

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 5 - 0 - 0

Yeas: Kruse, Metsger, Morse, Westlund, Walker

Nays: 0

Exc.: 0

Prepared By: Dana Richardson, Administrator

Meeting Dates: 5/24

WHAT THE MEASURE DOES: Makes technical changes to Public Contracting Code. Modifies rules governing prevailing wage rates to provide clarity for public-private partnerships. Exempts non-profit library project in Baker City; privately-owned, affordable housing residential construction; Oregon facilities financed under ORS 289 and financing of health care facilities construction projects unless the bonds or loans will be used for public improvement; agreements for public-private projects signed by urban renewal agencies and projects funded by Treasury Bonds before effective date of the act. Requires Commissioner of Bureau of Labor and Industries, when asked, to determine whether proposed project is subject to prevailing wage requirements. Requires rule-making. Moves provisions prohibiting division of public works projects into more than one contract to avoid compliance and adds criteria for determining impermissible project division. Provides mechanism for commissioner to divide project. Declares an emergency; effective July 1, 2007.

ISSUES DISCUSSED:

- Need for emergency clause
- Rule-making by Bureau of Labor and Industries
- Conduit financing
- Gross versus net value of bonds

EFFECT OF COMMITTEE AMENDMENT: Modifies rules governing prevailing wage rates to provide clarity for public-private partnerships. Exempts non-profit library project in Baker City; privately-owned, affordable housing residential construction; Oregon facilities financed under ORS 289 and financing of health care facilities construction projects unless the bonds or loans will be used for public improvement; agreements for public-private projects signed by urban renewal agencies and projects funded by Treasury Bonds before effective date of the act. Requires Commissioner of Bureau of Labor and Industries, when asked, to determine whether proposed project is subject to prevailing wage requirements. Requires rule-making. Moves provisions prohibiting division of public works projects into more than one contract to avoid compliance and adds criteria for determining impermissible project division. Provides mechanism for commissioner to divide project. Declares an emergency; effective July 1, 2007.

BACKGROUND: Oregon's Public Contracting Code (ORS chapters 279 A, B, and C) took effect on March 1, 2005 and are a complete revision of previous, outdated public contracting laws. HB 2140B contains technical amendments suggested by the Department of Administrative Services and the Department of Justice to make the code operate more efficiently and streamline the public contracting process. It exempts certain entities from the Public Contracting Code and clarifies which projects and contracts of the Department of Fish and Wildlife, the Department of Aviation, the Department of Housing and Community Services, the Department of Corrections, and the Military Department are subject to Public Contracting Code. It also provides for emergency procurement of construction services that are not public improvements and permits a contracting agency or a state agency to identify pilot projects for which the agency intends to use an alternate contracting method.

HB 2140B also contains portions of House Bill 2944A relating to prevailing wage rates. HB 2944A was a product of an eight-month task force created to provide clearer rules for determining whether a public-private partnership project is subject to the prevailing wage. As incorporated into HB 2140B, it provides a mechanism to provide public agencies and other interested persons to determine whether a project is covered by the prevailing wage rate.

Oregon's prevailing wage rate was established in 1959 and is modeled after the Federal Davis-Bacon Act. If a project is covered by the prevailing wage rate, workers must be paid the hourly wage, including fringe benefits paid in the locality to the majority of workers employed, on projects of similar character in the same trade or occupation. Currently, public works projects are generally covered by the prevailing wage rate if they are \$50,000 or more, are for construction, reconstruction, major renovation, or painting to serve the public interest and directly or indirectly use funds of a public agency.