

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	4 - 2 - 1
<b>Yeas:</b>	Edwards C., Rosenbaum, Smith P., Schauffler
<b>Nays:</b>	Berger, Holvey
<b>Exc.:</b>	Esquivel
<b>Prepared By:</b>	Theresa Van Winkle, Administrator
<b>Meeting Dates:</b>	4/2

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**WHAT THE MEASURE DOES:** Requires the Commissioner of Bureau of Labor and Industries to determine upon request whether a proposed construction project is a public works project on which paying prevailing wage rates is required. Exempts certain public-private projects and certain affordable housing projects from the requirements of prevailing wage laws. Declares an emergency, effective on July 1, 2007.

**ISSUES DISCUSSED:**

- Additional costs and delays due to not determining whether prevailing wage rate (PWR) law applies to a project in advance of the groundbreaking
- Why changes to PWR law are needed
- Whether changes to PWR law will help or hinder future projects
- Examples of public-private construction projects, such as mixed-use buildings and affordable housing
- Efforts in revising current PWR law
- Number of states that have laws similar in scope as proposed in the measure
- Stakeholder input and level of support for the measure and amendments

**EFFECT OF COMMITTEE AMENDMENT:** Clarifies that either a public agency or “other interested person” can request Bureau of Labor and Industries (BOLI) to make a determination regarding whether prevailing wages must be paid. Extends the timeframe for BOLI to make a determination from 15 to 60 days. Allows the requester or person “adversely affected or aggrieved by the commissioner’s determination” an appeals hearing and that the order is subject to judicial review. Exempts certain public-private projects and certain affordable housing projects from the requirements of prevailing wage laws. Authorizes the BOLI Commissioner to implement rules necessary to carry out certain provisions of the measure. Defines that certain provisions of the measure are applicable to projects first advertised or first entered into on or after the effective date of the measure and do not apply to development and disposition agreements signed by an urban renewal agency before the effective date of the measure in connection with public-private projects for which no contracts for construction are advertised. Declares an emergency, effective on July 1, 2007.

**BACKGROUND:** Oregon’s prevailing wage law was established in 1959 and is based on the federal Davis-Bacon Act of 1931. Prevailing wage laws apply to all contractors or subcontractors who work on certain public works projects. The prevailing wage rate (PWR) is the standard wage a construction worker is paid in a particular occupation in one of 14 different regions throughout the state. It is established through a survey of wages paid on commercial construction projects by both union and non-union contractors, and is the rate paid to the majority of workers in a particular trade and locality. If it happens that there is a not a majority of workers who are paid at the same rate, the workers are paid the average rate in that particular locality.

HB 2944 A allows public agencies or any interested person to request the Bureau of Labor and Industries (BOLI) to determine whether a construction project is considered as public works, which would require contractors to pay the PWR to workers. Under the measure, BOLI has 60 days to make a determination after the requestor provides relevant background information. The requestor or “any person adversely affected or aggrieved” by the determination can request an appeal that is subject to judicial review.

HB 2944 A also clarifies PWR law in regards to how it is applied to mixed use (commercial-residential) projects and developments relying upon public-private financing arrangements. The measure creates a “bright line” for a project to be considered as a public work if more than \$750,000 in public funds are used or in which 25 percent or more of the completed project’s square footage will be occupied or used by a public agency. It also exempts residential housing construction projects that are privately owned (real property owned by a public agency) and predominantly provides affordable housing (60 percent or more of the project’s residences) if the project serves occupants whose incomes are no greater than 60 percent of the area median income, or if the occupants are owners, whose incomes are no greater than 80 percent of the area median income.

The measure also establishes mechanisms for the BOLI Commissioner to follow in determining whether a public works project should be divided into more than one contract. In making a determination, the Commissioner is required to consider items such as the physical separation of project structures, the timing of the work on project phases or structures, and whether the combined improvements or structures have an overall purpose or function. If the project is a public works as described in the measure, the Commissioner is required to divide the project (after applying the established considerations) to separate the project’s parts that include funds of a public agency from the parts that do not include funds of a public agency and that will not be occupied or used by a public agency. If a project includes parts that are owned by a public agency and parts that are owned by a private entity, the Commissioner is required to divide the project (after applying the established considerations) to separate parts of the project that are public works from the parts that are not considered as public works. Any part of the divided project that does not include funds of a public agency, that will not be occupied or used by a public agency, or is not considered as a public work, is not subject to PWR law.