

2009 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 2699

STATUS: A Engrossed

SUBJECT: Expansion of the definition of “public works” and the establishment of parameters regarding fees paid to BOLI

GOVERNMENT UNIT AFFECTED: Bureau of Labor and Industries, counties, cities, Department of Administrative Services – State Procurement Office, state agencies

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DATE: April 28, 2009

EXPENDITURES:	<u>2009-2011</u>	<u>2011-2013</u>
<u>Bureau of Labor and Industries</u>		
Personal Services – Other Funds	\$ 122,393	\$ 122,393
Services and Supplies – Other Funds	\$ 24,479	\$ 24,479
Total	\$ <u>146,872</u>	\$ <u>146,872</u>

POSITIONS / FTE: 1/1.00 1/1.00

Cities and Counties

PWR Fees	\$ 100,000- 150,000	\$ 100,000- 150,000
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REVENUES:	<u>2009-2011</u>	<u>2011-2013</u>
<u>Bureau of Labor and Industries</u>		
PWR Fees – Other Funds	\$ 100,000- 150,000	\$ 100,000- 150,000

EFFECTIVE DATE: On passage.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: This measure expands the current definition of “public works” to include projects for the construction, reconstruction or major renovation of a privately owned road, highway, building, structure or improvement of any type that is (a) located in an enterprise zone (one of the areas designated by the Governor or the Director of the Economic and Community Development Department); (b) consists of or is sited on real property for which a qualified business firm has received an exemption from ad valorem property taxation; and (c) has a projected cost of \$5 million or more. The measure requires the sponsor(s) of the enterprise zone in which a public works is or will be located to pay a \$5,000 fee to the Bureau of Labor and Industries (BOLI) and specifies the parameters around payment of the fee.

Currently there are 59 designated enterprise zones in Oregon. The sponsor of the enterprise zone can be a city, county, port, or tribal government. The local government entities which sponsor the enterprise zones in which public works projects are or will be located will be required to pay a \$5,000 fee to BOLI. The fiscal impact to these local government entities is the fee paid to BOLI. Although the number of projects within existing enterprise zones that will be subject to the requirements of the bill is unknown,

the Association of Oregon Counties estimates that 12-15 projects annually will be subject to the fee requirements. BOLI's estimate is slightly less at 10 additional projects per year. These projects will fall under prevailing wage laws which are administered and regulated by the Bureau of Labor and Industries (BOLI).

There is a fiscal impact to BOLI. This measure adds certain projects constructed in enterprise zones to the definition of "public works". Public works projects are generally covered by prevailing wage rate law which is administered by BOLI. BOLI anticipates that 10 additional projects will be subject to the requirements under the prevailing wage rate law which is administered and enforced by BOLI. The workload of BOLI's current Prevailing Wage Rate Unit would increase as the projects that would fall into the expanded definition of "public works" are not typical of other prevailing wage rate projects and would require a special focus on enforcement, additional rulemaking, public education, and the development of new forms and publications. These new projects would differ from the projects that BOLI currently administers and enforces the PWR law over in that public agencies contract for the construction of current projects and these new projects would lack the public entity and instead BOLI would be dealing with a private contractor. BOLI estimates that it would require one full-time Compliance Specialist 2 position to enforce the requirements and provide technical support of the prevailing wage rate law on the new projects. The total cost of the position is \$146,872 for the 2009-11 biennium and \$146,872 for the 2011-13 biennium. The measure also allows BOLI to collect a \$5,000 fee paid by the sponsor(s) of the enterprise zone in which a public works is or will be located. BOLI estimates that 10 projects will fall into the expanded definition of "public works" and meet the other criteria in the bill and generate an estimated \$100,000 in Other Funds revenue per biennium.

Finally, there is a minimal fiscal impact to the Department of Administrative Services (DAS) – State Procurement Office. DAS will incur minimal legal costs to draft the appropriate solicitation and contract document language for state agencies that are subject to DAS procurement authority. DAS will also require some rulemaking, training courses and material revision, and some upgrades to its current solicitation and contract documents. Agencies that have independent procurement authority from DAS would be required to address the requirement in their own procurement rules, training and solicitation materials, and contract documents; these costs are expected to be minimal.