

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2021

By COMMITTEE ON EDUCATION AND GENERAL GOVERNMENT

June 6

- 1 On page 1 of the printed A-engrossed bill, line 2, after “amending” insert “ORS”.
- 2 In line 3, delete “279C.810,” and after “279C.815,” insert “279C.825,” and delete “ORS”.
- 3 On page 2, delete lines 43 through 45.
- 4 On page 3, delete lines 1 through 34.
- 5 In line 35, delete “4” and insert “3”.
- 6 On page 4, line 17, delete “5” and insert “4”.
- 7 In lines 18 and 19, delete the boldfaced material.
- 8 In line 21, before “that” insert “(40 U.S.C. 3141 et seq.)”.
- 9 On page 5, delete lines 5 through 13 and insert:
- 10 “**SECTION 5.** ORS 279C.838 is amended to read:
- 11 “279C.838. (1) When a public works project is subject to [ORS 279C.800 to 279C.870 and] the
- 12 Davis-Bacon Act (40 U.S.C. [276a] **3141 et seq.**):
- 13 “[*(1)*] (a) If the state prevailing rate of wage is higher than the federal prevailing rate of wage,
- 14 the contractor and every subcontractor on the project shall pay at least the state prevailing rate
- 15 of wage as **determined under ORS 279C.815**; [required by ORS 279C.800 to 279C.870; and]
- 16 “[*(2)*] *If the federal prevailing rate of wage is higher than the state prevailing rate of wage, the*
- 17 *contractor and every subcontractor on the project shall pay at least the federal prevailing rate of wage*
- 18 *as required by the Davis-Bacon Act.*]
- 19 “(b) **The Commissioner of the Bureau of Labor and Industries shall determine the site**
- 20 **of the project in a manner consistent with the term ‘site of the work’ as that term is used**
- 21 **in federal law and in regulations adopted or guidelines issued in accordance with the Davis-**
- 22 **Bacon Act;**
- 23 “(c) **The commissioner shall determine in a manner that is consistent with federal law**
- 24 **and regulations adopted or guidelines issued in accordance with the Davis-Bacon Act whether**
- 25 **workers transporting materials and supplies to and from the site of the project are subject**
- 26 **to the Davis-Bacon Act and are entitled to be paid the prevailing rate of wage;**
- 27 “(d) **Except as provided in paragraph (a) of this subsection, the commissioner, in con-**
- 28 **sultation with the advisory committee appointed under ORS 279C.820, may administer and**
- 29 **enforce ORS 279C.800 to 279C.870 in a manner that is consistent with federal law and regu-**
- 30 **lations adopted or guidelines issued in accordance with the Davis-Bacon Act. The commis-**
- 31 **sioner may provide a waiver from a requirement set forth in ORS 279C.800 to 279C.870 if**
- 32 **necessary to achieve consistency with the Davis-Bacon Act and to further the purposes of**
- 33 **ORS 279C.805; and**
- 34 “(e) **ORS 279C.800 to 279C.870 do not apply to workers enrolled in apprenticeship and skill**
- 35 **training programs that are certified by the United States Secretary of Transportation under**

1 **the Federal-Aid Highway Act (23 U.S.C. 113(c)).**

2 **“(2) When a public works project is not subject to the Davis-Bacon Act, the commis-**  
3 **sioner may administer and enforce ORS 279C.800 to 279C.870 in a manner that is not con-**  
4 **sistent with federal law and regulations adopted or guidelines issued in accordance with the**  
5 **Davis-Bacon Act.”.**

6 In line 14, delete “7” and insert “6”.

7 Delete lines 42 through 45 and insert:

8 **“SECTION 7.** ORS 279C.825 is amended to read:

9 **“279C.825. (1)(a) The Commissioner of the Bureau of Labor and Industries, by rule, shall estab-**  
10 **lish a fee to be paid by the [contractor to whom] public agency that awards a public works contract**  
11 **subject to ORS 279C.800 to 279C.870[ has been awarded]. The fee shall be used to pay the costs of:**

12 **“(A) Surveys to determine the prevailing rates of wage;**

13 **“(B) Administering and providing investigations under and enforcement of ORS 279C.800 to**  
14 **279C.870; and**

15 **“(C) Providing educational programs on public contracting law under the Public Contracting**  
16 **Code.**

17 **“(b) The fee shall be 0.1 percent of the contract price. However, in no event may a fee be**  
18 **charged and collected that is more than \$5,000 or less than \$100.**

19 **“(2) The commissioner shall pay moneys received under this section into the State Treasury. The**  
20 **moneys shall be credited to the Prevailing Wage Education and Enforcement Account created by**  
21 **ORS 651.185.**

22 **“[(3) The contractor shall pay the fee at the time of the first progress payment or 60 days after**  
23 **work on the contract has begun, whichever date is earlier.]**

24 **“[(4) Failure to make timely payment under subsection (3) of this section shall subject the contrac-**  
25 **tor to a civil penalty under ORS 279C.865 in such amount as the commissioner, by rule, shall**  
26 **specify.]**

27 **“(3) The public agency shall pay the fee at the time the public agency enters into the**  
28 **public works contract.**

29 **“SECTION 8. Notwithstanding the maximum and minimum fee amounts set forth in ORS**  
30 **279C.825 (1)(b), for public works contracts entered into on or after the effective date of this**  
31 **2007 Act and before January 1, 2011, the fee charged and collected may not be more than**  
32 **\$7,500 or less than \$250.**

33 **“SECTION 9. (1) The Bureau of Labor and Industries shall develop and adopt a plan to**  
34 **increase diversity statewide among workers employed on projects subject to ORS 279C.800**  
35 **to 279C.870. The bureau shall develop the plan after conducting a statewide public process**  
36 **to solicit proposals to increase diversity and shall adopt the plan after considering proposals**  
37 **submitted to the bureau.**

38 **“(2) The bureau shall report each year to the Legislative Assembly or to the appropriate**  
39 **legislative interim committee concerning progress that results from the plan adopted under**  
40 **this section and may submit recommendations for legislation or other measures that will**  
41 **improve diversity among workers employed on projects subject to ORS 279C.800 to 279C.870.**  
42 **The bureau shall submit the first report no later than January 1, 2009.**

43 **“SECTION 10. Section 8 of this 2007 Act and the amendments to ORS 279C.360, 279.365,**  
44 **279C.815, 279C.825, 279C.830, 279C.838 and 279C.855 by sections 1 to 7 of this 2007 Act apply**  
45 **only to public contracts for public works, including public works subject to the Davis-Bacon**

1 **Act (40 U.S.C. 3141 et. seq.), first advertised or solicited on or after the effective date of this**  
2 **2007 Act.”**  
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