

House Bill 2397

Sponsored by Representative HOLVEY (Pre-session filed.)

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**.

Includes in definition of "public works" fabrication or manufacture of nonstandard items produced by contract specifically for public works.

A BILL FOR AN ACT

1
2 Relating to fabrication of nonstandard items specifically for public works; creating new provisions;
3 and amending ORS 279C.800.

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

5 **SECTION 1.** ORS 279C.800 is amended to read:

6 279C.800. As used in ORS 279C.800 to 279C.870, unless the context requires otherwise:

7 (1) "Fringe benefits" means the amount of:

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

10 (b) The rate of costs to the contractor or subcontractor that may be reasonably anticipated in
11 providing benefits to workers pursuant to an enforceable commitment to carry out a financially re-
12 sponsible plan or program that is committed in writing to the workers affected, for medical or hos-
13 pital care, pensions on retirement or death, compensation for injuries or illness resulting from
14 occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life
15 insurance, disability and sickness insurance or accident insurance, for vacation and holiday pay, for
16 defraying costs of apprenticeship or other similar programs or for other bona fide fringe benefits,
17 but only when the contractor or subcontractor is not required by other federal, state or local law
18 to provide any of these benefits.

19 (2) "Housing" has the meaning given that term in ORS 456.055.

20 (3) "Locality" means the following district in which the public works, or the major portion
21 thereof, is to be performed:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (4) "Prevailing rate of wage" means the rate of hourly wage, including all fringe benefits, paid
6 in the locality to the majority of workers employed on projects of similar character in the same
7 trade or occupation, as determined by the Commissioner of the Bureau of Labor and Industries.

8 (5) "Public agency" means the State of Oregon or any political subdivision thereof or any
9 county, city, district, authority, public corporation or entity and any instrumentality thereof organ-
10 ized and existing under law or charter.

11 (6)(a) "Public works" includes, but is not limited to:

12 (A) Roads, highways, buildings, structures and improvements of all types, the construction, re-
13 construction, major renovation or painting of which is carried on or contracted for by any public
14 agency to serve the public interest;

15 (B) A project for the construction, reconstruction, major renovation or painting of a privately
16 owned road, highway, building, structure or improvement of any type that uses funds of a private
17 entity and \$750,000 or more of funds of a public agency; [or]

18 (C) A project for the construction of a privately owned road, highway, building, structure or
19 improvement of any type that uses funds of a private entity and in which 25 percent or more of the
20 square footage of the completed project will be occupied or used by a public agency[.]; **or**

21 **(D) The fabrication or manufacture of nonstandard items produced by contract specif-**
22 **ically for public works.**

23 (b) "Public works" does not include:

24 (A) The reconstruction or renovation of privately owned property that is leased by a public
25 agency; or

26 (B) The renovation of publicly owned real property that is more than 75 years old by a private
27 nonprofit entity if:

28 (i) The real property is leased to the private nonprofit entity for more than 25 years;

29 (ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost
30 of the renovation; and

31 (iii) Contracts for the renovation were advertised or, if not advertised, were entered into before
32 July 1, 2003, but the renovation has not been completed on or before July 13, 2007.

33 **SECTION 2. The amendments to ORS 279C.800 by section 1 of this 2009 Act apply to**
34 **contracts for public works first advertised or, if not advertised, first entered into on or after**
35 **the effective date of this 2009 Act.**

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