

Senate Bill 877

Sponsored by Senator L GEORGE

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 Department of Transportation Contract Review Board. Allows contractor that has public contract with Department of Transportation to request review of contract by board. Requires board to hold informal hearing and issue proposed decision. Requires board to hold formal hearing and issue final order if party does not accept board's proposed decision.

Establishes Department of Transportation Contract Review Fund. Requires board to deposit filing fees in fund. Continuously appropriates moneys in fund to board to carry out its functions. Sunsets January 2, 2012.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to Department of Transportation Contract Review Board; appropriating money; and declaring an emergency.

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

DEPARTMENT OF TRANSPORTATION CONTRACT REVIEW BOARD

(Establishment; appointment; term; confirmation; per diem)

SECTION 1. (1) There is established the Department of Transportation Contract Review Board, consisting of five members appointed by the Governor.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) The appointment of each member is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

SECTION 2. Notwithstanding the term of office specified by section 1 of this 2007 Act, of the members first appointed to the Department of Transportation Contract Review Board:

(1) One shall serve for a term ending January 1, 2009.

(2) One shall serve for a term ending January 1, 2010.

(3) One shall serve for a term ending January 1, 2011.

(4) Two shall serve for terms ending January 1, 2012.

(Qualification of members)

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.

SECTION 3. The members of the Department of Transportation Contract Review Board must have experience in construction, engineering, architecture or the law. A member may not be employed by the Department of Transportation during the member’s term in office.

(Officers of board; quorum; meetings)

SECTION 4. (1) The Department of Transportation Contract Review Board shall select one of its members as chairperson and another as vice chairperson, for such terms and with such duties and powers necessary to perform the functions of such offices as the board determines.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at a place, day and hour determined by the board. The board may also meet at other times and places specified by the call of the chairperson or of a majority of the members of the board.

(4) The Department of Transportation shall provide staff support to the board.

(Authority to adopt rules)

SECTION 5. In accordance with applicable provisions of ORS chapter 183, the Department of Transportation Contract Review Board may adopt rules necessary for the administration of sections 1 to 8 of this 2007 Act.

(Oaths; witnesses; subpoenas)

SECTION 6. The Department of Transportation Contract Review Board may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the provisions of sections 1 to 8 of this 2007 Act. If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the procedure set out in ORS 183.440 shall be followed to compel obedience.

(Duties of board; contract review)

SECTION 7. (1) A contractor that has entered into a public contract with the Department of Transportation and that has a dispute with the department about the contract may request a review of the contract by the Department of Transportation Contract Review Board. If the contractor requests review by the board, the review is in lieu of any other dispute resolution process available to the contractor under the contract.

(2) To request review, the contractor shall file a written request with the board and serve a copy of the request on the department. The request must be accompanied by a filing fee of \$500. However, if the matter in dispute is valued at less than \$5,000, the filing fee is \$100. In the request, the contractor shall include a short and plain statement explaining the dispute under the public contract.

(3) Within 15 days after receiving the request for review, the board shall hold an informal

1 hearing to take evidence regarding the dispute under public contract. A representative of the
 2 contractor and a representative of the department shall appear at the hearing.
 3 Notwithstanding ORS 8.690, 9.160 and 9.320 and ORS chapter 180, neither the contractor nor
 4 the department is required to be represented by legal counsel at the hearing.

5 (4) Within 30 days after the informal hearing, the board shall issue a proposed decision.
 6 A decision by the board, including a final order issued under subsection (7) of this section,
 7 requires a majority vote of all members of the board.

8 (5) If the contractor and the department accept the board's proposed decision, the deci-
 9 sion constitutes a settlement of the dispute.

10 (6) If either party to the contract does not accept the board's proposed decision, within
 11 10 days after the board issues the decision the party shall notify the board and the other
 12 party that the decision is not acceptable. The board shall then set the matter for a formal
 13 hearing under the applicable provisions of ORS chapter 183 within 15 days.

14 (7) Within 15 days after the formal hearing, the board shall issue a final order. However,
 15 because of the complexity of a case, the board may extend the time for issuing the final order
 16 by 15 days. The final order is subject to judicial review as provided in ORS 183.482.

17 (8) If the board fails to issue a final order within the 30 days permitted under subsection
 18 (7) of this section, the dispute at issue is deemed to be resolved in favor of the contractor.

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 20 (Department of Transportation Contract Review Fund)

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 22 **SECTION 8.** (1) The Department of Transportation Contract Review Fund is established
 23 separate and distinct from the General Fund. Interest earned by the fund shall be credited
 24 to the fund.

25 (2) All fees received by the Department of Transportation Contract Review Board under
 26 section 7 of this 2007 Act shall be paid into the State Treasury and deposited in the Depart-
 27 ment of Transportation Contract Review Fund. Such fees are continuously appropriated to
 28 the board for the purposes of administering sections 1 to 8 of this 2007 Act.

29
 30 MISCELLANEOUS

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 32 **SECTION 9.** Sections 1 to 8 of this 2007 Act become operative on January 1, 2008.

33 **SECTION 10.** The Governor may appoint members of the Department of Transportation
 34 Contract Review Board before the operative date of section 1 of this 2007 Act and may take
 35 any action before that date that is necessary to enable the board to exercise, on and after
 36 the operative date of sections 1 to 8 of this 2007 Act, the duties, functions and powers of the
 37 board pursuant to sections 1 to 8 of this 2007 Act.

38 **SECTION 11.** Sections 1 to 8 of this 2007 Act are repealed on January 2, 2012.

39 **SECTION 12.** The unit captions used in this 2007 Act are provided only for the conven-
 40 ience of the reader and do not become part of the statutory law of this state or express any
 41 legislative intent in the enactment of this 2007 Act.

42 **SECTION 13.** This 2007 Act being necessary for the immediate preservation of the public
 43 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
 44 on its passage.