**2007 Regular Legislative Session**
**FISCAL ANALYSIS OF PROPOSED LEGISLATION**
**Prepared by the Oregon Legislative Fiscal Office**

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**MEASURE NUMBER:** HB 2140 **STATUS:** B-Engrossed
**SUBJECT:** Public contracting code revisions, specifications for prevailing wage rate information, and contracting agency liability
**GOVERNMENT UNIT AFFECTED:** Public works contracting agencies and jurisdictions, Department of Administrative Services, Bureau of Labor and Industries
**PREPARED BY:** Adrienne Sexton
**REVIEWED BY:** Dallas Weyand, Robin LaMonte
**DATE:** June 1, 2007

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| | **2007-2009** | **2009-2011** |
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| **EXPENDITURES:** | | |
| **See Comments.** | | |

**POSITIONS:**
**See Comments.**

**EFFECTIVE DATE:** January 1, 2008

**GOVERNOR'S BUDGET:** This bill is not anticipated by the Governor's recommended budget.

**LOCAL GOVERNMENT MANDATE:** This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**COMMENTS:** In addition to numerous technical amendments to the public contracting code, the measure would redefine "public works" to include certain projects that use both public agency and private funds. The State Treasurer reports that this could affect agencies that provide project loan financing from bonds issued by the State of Oregon after the measure's effective date. Among others, examples include loan programs through the Department of Energy, Housing and Community Services Department, and Oregon Economic and Community Development Department.

The fiscal impact from the new definition would not be incurred directly by the lending agencies, but would be related to the likely increase in costs to meet the prevailing wage rate requirements for projects that are privately developed, owned and operated. The effect of project costs on the bond issuance and servicing costs cannot be determined with precision, but the Treasurer anticipates a likely increase, which could be recovered from the borrower in a state loan program. The Treasurer also reports a for a grant program, the state would be responsible for the increased financing costs.

The Department of Administrative Services State Procurement Office (SPO) also assumes that the prevailing wage rate law will apply to those agencies that issue loans which would require new administrative actions and record-keeping to assure compliance. The direct fiscal impact has not been reported to the Legislative Fiscal Office (LFO) by the affected agencies, but LFO anticipates that the impact would be dependent on the timing and volume of loan or grant activity. It is not known whether there would be a budget impact across agencies in 2007-09. If necessary, an agency could seek additional expenditure limitation or position resources through the Emergency Board or the Legislative Assembly in session. The SPO projects the need for additional staff in this division (one position at 0.31

FTE at $45,572) in 2007-09 plus $5,623 in associated services and supplies, and one-time Attorney General services (approximately $7,100). Continuing costs in 2009-2011 are estimated at $34,002 for personal services (one position at 0.23 FTE), and $4,219 for services and supplies.

The Legislative Fiscal Office notes that HB 2021-B amends ORS 279C.825 to shift the requirement for payment of a fee to the Bureau of Labor and Industries of not less than $100 and not more than $5,000 (calculated at 0.1 percent of the contract price) from the contractor to the public agency that awards a public works contract. Based on the foregoing discussion on the likely application of HB 2140-B to the state loan and grant programs using bond proceeds, there is potential for this fee to be the responsibility of the lending agency.

The Association of Oregon counties reports the fiscal impact of the measure on public-private and affordable housing projects to be indeterminate, and could be either positive or negative.

The Bureau of Labor and Industries indicates there is no fiscal impact on that agency.