

House Bill 3381

Sponsored by Representative WILLIAMSON (at the request of Marty Fromer)

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**.

Requires prospective contractor to state in bid or proposal for public contract whether and extent to which prospective contractor will use conflict minerals in performing public contract and whether prospective contractor's disclosures, policies, practices and procedures with respect to procuring conflict minerals comply with rules that Securities and Exchange Commission promulgates under provisions of Securities Exchange Act of 1934. Provides that certain statements of prospective contractor are conclusive evidence of disclosures, policies, practices and procedures.

Requires contracting agency to give preference to prospective contractor that complies with provisions of Act and permits contracting agency to give additional weight in evaluating bid or proposal to prospective contractor with most thorough description of disclosures, policies, practices and procedures.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to prohibitions on public contracting with entities that violated conflict minerals disclosure
3 provisions of the Securities Exchange Act; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 279A.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Affiliated entity" means an entity that a prospective contractor controls, that con-**
8 **trols the prospective contractor or that another entity controls in common with the pro-**
9 **spective contractor.**

10 (b) **"Conflict minerals" means:**

11 (A) **Columbite-tantalite or an ore for tantalum;**

12 (B) **Cassiterite;**

13 (C) **Wolframite;**

14 (D) **A derivative of any of the minerals identified in subparagraphs (A), (B) or (C) of this**
15 **paragraph; or**

16 (E) **Any other mineral or derivative of a mineral the extraction, sale, distribution or use**
17 **of which the United States Secretary of State determines is financing conflict in the Demo-**
18 **cratic Republic of Congo or a country that shares an internationally recognized border with**
19 **the Democratic Republic of Congo.**

20 (2)(a) **A contracting agency in solicitation documents for a public contract shall require**
21 **a prospective contractor to state in the prospective contractor's bid or proposal for the**
22 **public contract:**

23 (A) **Whether and to what extent any of the materials the prospective contractor or an**
24 **affiliated entity of the prospective contractor intends to use in performing the public con-**
25 **tract are conflict minerals; and**

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

1 (B) That the prospective contractor’s and the affiliated entity’s disclosures, policies,
 2 practices and procedures for procuring conflict minerals comply with regulations for sourc-
 3 ing and due diligence for conflict minerals that the Securities and Exchange Commission
 4 promulgated under section 13(p) of the Securities Exchange Act of 1934, 15 U.S.C. 78m(p).

5 (b) A prospective contractor may meet the requirement set forth in paragraph (a) of this
 6 subsection by:

7 (A) Linking or referring in a bid or proposal to a description of disclosures, policies,
 8 practices and procedures with respect to procuring conflict minerals that is posted on the
 9 prospective contractor’s or affiliate’s website or is otherwise available as an official publica-
 10 tion that is equally accessible to the public; or

11 (B) Including with a bid or proposal a copy or an accurate summary of a certification or
 12 report required under section 13(p) of the Securities Exchange Act of 1934, 15 U.S.C. 78m(p).

13 (c) A contracting agency shall accept a prospective contractor’s submission under para-
 14 graph (b) of this subsection as conclusive evidence of the nature of the prospective
 15 contractor’s or an affiliate’s disclosures, policies, practices and procedures with respect to
 16 procuring conflict minerals.

17 (3) Notwithstanding provisions of law that require a contracting agency to award a public
 18 contract to the lowest responsible bidder or to the prospective contractor that submits the
 19 best proposal or quotation, to the extent that a procurement requires or will use conflict
 20 minerals, a contracting agency:

21 (a) Shall give a preference to each prospective contractor that meets the requirements
 22 set forth in subsection (2) of this section; and

23 (b) May give additional weight in evaluating bids or proposals for a public contract to a
 24 prospective contractor that has the most thorough description of the prospective
 25 contractor’s disclosures, policies, practices and procedures with respect to procuring conflict
 26 minerals.

27 **SECTION 3.** Section 2 of this 2017 Act applies to procurements that a contracting agency
 28 advertises or otherwise solicits or, if the contracting agency did not advertise or otherwise
 29 solicit the procurement, to a public contract into which the contracting agency enters on
 30 or after the operative date specified in section 4 of this 2017 Act.

31 **SECTION 4.** (1) Section 2 of this 2017 Act becomes operative January 1, 2018.

32 (2) The Attorney General, the Director of the Oregon Department of Administrative
 33 Services, the Director of Transportation and a contracting agency that adopts rules under
 34 ORS 279A.065 may adopt rules and take any other action before the operative date specified
 35 in subsection (1) of this section that is necessary to enable the Attorney General, the direc-
 36 tor or the contracting agency, on and after the operative date specified in subsection (1) of
 37 this section, to exercise all of the duties, functions and powers conferred on the Attorney
 38 General, the director or the contracting agency by section 2 of this 2017 Act.

39 **SECTION 5.** This 2017 Act takes effect on the 91st day after the date on which the 2017
 40 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.