a public improvement.

7 (b) A public improvement does not include:

8 (A) Maintenance patching, chip seals or other seals as a maintenance treatment on highways,
9 roads, streets or bridges; or

10 (B) Maintenance resurfacing for a single road, highway or street if the total cost of the resur-
11 facing exceeds [~~\$175,000~~] **\$193,750** but is less than \$750,000, provided that the cost of resurfacing any
12 one location on the road, highway or street does not exceed [~~\$175,000~~] **\$193,750** and provided that
13 the contracting agency does not artificially separate the resurfacing into smaller projects in order
14 to avoid the application of this section.

15 **SECTION 3.** ORS 279C.305, as amended by sections 1 and 2 of this 2017 Act, is amended to
16 read:

17 279C.305. (1) The policy of the State of Oregon is that contracting agencies shall make every
18 effort to construct public improvements at the least cost to the contracting agency.

19 (2)(a) Not less than 30 days before adopting a budget for the subsequent budget period or before
20 starting to construct a public improvement, each contracting agency shall prepare and file with the
21 Commissioner of the Bureau of Labor and Industries a list of every public improvement that the
22 contracting agency plans to fund in the budget period, identifying each improvement by name and
23 estimating the total on-site construction costs. The list must also state whether the contracting
24 agency intends to perform the construction through a private contractor.

25 (b) If the contracting agency intends to use the contracting agency's own equipment or person-
26 nel to perform construction work on a public improvement, and the estimated value of the con-
27 struction work that the contracting agency intends to perform with the contracting agency's own
28 equipment or personnel exceeds [~~\$225,000~~] **\$250,000**, the contracting agency shall file with the com-
29 missioner not later than 180 days before construction begins on the public improvement an analysis
30 that shows that the contracting agency's decision conforms to the policy stated in subsection (1) of
31 this section. The list and the analysis are public records and the contracting agency may period-
32 ically revise the list or analysis.

33 (3) As part of the analysis required under subsection (2)(b) of this section, a contracting agency
34 shall:

35 (a) Estimate the cost of contracting with a private contractor to construct the public improve-
36 ment, including in the estimate all necessary and related costs that the private contractor would
37 incur to construct the public improvement;

38 (b) Estimate the costs the contracting agency would incur in constructing the public improve-
39 ment with the contracting agency's own equipment or personnel and include in the estimate:

40 (A) The cost of labor, including all benefits the contracting agency pays to or on behalf of em-
41 ployees of the contracting agency who will work on the public improvement, workers' compensation
42 insurance premiums and the cost of traveling to and from the site of the public improvement;

43 (B) The cost of equipment, including costs associated with leasing, renting or acquiring and
44 owning the equipment, costs for transporting the equipment to and from the site of the public im-
45 provement, costs for depreciation and costs for insuring, operating, storing, repairing and maintain-

1 ing the equipment;

2 (C) The costs of administration and overhead the contracting agency will incur, including in-
3 surance, shop and office costs that are allocable to the public improvement;

4 (D) The cost of tools and materials;

5 (E) The costs associated with any contracts into which the contracting agency must enter;

6 (F) The commercially reasonable value of quality control testing if the contracting agency would
7 require a private contractor that constructed the public improvement to undergo quality control
8 testing; and

9 (G) Any other necessary and related costs that the contracting agency will incur to construct
10 the public improvement with the contracting agency's own equipment or personnel; and

11 (c) Compare the cost the contracting agency estimates under paragraph (a) of this subsection
12 with the cost the contracting agency estimates under paragraph (b) of this subsection.

13 (4)(a) Before a contracting agency constructs a public improvement with the contracting
14 agency's own equipment or personnel, the contracting agency shall prepare plans, specifications and
15 estimates of the unit cost of each classification of construction work that are sufficient to control
16 the performance of the construction work and ensure satisfactory construction quality, if the esti-
17 mated value of the construction work that the contracting agency will perform with the contracting
18 agency's equipment or personnel exceeds [~~\$225,000~~] **\$250,000**.

19 (b) The contracting agency shall prepare and preserve a full, true and accurate account of the
20 actual costs of performing the construction work, including all categories of costs described in
21 subsection (3)(b) of this section. The final account of the costs is a public record.

22 (5) Subsections (2) to (4) of this section do not apply to a contracting agency if:

23 (a) The public improvement is for distributing or transmitting electric power; or

24 (b) The contracting agency did not receive a responsive quotation for constructing the public
25 improvement from a responsible bidder or proposer after soliciting quotes for constructing the public
26 improvement, if the solicitation:

27 (A) Occurred within one year before the date on which construction began; and

28 (B) Allowed a commercially reasonable time in which to perform the construction.

29 (6)(a) Except as provided in paragraph (b) of this subsection, for purposes of this section, re-
30 surfacing highways, roads or streets at a depth of two or more inches and at an estimated cost that
31 exceeds [~~\$193,750~~] **\$212,500** is a public improvement.

32 (b) A public improvement does not include:

33 (A) Maintenance patching, chip seals or other seals as a maintenance treatment on highways,
34 roads, streets or bridges; or

35 (B) Maintenance resurfacing for a single road, highway or street if the total cost of the resur-
36 facing exceeds [~~\$193,750~~] **\$212,500** but is less than \$750,000, provided that the cost of resurfacing any
37 one location on the road, highway or street does not exceed [~~\$193,750~~] **\$212,500** and provided that
38 the contracting agency does not artificially separate the resurfacing into smaller projects in order
39 to avoid the application of this section.

40 **SECTION 4.** ORS 279C.305, as amended by sections 1, 2 and 3 of this 2017 Act, is amended to
41 read:

42 279C.305. (1) The policy of the State of Oregon is that contracting agencies shall make every
43 effort to construct public improvements at the least cost to the contracting agency.

44 (2)(a) Not less than 30 days before adopting a budget for the subsequent budget period or before
45 starting to construct a public improvement, each contracting agency shall prepare and file with the

1 Commissioner of the Bureau of Labor and Industries a list of every public improvement that the
2 contracting agency plans to fund in the budget period, identifying each improvement by name and
3 estimating the total on-site construction costs. The list must also state whether the contracting
4 agency intends to perform the construction through a private contractor.

5 (b) If the contracting agency intends to use the contracting agency's own equipment or person-
6 nel to perform construction work on a public improvement, and the estimated value of the con-
7 struction work that the contracting agency intends to perform with the contracting agency's own
8 equipment or personnel exceeds [~~\$250,000~~] **\$275,000**, the contracting agency shall file with the com-
9 missioner not later than 180 days before construction begins on the public improvement an analysis
10 that shows that the contracting agency's decision conforms to the policy stated in subsection (1) of
11 this section. The list and the analysis are public records and the contracting agency may period-
12 ically revise the list or analysis.

13 (3) As part of the analysis required under subsection (2)(b) of this section, a contracting agency
14 shall:

15 (a) Estimate the cost of contracting with a private contractor to construct the public improve-
16 ment, including in the estimate all necessary and related costs that the private contractor would
17 incur to construct the public improvement;

18 (b) Estimate the costs the contracting agency would incur in constructing the public improve-
19 ment with the contracting agency's own equipment or personnel and include in the estimate:

20 (A) The cost of labor, including all benefits the contracting agency pays to or on behalf of em-
21 ployees of the contracting agency who will work on the public improvement, workers' compensation
22 insurance premiums and the cost of traveling to and from the site of the public improvement;

23 (B) The cost of equipment, including costs associated with leasing, renting or acquiring and
24 owning the equipment, costs for transporting the equipment to and from the site of the public im-
25 provement, costs for depreciation and costs for insuring, operating, storing, repairing and maintain-
26 ing the equipment;

27 (C) The costs of administration and overhead the contracting agency will incur, including in-
28 surance, shop and office costs that are allocable to the public improvement;

29 (D) The cost of tools and materials;

30 (E) The costs associated with any contracts into which the contracting agency must enter;

31 (F) The commercially reasonable value of quality control testing if the contracting agency would
32 require a private contractor that constructed the public improvement to undergo quality control
33 testing; and

34 (G) Any other necessary and related costs that the contracting agency will incur to construct
35 the public improvement with the contracting agency's own equipment or personnel; and

36 (c) Compare the cost the contracting agency estimates under paragraph (a) of this subsection
37 with the cost the contracting agency estimates under paragraph (b) of this subsection.

38 (4)(a) Before a contracting agency constructs a public improvement with the contracting
39 agency's own equipment or personnel, the contracting agency shall prepare plans, specifications and
40 estimates of the unit cost of each classification of construction work that are sufficient to control
41 the performance of the construction work and ensure satisfactory construction quality, if the esti-
42 mated value of the construction work that the contracting agency will perform with the contracting
43 agency's equipment or personnel exceeds [~~\$250,000~~] **\$275,000**.

44 (b) The contracting agency shall prepare and preserve a full, true and accurate account of the
45 actual costs of performing the construction work, including all categories of costs described in

1 subsection (3)(b) of this section. The final account of the costs is a public record.

2 (5) Subsections (2) to (4) of this section do not apply to a contracting agency if:

3 (a) The public improvement is for distributing or transmitting electric power; or

4 (b) The contracting agency did not receive a responsive quotation for constructing the public
5 improvement from a responsible bidder or proposer after soliciting quotes for constructing the public
6 improvement, if the solicitation:

7 (A) Occurred within one year before the date on which construction began; and

8 (B) Allowed a commercially reasonable time in which to perform the construction.

9 (6)(a) Except as provided in paragraph (b) of this subsection, for purposes of this section, re-
10 surfacing highways, roads or streets at a depth of two or more inches and at an estimated cost that
11 exceeds [~~\$212,500~~] **\$231,250** is a public improvement.

12 (b) A public improvement does not include:

13 (A) Maintenance patching, chip seals or other seals as a maintenance treatment on highways,
14 roads, streets or bridges; or

15 (B) Maintenance resurfacing for a single road, highway or street if the total cost of the resur-
16 facing exceeds [~~\$212,500~~] **\$231,250** but is less than \$750,000, provided that the cost of resurfacing any
17 one location on the road, highway or street does not exceed [~~\$212,500~~] **\$231,250** and provided that
18 the contracting agency does not artificially separate the resurfacing into smaller projects in order
19 to avoid the application of this section.

20 **SECTION 5.** ORS 279C.305, as amended by sections 1, 2, 3 and 4 of this 2017 Act, is amended
21 to read:

22 279C.305. (1) The policy of the State of Oregon is that contracting agencies shall make every
23 effort to construct public improvements at the least cost to the contracting agency.

24 (2)(a) Not less than 30 days before adopting a budget for the subsequent budget period or before
25 starting to construct a public improvement, each contracting agency shall prepare and file with the
26 Commissioner of the Bureau of Labor and Industries a list of every public improvement that the
27 contracting agency plans to fund in the budget period, identifying each improvement by name and
28 estimating the total on-site construction costs. The list must also state whether the contracting
29 agency intends to perform the construction through a private contractor.

30 (b) If the contracting agency intends to use the contracting agency's own equipment or person-
31 nel to perform construction work on a public improvement, and the estimated value of the con-
32 struction work that the contracting agency intends to perform with the contracting agency's own
33 equipment or personnel exceeds [~~\$275,000~~] **\$300,000**, the contracting agency shall file with the com-
34 missioner not later than 180 days before construction begins on the public improvement an analysis
35 that shows that the contracting agency's decision conforms to the policy stated in subsection (1) of
36 this section. The list and the analysis are public records and the contracting agency may period-
37 ically revise the list or analysis.

38 (3) As part of the analysis required under subsection (2)(b) of this section, a contracting agency
39 shall:

40 (a) Estimate the cost of contracting with a private contractor to construct the public improve-
41 ment, including in the estimate all necessary and related costs that the private contractor would
42 incur to construct the public improvement;

43 (b) Estimate the costs the contracting agency would incur in constructing the public improve-
44 ment with the contracting agency's own equipment or personnel and include in the estimate:

45 (A) The cost of labor, including all benefits the contracting agency pays to or on behalf of em-

1 ployees of the contracting agency who will work on the public improvement, workers' compensation
2 insurance premiums and the cost of traveling to and from the site of the public improvement;

3 (B) The cost of equipment, including costs associated with leasing, renting or acquiring and
4 owning the equipment, costs for transporting the equipment to and from the site of the public im-
5 provement, costs for depreciation and costs for insuring, operating, storing, repairing and maintain-
6 ing the equipment;

7 (C) The costs of administration and overhead the contracting agency will incur, including in-
8 surance, shop and office costs that are allocable to the public improvement;

9 (D) The cost of tools and materials;

10 (E) The costs associated with any contracts into which the contracting agency must enter;

11 (F) The commercially reasonable value of quality control testing if the contracting agency would
12 require a private contractor that constructed the public improvement to undergo quality control
13 testing; and

14 (G) Any other necessary and related costs that the contracting agency will incur to construct
15 the public improvement with the contracting agency's own equipment or personnel; and

16 (c) Compare the cost the contracting agency estimates under paragraph (a) of this subsection
17 with the cost the contracting agency estimates under paragraph (b) of this subsection.

18 (4)(a) Before a contracting agency constructs a public improvement with the contracting
19 agency's own equipment or personnel, the contracting agency shall prepare plans, specifications and
20 estimates of the unit cost of each classification of construction work that are sufficient to control
21 the performance of the construction work and ensure satisfactory construction quality, if the esti-
22 mated value of the construction work that the contracting agency will perform with the contracting
23 agency's equipment or personnel exceeds [~~\$275,000~~] **\$300,000**.

24 (b) The contracting agency shall prepare and preserve a full, true and accurate account of the
25 actual costs of performing the construction work, including all categories of costs described in
26 subsection (3)(b) of this section. The final account of the costs is a public record.

27 (5) Subsections (2) to (4) of this section do not apply to a contracting agency if:

28 (a) The public improvement is for distributing or transmitting electric power; or

29 (b) The contracting agency did not receive a responsive quotation for constructing the public
30 improvement from a responsible bidder or proposer after soliciting quotes for constructing the public
31 improvement, if the solicitation:

32 (A) Occurred within one year before the date on which construction began; and

33 (B) Allowed a commercially reasonable time in which to perform the construction.

34 (6)(a) Except as provided in paragraph (b) of this subsection, for purposes of this section, re-
35 surfacing highways, roads or streets at a depth of two or more inches and at an estimated cost that
36 exceeds [~~\$231,250~~] **\$250,000** is a public improvement.

37 (b) A public improvement does not include:

38 (A) Maintenance patching, chip seals or other seals as a maintenance treatment on highways,
39 roads, streets or bridges; or

40 (B) Maintenance resurfacing for a single road, highway or street if the total cost of the resur-
41 facing exceeds [~~\$231,250~~] **\$250,000** but is less than \$750,000, provided that the cost of resurfacing any
42 one location on the road, highway or street does not exceed [~~\$231,250~~] **\$250,000** and provided that
43 the contracting agency does not artificially separate the resurfacing into smaller projects in order
44 to avoid the application of this section.

45 **SECTION 6. Section 7 of this 2017 Act is added to and made a part of ORS chapter 279C.**

1 **SECTION 7. (1)(a)** A contractor, or a trade association of contractors acting on behalf
2 of a member of the trade association, may allege in a complaint to the Commissioner of the
3 Bureau of Labor and Industries that a contracting agency has violated ORS 279C.305 with
4 respect to a public improvement that the contractor was eligible to construct.

5 **(b)** A complaint under paragraph (a) of this subsection must set forth the acts or omis-
6 sions that constitute the alleged violation. The contractor or trade association must file the
7 complaint with the commissioner within one year after the contractor or trade association
8 discovered or should have known that the violation occurred.

9 **(c)** The contractor or trade association must submit along with a complaint under para-
10 graph (a) of this subsection a filing fee of \$250. If the commissioner finds substantial evidence
11 of a violation, the commissioner shall refund the filing fee. The commissioner by rule may
12 specify other circumstances in which the commissioner will refund the filing fee.

13 **(d)** The commissioner shall dismiss a complaint under this subsection if the contractor
14 or trade association brings an action in a court of this state or initiates another proceeding
15 that alleges an act or omission that is the same or substantially similar to an act or omission
16 the contractor or trade association alleged in the complaint.

17 **(2)(a)** The commissioner may investigate a violation of ORS 279C.305 that is alleged in a
18 complaint under subsection (1) of this section or that the commissioner discovers or other-
19 wise has reason to believe occurred.

20 **(b)** In the course of an investigation under this subsection, the commissioner may:

21 **(A)** Compel attendance from witnesses, receive testimony and examine the witnesses
22 under oath;

23 **(B)** Require a contracting agency or an employee of a contracting agency to produce
24 books, records, files and other documents; and

25 **(C)** Take any other action the commissioner deems necessary to conduct the investi-
26 gation.

27 **(3)(a)** The commissioner must conclude an investigation under subsection (2) of this
28 section within 60 days after the date of a complaint under subsection (1) of this section and
29 must either find substantial evidence of a violation of ORS 279C.305 or dismiss the complaint.
30 If the commissioner finds substantial evidence of a violation, the commissioner shall:

31 **(A)** Notify the contracting agency in writing that the commissioner has found substantial
32 evidence of a violation of ORS 279C.305, describe the nature of the violation and, if the
33 commissioner has not found a violation in the five years preceding the date of the complaint,
34 state that for future violations, the commissioner will require the contracting agency to
35 negotiate an agreement under paragraph (b) of this subsection.

36 **(B)** Provide a copy of any notice the commissioner issued under subparagraph (A) of this
37 paragraph to any contractor or trade association that filed a complaint concerning the vio-
38 lation under subsection (1) of this section.

39 **(b)** If the commissioner in the course of an investigation under subsection (2) of this
40 section finds that the contracting agency violated ORS 279C.305 within the five years pre-
41 ceding the date of the complaint, the commissioner shall specify a period of time within
42 which the contracting agency must negotiate an agreement with the contractor or the trade
43 association to remedy the violation and prevent future violations.

44 **(c)** If the contracting agency and the contractor or trade association enter into an
45 agreement within the specified period, the commissioner in an order shall set forth, and di-

1 rect the contracting agency to comply with, the terms of the agreement.

2 (d) If negotiations between the contracting agency and the contractor or trade associ-
3 ation do not result in an agreement within the time the commissioner specifies, the com-
4 missioner may:

5 (A) Extend the time period for negotiations;

6 (B) End negotiations and dismiss the complaint; or

7 (C) End negotiations and initiate a contested case hearing against the contracting agency
8 under ORS chapter 183.

9 (4)(a) If a contracting agency that is a party to an agreement set forth in accordance
10 with an order of the commissioner under subsection (3)(c) of this section breaches the
11 agreement, a contractor or trade association that is a party to the agreement may submit
12 a complaint to the commissioner that asks the commissioner to enforce the agreement. The
13 contractor or trade association must file the complaint within 180 days after the date the
14 contractor or trade association discovered or should have known of the breach.

15 (b) The commissioner shall investigate a complaint that a contractor or trade association
16 files under paragraph (a) of this subsection as provided in subsection (2) of this section. If
17 the commissioner finds substantial evidence that the contracting agency materially breached
18 the agreement, the commissioner may:

19 (A) Issue an order to cease and desist from the contracting agency's material breach and
20 to perform actions that the commissioner determines will carry out the purposes of ORS
21 279C.305 and remedy the effects of the breach; or

22 (B) Conduct a contested case hearing in accordance with ORS chapter 183.

23 (c) An order to cease and desist that the commissioner issues under paragraph (b)(A) of
24 this subsection may not include an award of attorney fees. The remedy that the commis-
25 sioner orders may include requiring the contracting agency to enter into a contract with the
26 contractor to perform any remaining construction on the public improvement that is the
27 subject of the contracting agency's violation.

28 (5)(a) If the commissioner finds by a preponderance of the evidence in a contested case
29 hearing under subsection (3)(d)(C) of this section that a local contracting agency violated the
30 least cost policy set forth in ORS 279C.305 (1), or in a contested case hearing under sub-
31 section (4)(b)(B) of this section that a local contracting agency materially breached the
32 agreement described in subsection (3)(c) of this section, the commissioner may impose a civil
33 penalty of not more than \$5,000 for the violation or breach or a civil penalty of not more than
34 \$20,000 if the commissioner determines that the local contracting agency willfully engaged
35 in a violation of the least cost policy set forth in ORS 279C.305 (1).

36 (b) The commissioner shall impose a civil penalty under paragraph (a) of this subsection
37 in accordance with ORS 183.745 and shall apply the proceeds of the civil penalty first to the
38 costs of the commissioner's investigation and any administrative proceedings that result
39 from the investigation. The commissioner shall deposit any remaining proceeds in the State
40 Treasury to the credit of the General Fund.

41 **SECTION 8.** ORS 279A.010 is amended to read:

42 279A.010. (1) As used in the Public Contracting Code, unless the context or a specifically ap-
43 plicable definition requires otherwise:

44 (a) "Bidder" means a person that submits a bid in response to an invitation to bid.

45 (b) "Contracting agency" means a public body authorized by law to conduct a procurement.

1 “Contracting agency” includes, but is not limited to, the Director of the Oregon Department of Ad-
2 ministrative Services and any person authorized by a contracting agency to conduct a procurement
3 on the contracting agency’s behalf. “Contracting agency” does not include the judicial department
4 or the legislative department.

5 (c) “Days” means calendar days.

6 (d) “Department” means the Oregon Department of Administrative Services.

7 (e) “Director” means the Director of the Oregon Department of Administrative Services or a
8 person designated by the director to carry out the authority of the director under the Public Con-
9 tracting Code.

10 (f) “Emergency” means circumstances that:

11 (A) Could not have been reasonably foreseen;

12 (B) Create a substantial risk of loss, damage or interruption of services or a substantial threat
13 to property, public health, welfare or safety; and

14 (C) Require prompt execution of a contract to remedy the condition.

15 (g) “Energy savings performance contract” means a public contract between a contracting
16 agency and a qualified energy service company for the identification, evaluation, recommendation,
17 design and construction of energy conservation measures, including a design-build contract, that
18 guarantee energy savings or performance.

19 (h) “Executive department” has the meaning given that term in ORS 174.112.

20 (i) “Goods” includes supplies, equipment, materials, personal property, including any tangible,
21 intangible and intellectual property and rights and licenses in relation thereto, and combinations
22 of any of the items identified in this paragraph.

23 (j) “Goods and services” or “goods or services” includes combinations of any of the items iden-
24 tified in the definitions of “goods” and “services.”

25 (k)(A) “Grant” means:

26 (i) An agreement under which a contracting agency receives moneys, property or other assist-
27 ance, including but not limited to federal assistance that is characterized as a grant by federal law
28 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other
29 assets, from a grantor for the purpose of supporting or stimulating a program or activity of the
30 contracting agency and in which no substantial involvement by the grantor is anticipated in the
31 program or activity other than involvement associated with monitoring compliance with the grant
32 conditions; or

33 (ii) An agreement under which a contracting agency provides moneys, property or other assist-
34 ance, including but not limited to federal assistance that is characterized as a grant by federal law
35 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other
36 assets, to a recipient for the purpose of supporting or stimulating a program or activity of the re-
37 cipient and in which no substantial involvement by the contracting agency is anticipated in the
38 program or activity other than involvement associated with monitoring compliance with the grant
39 conditions.

40 (B) “Grant” does not include a public contract for a public improvement, for public works, as
41 defined in ORS 279C.800, or for emergency work, minor alterations or ordinary repair or mainte-
42 nance necessary to preserve a public improvement, when under the public contract a contracting
43 agency pays, in consideration for contract performance intended to realize or to support the real-
44 ization of the purposes for which grant funds were provided to the contracting agency, moneys that
45 the contracting agency has received under a grant.

1 (L) "Industrial oil" means any compressor, turbine or bearing oil, hydraulic oil, metal-working
2 oil or refrigeration oil.

3 (m) "Judicial department" has the meaning given that term in ORS 174.113.

4 (n) "Legislative department" has the meaning given that term in ORS 174.114.

5 (o) "Local contract review board" means a local contract review board described in ORS
6 279A.060.

7 (p) "Local contracting agency" means a local government or special government body authorized
8 by law to conduct a procurement. "Local contracting agency" includes any person authorized by a
9 local contracting agency to conduct a procurement on behalf of the local contracting agency.

10 (q) "Local government" has the meaning given that term in ORS 174.116.

11 (r) "Lowest responsible bidder" means the lowest bidder who:

12 (A) Has substantially complied with all prescribed public contracting procedures and require-
13 ments;

14 (B) Has met the standards of responsibility set forth in ORS 279B.110 or 279C.375;

15 (C) Has not been debarred or disqualified by the contracting agency under ORS 279B.130 or
16 279C.440; and

17 (D) If the advertised contract is a public improvement contract, is not on the list created by the
18 Construction Contractors Board under ORS 701.227.

19 (s) "Lubricating oil" means any oil intended for use in an internal combustion crankcase,
20 transmission, gearbox or differential or an automobile, bus, truck, vessel, plane, train, heavy equip-
21 ment or machinery powered by an internal combustion engine.

22 (t) "Person" means a natural person capable of being legally bound, a sole proprietorship, a
23 corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-
24 profit or nonprofit unincorporated association, a business trust, two or more persons having a joint
25 or common economic interest, any other person with legal capacity to contract or a public body.

26 (u) "Post-consumer waste" means a finished material that would normally be disposed of as solid
27 waste, having completed its life cycle as a consumer item. "Post-consumer waste" does not include
28 manufacturing waste.

29 (v) "Price agreement" means a public contract for the procurement of goods or services at a set
30 price with:

31 (A) No guarantee of a minimum or maximum purchase; or

32 (B) An initial order or minimum purchase combined with a continuing contractor obligation to
33 provide goods or services in which the contracting agency does not guarantee a minimum or maxi-
34 mum additional purchase.

35 (w) "Procurement" means the act of purchasing, leasing, renting or otherwise acquiring goods
36 or services. "Procurement" includes each function and procedure undertaken or required to be
37 undertaken by a contracting agency to enter into a public contract, administer a public contract and
38 obtain the performance of a public contract under the Public Contracting Code.

39 (x) "Proposer" means a person that submits a proposal in response to a request for proposals.

40 (y) "Public body" has the meaning given that term in ORS 174.109.

41 (z) "Public contract" means a sale or other disposal, or a purchase, lease, rental or other ac-
42 quisition, by a contracting agency of personal property, services, including personal services, public
43 improvements, public works, minor alterations, or ordinary repair or maintenance necessary to pre-
44 serve a public improvement. "Public contract" does not include grants.

45 (aa) "Public contracting" means procurement activities described in the Public Contracting Code

1 relating to obtaining, modifying or administering public contracts or price agreements.

2 (bb) "Public Contracting Code" or "code" means ORS chapters 279A, 279B and 279C.

3 (cc) "Public improvement" means a project for construction, reconstruction or major renovation
4 on real property by or for a contracting agency. "Public improvement" does not include:

5 (A) Projects for which no funds of a contracting agency are directly or indirectly used, except
6 for participation that is incidental or related primarily to project design or inspection; or

7 (B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a
8 public improvement.

9 (dd) "Public improvement contract" means a public contract for a public improvement. "Public
10 improvement contract" does not include a public contract for emergency work, minor alterations,
11 or ordinary repair or maintenance necessary to preserve a public improvement.

12 (ee) "Recycled material" means any material that would otherwise be a useless, unwanted or
13 discarded material except for the fact that the material still has useful physical or chemical prop-
14 erties after serving a specific purpose and can, therefore, be reused or recycled.

15 (ff) "Recycled oil" means used oil that has been prepared for reuse as a petroleum product by
16 refining, rerefining, reclaiming, reprocessing or other means, provided that the preparation or use
17 is operationally safe, environmentally sound and complies with all laws and regulations.

18 (gg) "Recycled paper" means a paper product with not less than:

19 (A) Fifty percent of its fiber weight consisting of secondary waste materials; or

20 (B) Twenty-five percent of its fiber weight consisting of post-consumer waste.

21 (hh) "Recycled PETE" means post-consumer polyethylene terephthalate material.

22 (ii) "Recycled product" means all materials, goods and supplies, not less than 50 percent of the
23 total weight of which consists of secondary and post-consumer waste with not less than 10 percent
24 of its total weight consisting of post-consumer waste. "Recycled product" includes any product that
25 could have been disposed of as solid waste, having completed its life cycle as a consumer item, but
26 otherwise is refurbished for reuse without substantial alteration of the product's form.

27 (jj) "Secondary waste materials" means fragments of products or finished products of a manu-
28 facturing process that has converted a virgin resource into a commodity of real economic value.
29 "Secondary waste materials" includes post-consumer waste. "Secondary waste materials" does not
30 include excess virgin resources of the manufacturing process. For paper, "secondary waste
31 materials" does not include fibrous waste generated during the manufacturing process such as fibers
32 recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips,
33 sawdust or other wood residue from a manufacturing process.

34 (kk) "Services" mean services other than personal services designated under ORS 279A.055, ex-
35 cept that, for state contracting agencies with procurement authority under ORS 279A.050 or
36 279A.140, "services" includes personal services as designated by the state contracting agencies.

37 (LL) "Special government body" has the meaning given that term in ORS 174.117.

38 (mm) "State agency" means the executive department, except the Secretary of State and the
39 State Treasurer in the performance of the duties of their constitutional offices.

40 (nn) "State contracting agency" means an executive department entity authorized by law to
41 conduct a procurement.

42 (oo) "State government" has the meaning given that term in ORS 174.111.

43 (pp) "Used oil" has the meaning given that term in ORS 459A.555.

44 (qq) "Virgin oil" means oil that has been refined from crude oil and that has not been used or
45 contaminated with impurities.

(2) Other definitions appearing in the Public Contracting Code and the sections in which they appear are:

- 4 [(a) “Adequate”ORS 279C.305]
- 5 [(b) (a) “Administering contracting
- 6 agency”ORS 279A.200
- 7 [(c) (b) “Affirmative action”ORS 279A.100
- 8 [(d) (c) “Architect”ORS 279C.100
- 9 [(e) (d) “Architectural,
- 10 engineering, photogram-
- 11 metric mapping,
- 12 transportation planning
- 13 or land surveying
- 14 services”ORS 279C.100
- 15 [(f) (e) “Bid documents”ORS 279C.400
- 16 [(g) (f) “Bidder”ORS 279B.415
- 17 [(h) (g) “Bids”ORS 279C.400
- 18 [(i) (h) “Brand name”ORS 279B.405
- 19 [(j) (i) “Brand name or equal
- 20 specification”ORS 279B.200
- 21 [(k) (j) “Brand name
- 22 specification”ORS 279B.200
- 23 [(L) (k) “Class special
- 24 procurement”ORS 279B.085
- 25 [(m) (L) “Consultant”ORS 279C.115
- 26 [(n) (m) “Contract-specific
- 27 special procurement”ORS 279B.085
- 28 [(o) (n) “Cooperative
- 29 procurement”ORS 279A.200
- 30 [(p) (o) “Cooperative procurement
- 31 group”ORS 279A.200
- 32 [(q) (p) “Donee”ORS 279A.250
- 33 [(r) (q) “Engineer”ORS 279C.100
- 34 [(s) (r) “Findings”ORS 279C.330
- 35 [(t) (s) “Fire protection
- 36 equipment”ORS 279A.190
- 37 [(u) (t) “Fringe benefits”ORS 279C.800
- 38 [(v) (u) “Funds of a public
- 39 agency”ORS 279C.810
- 40 [(w) (v) “Good cause”ORS 279C.585
- 41 [(x) (w) “Good faith dispute”ORS 279C.580
- 42 [(y) (x) “Goods”ORS 279B.115
- 43 [(z) (y) “Housing”ORS 279C.800
- 44 [(aa) (z) “Interstate cooperative
- 45 procurement”ORS 279A.200

1 [(bb)] (aa) “Invitation to bid”ORS 279B.005
2and 279C.400
3 [(cc)] (bb) “Joint cooperative
4 procurement”ORS 279A.200
5 [(dd)] (cc) “Labor dispute”ORS 279C.650
6 [(ee)] (dd) “Land surveyor”ORS 279C.100
7 [(ff)] (ee) “Legally flawed”ORS 279B.405
8 [(gg)] (ff) “Locality”ORS 279C.800
9 [(hh)] (gg) “Nonprofit
10 organization”ORS 279C.810
11 [(ii)] (hh) “Nonresident bidder”ORS 279A.120
12 [(jj)] (ii) “Not-for-profit
13 organization”ORS 279A.250
14 [(kk)] (jj) “Original contract”ORS 279A.200
15 [(LL)] (kk) “Permissive cooperative
16 procurement”ORS 279A.200
17 [(mm)] (LL) “Person”ORS 279C.500
18and 279C.815
19 [(nn)] (mm) “Personal services”ORS 279C.100
20 [(oo)] (nn) “Photogrammetric
21 mapping”ORS 279C.100
22 [(pp)] (oo) “Photogrammetrist”ORS 279C.100
23 [(qq)] (pp) “Prevailing rate of
24 wage”ORS 279C.800
25 [(rr)] (qq) “Procurement
26 description”ORS 279B.005
27 [(ss)] (rr) “Property”ORS 279A.250
28 [(tt)] (ss) “Public agency”ORS 279C.800
29 [(uu)] (tt) “Public contract”ORS 279A.190
30 [(vv)] (uu) “Public works”ORS 279C.800
31 [(ww)] (vv) “Purchasing contracting
32 agency”ORS 279A.200
33 [(xx)] (ww) “Regularly organized fire
34 department”ORS 279A.190
35 [(yy)] (xx) “Related services”ORS 279C.100
36 [(zz)] (yy) “Request for
37 proposals”ORS 279B.005
38 [(aaa)] (zz) “Resident bidder”ORS 279A.120
39 [(bbb)] (aaa) “Responsible bidder”ORS 279A.105
40and 279B.005
41 [(ccc)] (bbb) “Responsible
42 proposer”ORS 279B.005
43 [(ddd)] (ccc) “Responsive bid”ORS 279B.005
44 [(eee)] (ddd) “Responsive
45 proposal”ORS 279B.005

1 [(fff)] (eee) "Retainage"ORS 279C.550
2 [(ggg)] (fff) "Special
3 procurement".....ORS 279B.085
4 [(hhh)] (ggg) "Specification"ORS 279B.200
5 [(iii)] (hhh) "State agency".....ORS 279A.250
6 [(jjj)] (iii) "Substantial
7 completion".....ORS 279C.465
8 [(kkk)] (jjj) "Surplus property".....ORS 279A.250
9 [(LLL)] (kkk) "Transportation
10 planning services".....ORS 279C.100
11 [(mmm)] (LLL) "Unnecessarily
12 restrictive".....ORS 279B.405

13 **SECTION 9.** Section 7 of this 2017 Act and the amendments to ORS 279A.010 and 279C.305
14 by sections 1 and 8 of this 2017 Act apply to procurements that a contracting agency first
15 advertises or otherwise solicits or, if the contracting agency does not advertise or solicit the
16 procurement, to a public contract that a contracting agency enters into on or after the op-
17 erative date specified in section 10 (1)(a) of this 2017 Act.

18 **SECTION 10.** (1)(a) Section 7 of this 2017 Act and the amendments to ORS 279A.010 and
19 279C.305 by sections 1 and 8 of this 2017 Act become operative on January 1, 2018.

20 (b) The amendments to ORS 279C.305 by section 2 of this 2017 Act become operative on
21 July 1, 2019.

22 (c) The amendments to ORS 279C.305 by section 3 of this 2017 Act become operative on
23 July 1, 2021.

24 (d) The amendments to ORS 279C.305 by section 4 of this 2017 Act become operative on
25 July 1, 2023.

26 (e) The amendments to ORS 279C.305 by section 5 of this 2017 Act become operative on
27 July 1, 2025.

28 (2) The Commissioner of the Bureau of Labor and Industries, the Attorney General, the
29 Director of the Oregon Department of Administrative Services, the Director of Transporta-
30 tion or a contracting agency that adopts rules under ORS 279A.065 may adopt rules and take
31 any other action before the operative date specified in subsection (1)(a) of this section that
32 is necessary to enable the commissioner, the Attorney General, the director or the con-
33 tracting agency to exercise all of the duties, functions and powers conferred on the com-
34 missioner, the Attorney General, the director or the contracting agency by section 7 of this
35 2017 Act and the amendments to ORS 279A.010 and 279C.305 by sections 1 and 8 of this 2017
36 Act.

37 **SECTION 11.** This 2017 Act takes effect on the 91st day after the date on which the 2017
38 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

39