

House Bill 2557

Sponsored by Representative SCHAUFLER, Senator METSGER; Representative ESQUIVEL, Senator MORSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Exempts certain public-private projects and certain affordable housing projects from requirements of prevailing wage rate laws.

A BILL FOR AN ACT

1
2 Relating to exemptions from prevailing wage rate laws; creating new provisions; and amending ORS
3 279C.810.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 279C.810 is amended to read:

6 279C.810. (1) As used in this section:

7 (a) "Funds of a public agency" does not include:

8 (A) Funds provided in the form of a government grant to a nonprofit organization, unless the
9 government grant is issued for the purpose of construction;

10 (B) Building and development permit fees paid or waived by the public agency;

11 **(C) Tax credits or tax abatements;**

12 *[(C)]* **(D)** Staff resources of the public agency used to manage a project or to provide a principal
13 source of supervision, coordination or oversight of a project; or

14 *[(D)]* **(E)** Staff resources of the public agency used to design or inspect one or more components
15 of a project.

16 (b) "Nonprofit organization" means an organization or group of organizations described in sec-
17 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of
18 the Internal Revenue Code.

19 (2) ORS 279C.800 to 279C.870 do not apply to:

20 (a) Projects for which the contract price does not exceed \$50,000. In determining the price of a
21 project, a public agency:

22 (A) May not include the value of donated materials or work performed on the project by indi-
23 viduals volunteering to the public agency without pay; and

24 (B) Shall include the value of work performed by every person paid by a contractor or subcon-
25 tractor in any manner for the person's work on the project.

26 (b) Projects for which no funds of a public agency are directly or indirectly used. In accordance
27 with ORS chapter 183, the Commissioner **of the Bureau of Labor and Industries** shall adopt rules
28 to carry out the provisions of this paragraph.

29 **(c) A project:**

30 **(A) That is privately owned;**

31 **(B) In which no more than 25 percent of the square footage of the completed project will**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 be occupied or used by a public agency;

2 (C) For which funds of a private entity are used; and

3 (D) For which no more than \$750,000 of funds of a public agency are used.

4 (d) A project that is privately owned, is residential and predominantly provides affordable
5 housing. As used in this paragraph:

6 (A) "Affordable housing" means housing that serves occupants whose incomes are no
7 greater than 60 percent of the area median income or, if the occupants are owners, whose
8 incomes are no greater than 80 percent of the area median income.

9 (B) "Predominantly" means 60 percent or more.

10 (C) "Privately owned" includes affordable housing provided on real property that is owned
11 by a public agency if the real property and related structures are leased to a private entity
12 for 50 or more years.

13 (D) "Residential" includes single-family houses or apartment buildings of no more than
14 four stories in height and all incidental items, such as site work, parking areas, utilities,
15 streets and sidewalks pursuant to the United States Department of Labor's "All Agency
16 Memorandum No. 130 -- Application of the Standard of Comparison 'Projects of a Character
17 Similar' Under the Davis-Bacon and Related Acts," dated March 17, 1978. However, when the
18 commissioner determines that a different definition of residential construction has been
19 adopted by local ordinance or code, or that the prevailing practice of a particular trade or
20 occupation regarding what is considered residential construction differs from the United
21 States Department of Labor description of residential construction, the commissioner may
22 consider that information in determining whether a project is a residential construction
23 project for purposes of this paragraph.

24 (3)(a) A public agency may not divide a public works project into more than one contract for
25 the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

26 (b) When the commissioner determines that a public agency has divided a public works project
27 for the purpose of avoiding compliance with ORS 279C.800 to 279C.870, the commissioner shall issue
28 an order compelling compliance.

29 (c) In making determinations under this subsection, the commissioner shall consider:

30 (A) The physical separation of the project structures;

31 (B) The timing of the work on project phases or structures;

32 (C) The continuity of project contractors and subcontractors working on project parts or phases;
33 and

34 (D) The manner in which the public agency and the contractors administer and implement the
35 project.

36 **SECTION 2.** Section 3 of this 2007 Act is added to and made a part of ORS 279C.800 to
37 279C.870.

38 **SECTION 3.** In accordance with applicable provisions of ORS chapter 183, the Commis-
39 sioner of the Bureau of Labor and Industries shall adopt rules necessary for the adminis-
40 tration of ORS 279C.800 to 279C.870.

41 **SECTION 4.** The amendments to ORS 279C.810 by section 1 of this 2007 Act apply to
42 contracts for projects first advertised, or if not advertised then entered into, on or after the
43 effective date of this 2007 Act.