

House Bill 2842

Sponsored by Representative WITT; Representatives BARKER, BOQUIST, BUCKLEY, CLEM, ESQUIVEL, KOMP, MAURER, MINNIS, SCHAUFLEER, Senator L GEORGE (at the request of National Federation of Independent Business, Oregon School Employee Association)

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**.

Establishes Commission for the Products of Disabled Individuals. Transfers certain duties concerning qualified nonprofit agencies for disabled individuals from Oregon Department of Administrative Services to commission.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Commission for the Products of Disabled Individuals; creating new provisions;
3 amending ORS 279.835 and 279.850; repealing ORS 279.845; and declaring an emergency.

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 279.835 to**
6 **279.855.**

7 **SECTION 2. (1) There is established the Commission for the Products of Disabled Indi-**
8 **viduals consisting of nine members appointed by the Governor, including:**

9 (a) **Two members who represent qualified nonprofit agencies for disabled individuals;**

10 (b) **Two members who represent private businesses;**

11 (c) **One member who represents a labor organization;**

12 (d) **One member who is a disabled individual;**

13 (e) **One member who represents the Oregon Department of Administrative Services;**

14 (f) **One member who represents a local government; and**

15 (g) **One member who represents the public.**

16 (2) **The appointment of a member of the commission is subject to confirmation by the**
17 **Senate in the manner prescribed in ORS 171.562 and 171.565.**

18 (3) **The term of office of each member is three years, but a member serves at the pleas-**
19 **ure of the Governor. Before the expiration of the term of a member, the Governor shall ap-**
20 **point a successor whose term begins on January 1 next following. A member is eligible for**
21 **reappointment. If there is a vacancy for any cause, the Governor shall make an appointment**
22 **to become immediately effective for the unexpired term.**

23 (4) **The purpose of the commission is to set policy for the implementation and adminis-**
24 **tration of ORS 279.835 to 279.855.**

25 (5) **The commission shall:**

26 (a) **Certify qualified nonprofit agencies for disabled individuals.**

27 (b) **Establish and publish a list of sources or potential sources of products produced and**
28 **services provided by qualified nonprofit agencies for disabled individuals that the commission**
29 **determines are suitable for procurement by public agencies pursuant to ORS 279.835 to**

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.

1 279.855, 279A.025 (4) and 279C.335. The commission shall distribute this procurement list and
 2 revisions of the list to all public purchasing officers.

3 (c) Determine the price of all products manufactured for sale and services offered to
 4 public agencies by a qualified nonprofit agency for disabled individuals. The price must re-
 5 cover for the qualified nonprofit agency for disabled individuals the cost of raw materials,
 6 labor, overhead, delivery costs and a margin held in reserve for inventory and equipment
 7 replacement.

8 (d) Revise the prices described in paragraph (c) of this subsection from time to time in
 9 accordance with changing cost factors.

10 (e) Establish a process to appeal decisions of the commission.

11 (f) In accordance with ORS chapter 183, adopt rules necessary to administer and carry
 12 out the purposes of ORS 279.835 to 279.855.

13 (6) The commission may:

14 (a) Enter into contracts the commission determines are necessary to administer ORS
 15 279.835 to 279.855 or to carry out the duties of the commission.

16 (b) Perform any duties necessary to fully implement and administer ORS 279.835 to
 17 279.855.

18 (7) The commission shall select one of its members as chairperson and another as vice
 19 chairperson, for such terms and with duties and powers necessary for the performance of
 20 the functions of such offices as the commission determines.

21 (8) A majority of the members of the commission constitutes a quorum for the trans-
 22 action of business.

23 (9) The commission shall meet at least once every three months at a place, day and hour
 24 determined by the commission. The commission may also meet at other times and places by
 25 the call of the chairperson or of a majority of the members of the commission.

26 (10) The Oregon Department of Administrative Services shall provide staff support to the
 27 commission.

28 (11) A member of the commission is entitled to compensation and expenses as provided
 29 in ORS 292.495.

30 **SECTION 3.** The duties, functions and powers of the Oregon Department of Administra-
 31 tive Services relating to ORS 279.845 and 279.850 are imposed upon, transferred to and vested
 32 in the Commission for the Products of Disabled Individuals.

33 **SECTION 4.** The transfer of duties, functions and powers to the Commission for the
 34 Products of Disabled Individuals by section 3 of this 2007 Act does not affect any action,
 35 proceeding or prosecution involving or with respect to such duties, functions and powers
 36 begun before and pending at the time of the transfer, except that the commission is substi-
 37 tuted for the Oregon Department of Administrative Services in the action, proceeding or
 38 prosecution.

39 **SECTION 5.** (1) Nothing in sections 2 to 7 and 12 of this 2007 Act and the amendments
 40 to ORS 279.835 and 279.850 by sections 8 and 9 of this 2007 Act relieves a person of a liability,
 41 duty or obligation accruing under or with respect to the duties, functions and powers
 42 transferred by section 3 of this 2007 Act. The Commission for the Products of Disabled In-
 43 dividuals may undertake the collection or enforcement of any such liability, duty or obli-
 44 gation.

45 (2) The rights and obligations of the Oregon Department of Administrative Services le-

1 gally incurred under contracts, leases and business transactions executed, entered into or
 2 begun before the operative date of section 3 of this 2007 Act, accruing under or with respect
 3 to the duties, functions and powers transferred by section 3 of this 2007 Act, are transferred
 4 to the commission. For the purpose of succession to these rights and obligations, the com-
 5 mission is a continuation of the department and not a new authority.

6 **SECTION 6.** Notwithstanding the transfer of duties, functions and powers by section 3
 7 of this 2007 Act, the rules of the Oregon Department of Administrative Services with respect
 8 to such duties, functions or powers that are in effect on the operative date of section 3 of
 9 this 2007 Act continue in effect until superseded or repealed by rules of the Commission for
 10 the Products of Disabled Individuals. References in such rules of the department to the de-
 11 partment or an officer or employee of the department are considered to be references to the
 12 commission.

13 **SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 14 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 15 the context of the duties, functions and powers transferred by section 3 of this 2007 Act,
 16 reference is made to the Oregon Department of Administrative Services, or an officer or
 17 employee of the department whose duties, functions or powers are transferred by section 3
 18 of this 2007 Act, the reference is considered to be a reference to the Commission for the
 19 Products of Disabled Individuals, which by this 2007 Act is charged with carrying out such
 20 duties, functions and powers.

21 **SECTION 8.** ORS 279.835 is amended to read:

22 279.835. As used in ORS 279.835 to 279.855:

23 [(1) “Department” means the Oregon Department of Administrative Services.]

24 [(2)] (1) “Direct labor” includes all work required for preparation, processing and packing, but
 25 not supervision, administration, inspection and shipping.

26 [(3)] (2) “Disabled individual” means an individual who, because of the nature of disabilities, is
 27 not able to participate fully in competitive employment, and for whom specialized employment op-
 28 portunities must be provided.

29 [(4)] (3) “Public agency” [or “public contracting agency”] means any agency of the State of
 30 Oregon or any political subdivision thereof authorized by law to enter into public contracts and any
 31 public body created by intergovernmental agreement.

32 [(5)] (4) “Qualified nonprofit agency for disabled individual” means a nonprofit activity center
 33 or rehabilitation facility:

34 (a) Organized under the laws of the United States or of this state and operated in the interest
 35 of disabled individuals, and the net income of which does not inure in whole or in part to the benefit
 36 of any shareholder or other individual;

37 (b) That complies with any applicable occupational health and safety standard required by the
 38 laws of the United States or of this state; and

39 (c) That in the manufacture of products and in the provision of services, whether or not the
 40 products or services are procured under ORS 279.835 to 279.855, during the fiscal year employs
 41 disabled individuals for not less than 75 percent of the work hours of direct labor required for the
 42 manufacture or provision of the products or services.

43 **SECTION 9.** ORS 279.850 is amended to read:

44 279.850. (1) If [any] a public agency intends to procure any product or service on the procure-
 45 ment list, [that] the public agency shall, in accordance with rules of the [Oregon Department of Ad-

1 *ministrative Services*] **Commission for the Products of Disabled Individuals**, procure [*such*] **the**
 2 product or service[,] at the price established by the [*department,*] **commission** from a qualified
 3 nonprofit agency for disabled individuals, provided the product or service is of the appropriate
 4 specifications and is available within the period required by [*that*] **the** public agency.

5 (2) In furthering the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335, it is the
 6 intent of the Legislative Assembly that there be close cooperation between the [*department*] **com-**
 7 **mission**, public [*contracting*] agencies and qualified nonprofit agencies for disabled individuals. The
 8 [*department*] **commission**, on behalf of public [*contracting*] agencies and qualified nonprofit agencies
 9 for disabled individuals, is authorized to enter into such contractual agreements, cooperative work-
 10 ing relationships or other arrangements as may be determined to be necessary for effective coordi-
 11 nation and efficient realization of the objectives of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335
 12 and any other law requiring procurement of products or services.

13 **SECTION 10. Sections 2 to 7 and 12 of this 2007 Act and the amendments to ORS 279.835**
 14 **and 279.850 by sections 8 and 9 of this 2007 Act become operative on January 1, 2008.**

15 **SECTION 11. Notwithstanding the term of office specified by section 2 of this 2007 Act,**
 16 **of the members first appointed to the Commission for the Products of Disabled Individuals:**

- 17 (1) **Three shall serve for a term ending January 1, 2009.**
- 18 (2) **Three shall serve for a term ending January 1, 2010.**
- 19 (3) **Three shall serve for a term ending January 1, 2011.**

20 **SECTION 12. ORS 279.845 is repealed.**

21 **SECTION 13. The Governor may appoint the members of the Commission for the Pro-**
 22 **ducts of Disabled Individuals before the operative date of section 2 of this 2007 Act. The Di-**
 23 **rector of the Oregon Department of Administrative Services may take any action before the**
 24 **operative date of sections 2 to 7 and 12 of this 2007 Act and the amendments to ORS 279.835**
 25 **and 279.850 by sections 8 and 9 of this 2007 Act that is necessary to enable the commission**
 26 **to exercise, on and after the operative date of sections 2 to 7 and 12 of this 2007 Act and the**
 27 **amendments to ORS 279.835 and 279.850 by sections 8 and 9 of this 2007 Act, all the duties,**
 28 **functions and powers conferred on the commission by this 2007 Act.**

29 **SECTION 14. This 2007 Act being necessary for the immediate preservation of the public**
 30 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
 31 **on its passage.**

32