

HOUSE AMENDMENTS TO HOUSE BILL 2795

By COMMITTEE ON BUSINESS AND LABOR

April 20

1 On page 3 of the printed bill, after line 20, insert:

2 “**SECTION 3.** ORS 279C.815, as amended by section 2 of this 2007 Act, is amended to read:

3 “279C.815. (1) As used in this section, ‘person’ includes any employer, labor organization or any
4 official representative of an employee or employer association.

5 “(2)(a) The Commissioner of the Bureau of Labor and Industries shall determine the prevailing
6 rate of wage for workers in each trade or occupation in each locality described in ORS 279C.800
7 at least once each year by means of an independent wage survey and make this information avail-
8 able at least twice each year. The commissioner may amend the rate at any time.

9 “(b) In making the determinations, the commissioner shall rely on an independent wage survey
10 to be conducted once each year. However, if it appears to the commissioner that the data derived
11 from the survey alone are insufficient to establish the rate, the commissioner also shall consider
12 additional information such as collective bargaining agreements, other independent wage surveys
13 and the prevailing rates of wage determined by appropriate federal agencies or agencies of adjoining
14 states. If there is not a majority in the same trade or occupation paid at the same rate, the average
15 rate of hourly wage, including all fringe benefits, paid in the locality to workers in the same trade
16 or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to
17 workers on any public works is based on some period of time other than an hour, the hourly wage
18 shall be mathematically determined by the number of hours worked in that period of time.

19 “(c) The commissioner shall compare the prevailing rate of wage determined under paragraph
20 (a) of this subsection with the federal prevailing rate of wage required under the Davis-Bacon Act
21 (40 U.S.C. 276a) and determine which rate is higher for workers in each trade or occupation in each
22 locality. The commissioner shall make this information, showing which prevailing rate of wage is
23 higher for workers in each trade or occupation in each locality, available at the same time as the
24 commissioner makes information available under paragraph (a) of this subsection.

25 “(3) A person shall make such reports and returns to the Bureau of Labor and Industries as the
26 commissioner may require to determine the prevailing rates of wage. The reports and returns shall
27 be made upon forms furnished by the bureau and within the time prescribed by the commissioner.
28 The person or an authorized representative of the person shall certify to the accuracy of the reports
29 and returns.

30 “(4) Notwithstanding ORS 192.410 to 192.505, all reports and returns or other information pro-
31 vided to the commissioner under this section are confidential and not available for inspection by the
32 public.

33 “(5) In order to assist the commissioner in making determinations of the prevailing rates of
34 wage, the commissioner may enter into contracts with public or private parties to obtain relevant
35 data and information. Any such contract may include provisions for the manner and extent of the

1 market review of affected trades and occupations and such other requirements regarding timelines
2 of reports, accuracy of data and information and supervision and review as the commissioner may
3 prescribe.

4 “[6] *The commissioner shall periodically audit the wage survey data collected and the reports and*
5 *returns made under this section. The commissioner may audit the data, reports and returns on a ran-*
6 *dom basis or when the commissioner has cause to question the accuracy or adequacy of the data or a*
7 *report or return.*”.

8 In line 21, delete “3” and insert “4”.

9 In line 23, delete “contractor to whom” and insert “public agency that awards”.

10 In line 24, delete “has been awarded”.

11 Delete lines 37 and 38 and insert:

12 “(3) The public agency shall pay the fee at the time the public agency enters into the public
13 works contract.”.

14 Delete lines 39 through 41.

15 After line 41, insert:

16 “**SECTION 5.** ORS 279C.825, as amended by section 4 of this 2007 Act, is amended to read:

17 “279C.825. (1)(a) The Commissioner of the Bureau of Labor and Industries, by rule, shall estab-
18 lish a fee to be paid by the public agency that awards a public works contract subject to ORS
19 279C.800 to 279C.870. The fee shall be used to pay the costs of:

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

21 “[B] *Audits of wage survey data collected and reports and returns made under ORS 279C.815;*]

22 “[C] **(B)** Administering and providing investigations under and enforcement of ORS 279C.800
23 to 279C.870; and

24 “[D] **(C)** Providing educational programs on public contracting law under the Public Con-
25 tracting Code.

26 “(b) The fee shall be 0.1 percent of the contract price. However, in no event may a fee be
27 charged and collected that is more than [\$7,500] **\$5,000** or less than [\$250] **\$100**.

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

31 “(3) The public agency shall pay the fee at the time the public agency enters into the public
32 works contract.”.

33 In line 42, delete “4” and insert “6”.

34 On page 4, delete lines 25 and 26 and insert:

35 “**SECTION 7. The amendments to ORS 279C.815 and 279C.825 by sections 3 and 5 of this**
36 **2007 Act become operative on January 1, 2011.**

37 “**SECTION 8. (1) The amendments to ORS 279C.825 by section 4 of this 2007 Act apply only**
38 **to public works contracts entered into on or after the effective date of this 2007 Act.**

39 “**(2) The amendments to ORS 279C.825 by section 5 of this 2007 Act apply only to public**
40 **works contracts entered into on or after the operative date specified in section 7 of this 2007**
41 **Act.**”.