

A-Engrossed House Bill 2618

Ordered by the House May 10
Including House Amendments dated May 10

Sponsored by Representative HOLVEY; Representative BARNHART

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.

Prohibits [*employers*] **public agencies** from entering into public works contracts for which contract price exceeds [*\$350,000*] **\$750,000** unless [*employer*] **public agency verifies that every employer under contract is approved apprenticeship training agent unless local joint committee or apprenticeship training program for apprenticeable occupations used by employer does not exist in state.**

Requires advisory committee periodically to evaluate minimum percentage set for number of hours to be worked by apprentices on public works projects and assist Commissioner of Bureau of Labor and Industries in administration of Act.

Requires specifications and contracts for public works for which contract price exceeds [*\$350,000*] **\$750,000** to require contractors and subcontractors to be approved training agents **and to contain provision stating minimum percentage of total hours worked on public works project to be performed by apprentices participating in programs of apprenticeship and training.** [*Provides exceptions to provisions if no local joint committee or program of apprenticeship and training for apprenticeable occupations used by employer exists in state.*]

Requires [*specifications and contracts for public works*] **contractor and subcontractor that are parties to contract** for which contract price exceeds [*\$350,000 to require that*] **\$750,000 to employ apprentices participating in programs of apprenticeship and training** for at least 15 percent of total hours worked on project [*be performed by apprentices*]. **Allows Bureau of Labor and Industries to adjust percentage if contractor or subcontractor demonstrates that too few apprentices are available. Requires contractor to post notice of apprenticeship requirement.**

Requires contractor or contractor's surety to provide certified statements containing apprenticeship agreement registration numbers, if any, and to provide summary of weekly cumulative total hours worked on public works project by apprentices participating in programs of apprenticeship and training.

Permits commissioner to verify compliance with provisions of Act.

Provides civil penalty of not more than \$5,000 per violation of provisions of Act plus additional civil penalty in amount equal to 20 times number of hours required to be, but not, worked by apprentices participating in programs of apprenticeship and training.

A BILL FOR AN ACT

1
2 Relating to apprenticeship; creating new provisions; and amending ORS 279C.800, 279C.820,
3 279C.830, 279C.840, 279C.845, 279C.850 and 279C.865.

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

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 660.002 to**
6 **660.210.**

7 **SECTION 2. (1) Except as provided in subsection (2) of this section, a public agency may**
8 **not enter into a contract for public works, as defined in ORS 279C.800, for which the contract**
9 **price exceeds \$750,000 unless the public agency has verified that every employer under the**
10 **contract, including the contractor and any subcontractor, is an approved training agent that**
11 **is approved by a local joint committee under ORS 660.137.**

12 **(2) A public agency may enter into a contract described in subsection (1) of this section**
13 **even if an employer under the contract is not an approved training agent, if the employer is**

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 not an approved training agent because a local joint committee or program for the
2 apprenticeable occupations used by the employer does not exist in this state. This subsection
3 does not require an employer to start a local joint committee or become an approved training
4 agent if a committee or program does not exist in this state.

5 (3) If no local joint committee for an apprenticeable occupation used by an employer ex-
6 ists in the county in which the employer is located, the State Director of Apprenticeship and
7 Training may extend the jurisdiction of a local joint committee in an adjoining county to the
8 county in which the employer is located. The director's action is subject to ratification by
9 the State Apprenticeship and Training Council.

10 **SECTION 3.** ORS 279C.820 is amended to read:

11 279C.820. (1) The Commissioner of the Bureau of Labor and Industries shall appoint an advisory
12 committee to assist the commissioner in the administration of ORS 279C.800 to 279C.870.

13 (2) The advisory committee must include equal representation of members from management and
14 labor in the building and construction industry who perform work on public works contracts and
15 such other interested parties as the commissioner shall appoint.

16 (3) The advisory committee, at least once each year, shall evaluate the minimum per-
17 centage set forth in section 6 of this 2007 Act and make recommendations to the commis-
18 sioner concerning needed adjustments in the minimum percentage. The advisory committee
19 shall base the recommendations on actual or projected increases or decreases in the avail-
20 ability of apprentices in apprenticeable occupations used by employers in public works
21 projects.

22 (4) The advisory committee shall consult with the State Apprenticeship and Training
23 Council when necessary to:

24 (a) Determine the current and projected availability of apprentices in apprenticeable oc-
25 cupations used by employers in public works projects; and

26 (b) Make recommendations to the commissioner or otherwise assist the commissioner in
27 the administration of the provisions of ORS 279C.800 to 279C.870 related to apprenticeship
28 requirements in public works contracts.

29 **SECTION 4.** ORS 279C.830 is amended to read:

30 279C.830. (1)(a) The specifications for every contract for public works shall contain a provision
31 stating the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of
32 wage required under the Davis-Bacon Act (40 U.S.C. 276a) that may be paid to workers in each trade
33 or occupation required for the public works employed in the performance of the contract either by
34 the contractor or subcontractor or other person doing or contracting to do the whole or any part
35 of the work contemplated by the contract.

36 (b) If a public agency is required under paragraph (a) of this subsection to include the state and
37 federal prevailing rates of wage in the specifications, the public agency also shall include in the
38 specifications information showing which prevailing rate of wage is higher for workers in each trade
39 or occupation in each locality, as determined by the Commissioner of the Bureau of Labor and In-
40 dustries under ORS 279C.815 (2)(b).

41 (c) Every contract and subcontract shall contain a provision that the workers shall be paid not
42 less than the specified minimum hourly rate of wage in accordance with ORS 279C.838.

43 (2) The specifications for every contract for public works between a public agency and a con-
44 tractor shall contain a provision stating that a fee is required to be paid to the Commissioner of the
45 Bureau of Labor and Industries as provided in ORS 279C.825 (1). The contract shall contain a pro-

1 vision that the fee shall be paid to the commissioner under the administrative rule of the commis-
2 sioner.

3 (3) The specifications for every contract for public works shall contain a provision stating that
4 the contractor and every subcontractor must have a public works bond filed with the Construction
5 Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (7) or (8).
6 Every contract awarded by a contracting agency shall contain a provision requiring the contractor:

7 (a) To have a public works bond filed with the Construction Contractors Board before starting
8 work on the project, unless exempt under ORS 279C.836 (7) or (8).

9 (b) To include in every subcontract a provision requiring the subcontractor to have a public
10 works bond filed with the Construction Contractors Board before starting work on the project, un-
11 less exempt under ORS 279C.836 (7) or (8).

12 **(4)(a) The specifications for every contract for public works for which the contract price**
13 **exceeds \$750,000 shall contain a provision stating that the contractor and every subcontrac-**
14 **tor must be an approved training agent that is approved by a local joint committee under**
15 **ORS 660.137, if a committee or program of apprenticeship and training for the apprenticeable**
16 **occupations used by the contractor or subcontractor exists in this state.**

17 **(b) For a contract between a public agency and a contractor for which the contract price**
18 **exceeds \$750,000, the specifications required by paragraph (a) of this subsection also shall**
19 **contain a provision stating the minimum percentage of the total hours worked on the public**
20 **works project by workers in apprenticeable occupations that must be performed by appren-**
21 **tices participating in programs of apprenticeship and training under ORS 660.002 to 660.210.**
22 **The minimum percentage set forth in the specifications may not be less than the minimum**
23 **percentage set forth in section 6 of this 2007 Act. The workers may be employed by the**
24 **contractor or any subcontractor on the public works project, except that a subcontractor**
25 **shall independently meet the minimum percentage requirement in performing work on any**
26 **subcontract for which the subcontract price exceeds \$750,000.**

27 **(c) A contract or subcontract for public works for which the contract price exceeds**
28 **\$750,000 shall contain a provision stating that the contractor and every subcontractor must**
29 **be an approved training agent that is approved by a local joint committee under ORS 660.137,**
30 **if a committee or program of apprenticeship and training for the apprenticeable occupations**
31 **used by the contractor or subcontractor exists in this state.**

32 **(d) A contract described in paragraph (c) of this subsection between a public agency and**
33 **a contractor and any subcontract between a contractor and a subcontractor for which the**
34 **subcontract price exceeds \$750,000 also shall contain a provision stating the minimum per-**
35 **centage of the total hours worked on the public works project by workers in apprenticeable**
36 **occupations that must be performed by apprentices participating in programs of apprentice-**
37 **ship and training under ORS 660.002 to 660.210. The minimum percentage set forth in the**
38 **contract or subcontract may not be less than the minimum percentage set forth in section**
39 **6 of this 2007 Act. The workers may be employed by the contractor or any subcontractor on**
40 **the public works project, except that a subcontractor shall independently meet the minimum**
41 **percentage requirement in performing work on any subcontract for which the subcontract**
42 **price exceeds \$750,000.**

43 **SECTION 5. Section 6 of this 2007 Act is added to and made a part of ORS 279C.800 to**
44 **279C.870.**

45 **SECTION 6. (1) A contractor or subcontractor that is a party to a contract for public**

1 works for which the contract price exceeds \$750,000 shall employ apprentices participating
2 in programs of apprenticeship and training under ORS 660.002 to 660.210 for at least 15 per-
3 cent of the total hours worked on the public works project by workers in apprenticeable oc-
4 cupations. Either the contractor or the subcontractor may meet the requirement set forth
5 in this subsection, except that the subcontractor shall independently meet the requirement
6 in performing work on any subcontract for which the subcontract price exceeds \$750,000.

7 (2) If a contractor or subcontractor subject to subsection (1) of this section is unable at
8 any time after the execution of the contract to meet the requirement set forth in subsection
9 (1) of this section because too few apprentices are available to the contractor or subcon-
10 tractor, the contractor shall notify the Commissioner of the Bureau of Labor and Industries
11 and the public agency that awarded the contract for public works. In the notification the
12 contractor shall document the contractor's or subcontractor's efforts to locate and employ
13 suitable apprentices in sufficient detail to enable the commissioner to verify that the con-
14 tractor or subcontractor is unable to meet the requirement set forth in subsection (1) of this
15 section because too few apprentices are available to the contractor or subcontractor.

16 (3) If the commissioner verifies the information contained in the notification provided
17 under subsection (2) of this section, the commissioner may adjust the minimum percentage
18 required under subsection (1) of this section to reflect the number of apprentices available
19 to the contractor or subcontractor for work on the affected public works contract.

20 (4) Every contractor or subcontractor engaged on a project for which there is a contract
21 for public works shall post notices of the requirement set forth in subsection (1) of this
22 section in conspicuous and accessible places in or about the project, preferably in the same
23 places as the notice required under ORS 279C.840 (4). The notice shall describe the require-
24 ment and shall contain information about how to report a violation of the requirement to the
25 commissioner and where to obtain further information.

26 (5) Except as provided in subsections (2) and (3) of this section, a person may not take
27 any action to circumvent the requirement set forth in subsection (1) of this section, includ-
28 ing, but not limited to, structuring the work performed on a project so as to avoid employing
29 workers in apprenticeable occupations.

30 **SECTION 7.** ORS 279C.845 is amended to read:

31 279C.845. (1) The contractor or the contractor's surety and every subcontractor or the subcon-
32 tractor's surety shall file certified statements with the public agency in writing, on a form pre-
33 scribed by the Commissioner of the Bureau of Labor and Industries, certifying:

34 (a) The hourly rate of wage paid each worker whom the contractor or the subcontractor has
35 employed upon the public works; and

36 (b) That no worker employed upon the public works has been paid less than the prevailing rate
37 of wage or less than the minimum hourly rate of wage specified in the contract.

38 (2) The certified statement shall be verified by the oath of the contractor or the contractor's
39 surety or subcontractor or the subcontractor's surety that the contractor or subcontractor has read
40 the certified statement and knows the contents thereof and that the same is true to the contractor
41 or subcontractor's knowledge.

42 (3) The certified statements shall set out accurately and completely the payroll records for the
43 prior week, including the name and address of each worker, the worker's correct classification, **the**
44 **worker's apprenticeship agreement registration number, if any**, rate of pay, daily and weekly
45 number of hours worked, deductions made and actual wages paid.

1 **(4) In addition to the certified statements required by subsection (1) of this section, the**
 2 **contractor or the contractor's surety and every subcontractor or the subcontractor's surety**
 3 **shall file certified apprenticeship utilization statements with the public agency, in writing**
 4 **and on a form prescribed by the commissioner, that show the weekly cumulative total of**
 5 **hours worked on the public works project by apprentices participating in programs of ap-**
 6 **prenticeship and training under ORS 660.002 to 660.210. The statements required by this**
 7 **subsection shall be verified as provided in subsection (2) of this section.**

8 [(4)] (5) The contractor or subcontractor shall deliver or mail each certified statement required
 9 by [subsection (1)] **subsections (1) and (4)** of this section to the public agency. Certified statements
 10 for each week during which the contractor or subcontractor employs a worker upon the public
 11 works shall be submitted once a month, by the fifth business day of the following month. Information
 12 submitted on certified statements may be used only to ensure compliance with the provisions of ORS
 13 279C.800 to 279C.870.

14 [(5)] (6) Each contractor or subcontractor shall preserve the certified statements for a period
 15 of three years from the date of completion of the contract.

16 [(6)] (7) Certified statements received by a public agency are public records subject to the pro-
 17 visions of ORS 192.410 to 192.505.

18 [(7)] (8) Notwithstanding ORS 279C.555 or 279C.570 (7), if a contractor is required to file certi-
 19 fied statements under this section, the public agency shall retain 25 percent of any amount earned
 20 by the contractor on the public works until the contractor has filed with the public agency certified
 21 statements as required by this section. The public agency shall pay the contractor the amount re-
 22 tained under this subsection within 14 days after the contractor files the certified statements as
 23 required by this section, regardless of whether a subcontractor has failed to file certified statements
 24 as required by this section. The public agency is not required to verify the truth of the contents of
 25 certified statements filed by the contractor under this section.

26 [(8)] (9) Notwithstanding ORS 279C.555, the contractor shall retain 25 percent of any amount
 27 earned by a first-tier subcontractor on a public works until the subcontractor has filed with the
 28 public agency certified statements as required by this section. The contractor shall verify that the
 29 first-tier subcontractor has filed the certified statements before the contractor may pay the subcon-
 30 tractor any amount retained under this subsection. The contractor shall pay the first-tier subcon-
 31 tractor the amount retained under this subsection within 14 days after the subcontractor files the
 32 certified statements as required by this section. Neither the public agency nor the contractor is re-
 33 quired to verify the truth of the contents of certified statements filed by a first-tier subcontractor
 34 under this section.

35 **(10) For purposes of this section, "certified statement" includes the certified statements**
 36 **described in subsection (1) of this section and the certified apprenticeship utilization state-**
 37 **ments described in subsection (4) of this section.**

38 **SECTION 8.** ORS 279C.850 is amended to read:

39 279C.850. (1) At any reasonable time the Commissioner of the Bureau of Labor and Industries
 40 may enter the office or business establishment of any contractor or subcontractor performing public
 41 works and gather facts and information necessary to determine whether *[the prevailing rate of wage*
 42 *is actually being paid by such contractor or subcontractor to workers upon public works.]* **the con-**
 43 **tractor or subcontractor is:**

- 44 **(a) Actually paying the prevailing rate of wage to workers upon public works; and**
 45 **(b) Meeting the requirement set forth in section 6 of this 2007 Act.**

1 (2) Upon request by the commissioner, every contractor or subcontractor performing work on
2 public works shall make available to the commissioner for inspection during normal business hours
3 any payroll or other records in the possession or under the control of the contractor or subcon-
4 tractor that are deemed necessary by the commissioner to determine whether the prevailing rate
5 of wage is actually being paid by such contractor or subcontractor to workers upon public works
6 **and whether the contractor or subcontractor is meeting the requirement set forth in section**
7 **6 of this 2007 Act.** The commissioner's request must be made a reasonable time in advance of the
8 inspection.

9 (3) Notwithstanding ORS 192.410 to 192.505, any record obtained or made by the commissioner
10 under this section is not open to inspection by the public.

11 (4) The commissioner may, without necessity of an assignment, initiate legal proceedings against
12 employers to enjoin future failures to pay required prevailing rates of wage or overtime pay and to
13 require the payment of prevailing rates of wage or overtime pay due employees. The commissioner
14 is entitled to recover, in addition to other costs, such sum as the court or judge may determine
15 reasonable as attorney fees. If the commissioner does not prevail in the action, the commissioner
16 shall pay all costs and disbursements from the Bureau of Labor and Industries Account.

17 **SECTION 9.** ORS 279C.865 is amended to read:

18 279C.865. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau
19 of Labor and Industries may assess a civil penalty not to exceed \$5,000 for each violation of any
20 provision of ORS 279C.800 to 279C.870 or any rule of the commissioner adopted thereunder.

21 **(2) In addition to any penalty assessed under subsection (1) of this section, the commis-**
22 **sioner may assess a civil penalty for violation of the requirement set forth in section 6 of this**
23 **2007 Act in a dollar amount equal to 20 times the number of hours required under section 6**
24 **of this 2007 Act to be performed by apprentices participating in programs of apprenticeship**
25 **and training under ORS 660.002 to 660.210 less 20 times the number of hours actually per-**
26 **formed by such apprentices.**

27 [(2)] (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

28 [(3)] (4) All moneys collected as penalties under this section shall be first applied toward re-
29 imbursement of costs incurred in determining violations, conducting hearings and assessing and
30 collecting the penalties. The remainder, if any, of moneys collected as penalties under this section
31 shall be paid into the State Treasury and credited to the General Fund and are available for general
32 governmental expenses.

33 **SECTION 10.** ORS 279C.800 is amended to read:

34 279C.800. As used in ORS 279C.800 to 279C.870, unless the context requires otherwise:

35 (1) **"Apprentice" has the meaning given that term in ORS 660.010.**

36 (2) **"Apprenticeable occupation" has the meaning given that term in ORS 660.010.**

37 (3) **"Apprenticeship agreement" has the meaning given that term in ORS 660.010.**

38 (4) **"Employer" has the meaning given that term in ORS 660.010.**

39 [(1)] (5) "Fringe benefits" means the amount of:

40 (a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or
41 to a third person under a plan, fund or program; and

42 (b) The rate of costs to the contractor or subcontractor that may be reasonably anticipated in
43 providing benefits to workers pursuant to an enforceable commitment to carry out a financially re-
44 sponsible plan or program that is committed in writing to the workers affected, for medical or hos-
45 pital care, pensions on retirement or death, compensation for injuries or illness resulting from

1 occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life
2 insurance, disability and sickness insurance or accident insurance, for vacation and holiday pay, for
3 defraying costs of apprenticeship or other similar programs or for other bona fide fringe benefits,
4 but only when the contractor or subcontractor is not required by other federal, state or local law
5 to provide any of these benefits.

6 [(2)] (6) "Locality" means the following district in which the public works, or the major portion
7 thereof, is to be performed:

8 (a) District 1, composed of Clatsop, Columbia and Tillamook Counties;

9 (b) District 2, composed of Clackamas, Multnomah and Washington Counties;

10 (c) District 3, composed of Marion, Polk and Yamhill Counties;

11 (d) District 4, composed of Benton, Lincoln and Linn Counties;

12 (e) District 5, composed of Lane County;

13 (f) District 6, composed of Douglas County;

14 (g) District 7, composed of Coos and Curry Counties;

15 (h) District 8, composed of Jackson and Josephine Counties;

16 (i) District 9, composed of Hood River, Sherman and Wasco Counties;

17 (j) District 10, composed of Crook, Deschutes and Jefferson Counties;

18 (k) District 11, composed of Klamath and Lake Counties;

19 (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;

20 (m) District 13, composed of Baker, Union and Wallowa Counties; and

21 (n) District 14, composed of Harney and Malheur Counties.

22 [(3)] (7) "Prevailing rate of wage" means the rate of hourly wage, including all fringe benefits,
23 paid in the locality to the majority of workers employed on projects of similar character in the same
24 trade or occupation, as determined by the Commissioner of the Bureau of Labor and Industries. In
25 making such determinations, the commissioner shall rely on an independent wage survey to be
26 conducted once each year. However, if it appears to the commissioner that the data derived from
27 the survey alone are insufficient to establish the rate, the commissioner also shall consider addi-
28 tional information such as collective bargaining agreements, other independent wage surveys and
29 the prevailing rates of wage determined by appropriate federal agencies or agencies of adjoining
30 states. If there is not a majority in the same trade or occupation paid at the same rate, the average
31 rate of hourly wage, including all fringe benefits, paid in the locality to workers in the same trade
32 or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to
33 workers on any public works is based on some period of time other than an hour, the hourly wage
34 shall be mathematically determined by the number of hours worked in that period of time.

35 [(4)] (8) "Public agency" means the State of Oregon or any political subdivision thereof or any
36 county, city, district, authority, public corporation or entity and any of their instrumentalities or-
37 ganized and existing under law or charter.

38 [(5)] (9) "Public works" includes, but is not limited to, roads, highways, buildings, structures and
39 improvements of all types, the construction, reconstruction, major renovation or painting of which
40 is carried on or contracted for by any public agency to serve the public interest but does not include
41 the reconstruction or renovation of privately owned property that is leased by a public agency.

42 **SECTION 11.** ORS 279C.840 is amended to read:

43 279C.840. (1) The hourly rate of wage to be paid by any contractor or subcontractor to workers
44 upon all public works shall be not less than the prevailing rate of wage for an hour's work in the
45 same trade or occupation in the locality where the labor is performed. The obligation of a contractor

1 or subcontractor to pay the prevailing rate of wage may be discharged by making the payments in
 2 cash, by the making of contributions of a type referred to in ORS 279C.800 [(1)(a)] (5)(a), or by the
 3 assumption of an enforceable commitment to bear the costs of a plan or program of a type referred
 4 to in ORS 279C.800 [(1)(b)] (5)(b), or any combination thereof, where the aggregate of any such
 5 payments, contributions and costs is not less than the prevailing rate of wage.

6 (2) After a contract for public works is executed with any contractor or work is commenced
 7 upon any public works, the amount of the prevailing rate of wage is not subject to attack in any
 8 legal proceeding by any contractor or subcontractor in connection with that contract.

9 (3) It is not a defense in any legal proceeding that the prevailing rate of wage is less than the
 10 amount required to be in the specifications of a contract for public works, or that there was an
 11 agreement between the employee and the employer to work at less than the wage rates required to
 12 be paid under this section.

13 (4) Every contractor or subcontractor engaged on a project for which there is a contract for a
 14 public works shall keep the prevailing rates of wage for that project posted in a conspicuous and
 15 accessible place in or about the project. The Commissioner of the Bureau of Labor and Industries
 16 shall furnish without charge copies of the prevailing rates of wage to contractors and subcontrac-
 17 tors.

18 (5) Every contractor or subcontractor engaged on a project for which there is a contract for a
 19 public works to which the prevailing wage requirements apply that also provides or contributes to
 20 a health and welfare plan or a pension plan, or both, for the contractor or subcontractor's employees
 21 on the project shall post a notice describing the plan in a conspicuous and accessible place in or
 22 about the project. The notice preferably shall be posted in the same place as the notice required
 23 under subsection (4) of this section. In addition to the description of the plan, the notice shall con-
 24 tain information on how and where to make claims and where to obtain further information.

25 (6)(a) Except as provided in paragraph (c) of this subsection, no person other than the contractor
 26 or subcontractor may pay or contribute any portion of the prevailing rate of wage paid by the
 27 contractor or subcontractor to workers employed in the performance of a public works contract.

28 (b) For the purpose of this subsection, the prevailing rate of wage is the prevailing rate of wage
 29 specified in the contract.

30 (c) This subsection is not intended to prohibit payments to a worker who is enrolled in any
 31 government-subsidized training or retraining program.

32 (7) A person may not take any action that circumvents the payment of the prevailing rate of
 33 wage to workers employed on a public works contract, including, but not limited to, reducing an
 34 employee's regular rate of pay on any project not subject to ORS 279C.800 to 279C.870 in a manner
 35 that has the effect of offsetting the prevailing rate of wage on a public works project.

36 **SECTION 12. (1) Section 6 of this 2007 Act and the amendments to ORS 279C.830 (4)(b)**
 37 **and (d), 279C.850 and 279C.865 by sections 4, 8 and 9 of this 2007 Act do not become operative**
 38 **until January 1, 2013, for contracts for public works between the Department of Transpor-**
 39 **tation and a contractor.**

40 **(2) If at any time after the effective date of this 2007 Act and before January 1, 2013, the**
 41 **department fails to maintain a workforce development plan in which at least 10 percent of**
 42 **the total hours of work per craft under contracts for public works between the department**
 43 **and a contractor are performed by apprentices, section 6 of this 2007 Act and the amend-**
 44 **ments to ORS 279C.830 (4)(b) and (d), 279C.850 and 279C.865 by sections 4, 8 and 9 of this 2007**
 45 **Act become immediately operative for contracts for public works between the department**

1 **and contractors.**

2 **(3) The department shall prepare and submit a biennial report to the Legislative Assem-**
3 **bly describing the department's workforce development plan and progress the department is**
4 **making toward meeting the goals set forth in section 6 of this 2007 Act and the amendments**
5 **to ORS 279C.830 (4)(b) and (d) by section 4 of this 2007 Act. The first report is due on January**
6 **1, 2009.**

7 **SECTION 13. Except as provided in section 12 of this 2007 Act, sections 2 and 6 of this**
8 **2007 Act and the amendments to ORS 279C.800, 279C.820, 279C.830, 279C.840, 279C.845, 279C.850**
9 **and 279C.865 by sections 3, 4 and 7 to 11 of this 2007 Act apply only to public works contracts**
10 **first advertised, or if not advertised then entered into, on or after the effective date of this**
11 **2007 Act.**

12
