

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

MEASURE NUMBER: HB 2140 **STATUS:** C-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 21, 2007

	<u>2007-2009</u>	<u>2009-2011</u>
EXPENDITURES: See Comments.		

POSITIONS:
See Comments.

EFFECTIVE DATE: July 1, 2007

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, where the value of the public funding or other support is more than \$750,000. For purposes of public works and prevailing wage rates, the measure defines “funds of a public agency” to exclude tax credits or tax abatements, land that a public agency sells to a private entity at fair market value, money derived from the sale of bonds that are loaned by a state agency to a private entity, unless the loan is for a public improvement, and certain value added to land as the result of a public agency’s site work.

There is likely some indeterminate fiscal impact on programs at the Housing and Community Services Department and Oregon Economic and Community Development Department. Programs that support projects with grants from issued bonds, or direct funding from resources including Lottery Funds, would see increased costs. Some sources of the increase would be related to, and dependent in part on, enactment of HB 2021:

- HB 2021-B* amendment to 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.
- Additional grant moneys spent on project financing that will cost more to fund.
- Requirement to pay prevailing wages, and effect of HB 2021-B* provision to include the appropriate state and federal prevailing wage rate information in specifications for a public works contract.

Except for the fee paid to the Bureau of Labor and Industries (BOLI), 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, however a likely increase is anticipated, which could be recovered from the borrower in a state loan program. 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 program 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 Association of Oregon Counties reports the fiscal impact of the measure on public-private and affordable housing projects to be indeterminate.

BOLI indicates there is no fiscal impact on that agency.