

A-Engrossed
House Bill 2699

Ordered by the House April 30
Including House Amendments dated April 30

Sponsored by Representative HOLVEY

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.

Modifies definition of "public works." [*Requires payment of prevailing rate of wage in connection with public works for which funds of public agency are used, including funds received in form of tax credit or tax abatement.*]

[*Exempts projects that are privately owned and that use private funds and not more than certain amount of funds of public agency from prevailing wage requirements.*]

Classifies exemption from ad valorem property taxation as funds of public agency for purpose of imposing prevailing rate of wage. Requires city, county or other sponsor of enterprise zone to notify Commissioner of Bureau of Labor and Industries of any exemption from ad valorem property taxation connected with public works located in sponsor's enterprise zone.

Requires sponsor of enterprise zone in which public works is located to pay specified fee. Creates procedures by which multiple public agencies that award contract for public works or multiple sponsors that designate enterprise zone in which public works is located must apportion fees and receive certified statements.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the application of prevailing wage rates; creating new provisions; amending ORS
3 279C.800, 279C.810, 279C.825, 279C.827, 279C.830, 279C.835, 279C.845 and 651.170 and section 8,
4 chapter 844, Oregon Laws 2007; and declaring an emergency.

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

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

7 279C.800. As used in ORS 279C.800 to 279C.870[*unless the context requires otherwise*]:

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

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

11 (b) The rate of costs to the contractor or subcontractor that may be reasonably anticipated in
12 providing **the following items, exclusive of items that federal, state or local law requires the**
13 **contractor or subcontractor to provide:**

14 (A) Benefits to workers pursuant to an enforceable **written** commitment **to the workers** to
15 carry out a financially responsible plan or program [*that is committed in writing to the workers af-*
16 *fected,*] for:

17 (i) Medical or hospital care[,];

18 (ii) Pensions on retirement or death[,]; **or**

19 (iii) Compensation for injuries or illness [*resulting*] **that result** from occupational activity[,
20 *or*];

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 (B) Insurance to provide *[any of the foregoing,]* **the benefits described in subparagraph (A)**
2 **of this paragraph;**

3 (C) *[for]* Unemployment benefits[.];

4 (D) Life insurance[.];

5 (E) Disability and sickness insurance or accident insurance[.];

6 (F) *[for]* Vacation and holiday pay[.];

7 (G) *[for defraying]* Costs **or a portion of the costs** of apprenticeship or other similar
8 programs; **or**

9 (H) *[or for]* Other bona fide fringe benefits[, *but only when the contractor or subcontractor is not*
10 *required by other federal, state or local law to provide any of these benefits*].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (5) "Public agency" means the State of Oregon or *[any]* a political subdivision *[thereof]* **of the**
32 **State of Oregon** or *[any]* a county, city, district, authority, public corporation or **public** entity
33 *[and]* **or** any instrumentality *[thereof]* **of a county, city, district, authority, public corporation**
34 **or public entity** organized and existing under law or charter.

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

36 (A) Roads, highways, buildings, structures and improvements of all types, the construction, re-
37 construction, major renovation or painting of which is carried on or contracted for by *[any]* a public
38 agency to serve the public interest;

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

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

45 (D) **A project for the construction, reconstruction or major renovation of a privately**

1 **owned road, highway, building, structure or improvement of any type that:**

2 (i) **Is located in an enterprise zone, as defined in ORS 285C.050;**

3 (ii) **Consists of or is sited on real property for which a qualified business firm, as defined**
4 **in ORS 285C.050, has received an exemption from ad valorem property taxation under ORS**
5 **285C.170 or 285C.175; and**

6 (iii) **Has a projected cost of \$5 million or more.**

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

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

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

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

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

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

17 **(7) "Sponsor" has the meaning given that term in ORS 285C.050.**

18 **SECTION 2.** ORS 279C.810 is amended to read:

19 279C.810. (1) As used in this section:

20 (a) "Funds of a public agency" does not include:

21 (A) Funds provided in the form of a government grant to a nonprofit organization, unless the
22 government grant is issued for the purpose of construction, reconstruction, major renovation or
23 painting;

24 (B) Building and development permit fees [*paid or waived by*] **that** the public agency **pays or**
25 **waives;**

26 (C) Tax credits or tax abatements, **except for exemptions from ad valorem property taxation**
27 **allowed under ORS 285C.170 or 285C.175;**

28 (D) Land that a public agency sells to a private entity at fair market value;

29 (E) The difference between:

30 (i) The value of land that a public agency sells to a private entity as determined at the time of
31 the sale after taking into account any plan, requirement, covenant, condition, restriction or other
32 limitation, exclusive of zoning or land use regulations, that the public agency imposes on the de-
33 velopment or use of the land; and

34 (ii) The fair market value of the land if the land is not subject to the limitations described in
35 sub-subparagraph (i) of this subparagraph;

36 (F) Staff resources [*of*] the public agency [*used*] **uses** to:

37 (i) Manage a project or to provide a principal source of supervision, coordination or oversight
38 of a project; **or**

39 [(G)] (ii) [*Staff resources of the public agency used to*] Design or inspect one or more components
40 of a project;

41 [(H)] (G) Moneys derived from the sale of bonds that [*are loaned by*] a state agency **loans** to a
42 private entity, unless the moneys will be used for a public improvement;

43 [(I)] (H) Value added to land as a consequence of a public agency's site preparation, demolition
44 of real property or remediation or removal of environmental contamination, except for value added
45 in excess of the expenses the public agency incurred in the site preparation, demolition or remedi-

1 ation or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to
2 279C.870; or

3 [(J)] (I) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289
4 or ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

5 (b) "Nonprofit organization" means an organization or group of organizations described in sec-
6 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of
7 the Internal Revenue Code.

8 (2) ORS 279C.800 to 279C.870 do not apply to:

9 (a) Projects for which the contract price does not exceed \$50,000. In determining the price of a
10 project, a public agency:

11 (A) May not include the value of donated materials or work performed on the project by indi-
12 viduals volunteering to the public agency without pay; and

13 (B) Shall include the value of work performed by every person paid by a contractor or subcon-
14 tractor in any manner for the person's work on the project.

15 (b) Projects for which no funds of a public agency are directly or indirectly used. In accordance
16 with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries shall adopt rules to
17 carry out the provisions of this paragraph.

18 (c) Projects:

19 (A) That are privately owned;

20 (B) That use funds of a private entity;

21 (C) In which **a public agency will occupy or use** less than 25 percent of the square footage
22 of [a] **the** completed project [*will be occupied or used by a public agency*]; and

23 (D) For which less than \$750,000 of funds of a public agency are used.

24 (d) Projects for residential construction that are privately owned and that predominantly provide
25 affordable housing. As used in this paragraph:

26 (A) "Affordable housing" means housing that serves occupants whose incomes are no greater
27 than 60 percent of the area median income or, if the occupants are owners, whose incomes are no
28 greater than 80 percent of the area median income.

29 (B) "Predominantly" means 60 percent or more.

30 (C) "Privately owned" includes:

31 (i) Affordable housing provided on real property owned by a public agency if the real property
32 and related structures are leased to a private entity for 50 or more years; and

33 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-
34 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or
35 managing member and the housing authority is not a majority owner in the partnership, nonprofit
36 corporation or limited liability company.

37 (D) "Residential construction" includes the construction, reconstruction, major renovation or
38 painting of single-family houses or apartment buildings not more than four stories in height and all
39 incidental items, such as site work, parking areas, utilities, streets and sidewalks, pursuant to the
40 United States Department of Labor's "All Agency Memorandum No. 130: Application of the Standard
41 of Comparison "Projects of a Character Similar" Under Davis-Bacon and Related Acts," dated
42 March 17, 1978. However, the commissioner may consider different definitions of residential con-
43 struction in determining whether a project is a residential construction project for purposes of this
44 paragraph, including definitions that:

45 (i) Exist in local ordinances or codes; or

1 (ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States
2 Department of Labor's description of residential construction.

3 **SECTION 3.** ORS 279C.825 is amended to read:

4 279C.825. (1)(a) The Commissioner of the Bureau of Labor and Industries[,] by rule[,] shall es-
5 tablish a fee to be paid by the public agency **or public agencies** that [awards] **award** a public works
6 contract subject to ORS 279C.800 to 279C.870.

7 **(b) The sponsor or sponsors of the enterprise zone in which a public works is or will be**
8 **located shall pay a fee in the amount of \$5,000.**

9 **(2)(a) If more than one public agency is involved in awarding a contract for public works**
10 **subject to ORS 279C.800 to 279C.870, the public agencies involved shall agree which public**
11 **agencies shall pay the fee and in what amounts. If the public agencies do not agree, the**
12 **public agencies involved shall pay a proportional share of the fee based on the amount of**
13 **public funds each public agency provides for the contract or the amount of space each public**
14 **agency occupies or uses in the public works.**

15 **(b) If more than one sponsor has participated in the designation of an enterprise zone in**
16 **which a public works subject to ORS 279C.800 to 279C.870 is located, the participating spon-**
17 **sors shall agree which sponsors shall pay the fee and in what amounts. If the sponsors do**
18 **not agree, the sponsors are jointly and severally liable for paying the fee.**

19 **(3) The commissioner shall use the proceeds of the fee [shall be used] to pay the costs of:**

20 [(A)] **(a) Surveys to determine the prevailing rates of wage;**

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

23 [(C)] **(c) Providing educational programs on public contracting law under the Public Contracting**
24 **Code.**

25 [(b)] **(4) Except as provided in subsection (1)(b) of this section, the fee [shall be] is 0.1 per-**
26 **cent of the contract price. [However, in no event may] A fee may not be charged and collected**
27 **under this subsection that is more than \$5,000 or less than \$100.**

28 [(2)] **(5) The commissioner shall pay moneys received under this section into the State Treasury.**
29 **The moneys shall be credited to the Prevailing Wage Education and Enforcement Account created**
30 **by ORS 651.185.**

31 [(3)] **(6)(a) [The] A public agency shall pay the fee at the time the public agency [enters into the**
32 **public works contract] notifies the commissioner under ORS 279C.835 that a contract subject**
33 **to the provisions of ORS 279C.800 to 279C.870 has been awarded.**

34 **(b) A sponsor shall pay the fee at the time the sponsor notifies the commissioner under**
35 **ORS 279C.835 that the sponsor approved, under ORS 285C.140, an eligible business firm's ap-**
36 **plication to have qualified property that is a public works and that is in the sponsor's en-**
37 **terprise zone exempted from ad valorem property taxation.**

38 **SECTION 4.** Section 8, chapter 844, Oregon Laws 2007, is amended to read:

39 **Sec. 8.** Notwithstanding the maximum and minimum fee amounts set forth in ORS 279C.825
40 [(1)(b)] **(4), for public works contracts entered into on or after [the effective date of this 2007 Act]**
41 **January 1, 2008, and before January 1, 2011, the fee charged and collected may not be more than**
42 **\$7,500 or less than \$250.**

43 **SECTION 5.** ORS 279C.827 is amended to read:

44 279C.827. (1)(a) A public agency **or a person that is required under ORS 279C.800 to 279C.870**
45 **to pay a prevailing rate of wage on a public works** may not divide a public works project into

1 more than one contract for the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

2 (b) When the Commissioner of the Bureau of Labor and Industries determines that a public
3 agency **or a person that is required under ORS 279C.800 to 279C.870 to pay a prevailing rate**
4 **of wage on a public works** has divided a public works project into more than one contract for the
5 purpose of avoiding compliance with ORS 279C.800 to 279C.870, the commissioner shall issue an
6 order compelling compliance.

7 (c) In making determinations under this subsection, the commissioner shall consider:

8 (A) The physical separation of the project structures;

9 (B) The timing of the work on project phases or structures;

10 (C) The continuity of project contractors and subcontractors working on project parts or phases;

11 (D) The manner in which the public agency and the contractors administer and implement the
12 project;

13 (E) Whether a single public works project includes several types of improvements or structures;
14 and

15 (F) Whether the combined improvements or structures have an overall purpose or function.

16 (2) If a project is a public works of the type described in ORS 279C.800 (6)(a)(B) or (C), the
17 commissioner, **after applying the considerations set forth in subsection (1)(c) of this section,**
18 shall divide the project, if appropriate, [*after applying the considerations set forth in subsection (1)(c)*
19 *of this section*] to separate the parts of the project that [*include*] **use** funds of a public agency or that
20 [*will be occupied or used by*] a public agency **will occupy or use** from the parts of the project that
21 do not [*include*] **use** funds of a public agency and that **a public agency will not occupy or use** [*be*
22 *occupied or used by a public agency*]. If the commissioner divides the project, any part of the project
23 that does not [*include*] **use** funds of a public agency and that [*will not be occupied or used by*] a
24 public agency **will not occupy or use** is not subject to ORS 279C.800 to 279C.870.

25 (3) If a project includes parts that [*are owned by*] a public agency **owns** and parts that [*are*
26 *owned by*] a private entity **owns**, the commissioner, **after applying the considerations set forth**
27 **in subsection (1)(c) of this section,** shall divide the project, if appropriate, [*after applying the*
28 *considerations set forth in subsections (1)(c) and (2) of this section*] to separate the parts of the project
29 that are public works from the parts of the project that are not public works. If the commissioner
30 divides the project, parts of the project that are not public works are not subject to ORS 279C.800
31 to 279C.870.

32 **SECTION 6.** ORS 279C.830 is amended to read:

33 279C.830. (1)(a) Except as provided in paragraph (d) of this subsection, the specifications for
34 every contract for public works shall contain a provision stating the existing state prevailing rate
35 of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act
36 (40 U.S.C. 3141 et seq.) that [*may*] **must** be paid to workers in each trade or occupation required
37 for the public works employed in the performance of the contract either by the contractor or sub-
38 contractor or other person doing or contracting to do the whole or any part of the work contem-
39 plated by the contract. [*When*] **If** the prevailing rates of wage are available electronically or are
40 accessible on the Internet, the rates may be incorporated into the specifications by referring to the
41 electronically accessible or Internet-accessible rates and by providing adequate information about
42 how to access the rates.

43 (b) If a public agency is required under paragraph (a) of this subsection to include the state and
44 federal prevailing rates of wage in the specifications, the public agency also shall include in the
45 specifications information [*showing*] **that shows** which prevailing rate of wage is higher for workers

1 in each trade or occupation in each locality, as determined by the Commissioner of the Bureau of
2 Labor and Industries under ORS 279C.815 (2)(c).

3 (c) Every contract and subcontract shall contain a provision that the workers shall be paid not
4 less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

5 (d) A public works project described in ORS 279C.800 (6)(a)(B) or (C) is subject to the existing
6 state prevailing rate of wage or, if applicable, the federal prevailing rate of wage required under the
7 Davis-Bacon Act that is in effect at the time a public agency enters into an agreement with a pri-
8 vate entity for the project. After that time, the specifications for *[any]* a contract for the public
9 works shall include the applicable prevailing rate of wage.

10 *[(2) The specifications for every contract for public works between a public agency and a contractor*
11 *shall contain a provision stating that a fee is required to be paid to the Commissioner of the Bureau*
12 *of Labor and Industries as provided in ORS 279C.825 (1). The contract shall contain a provision that*
13 *the fee shall be paid to the commissioner under the administrative rule of the commissioner.]*

14 *[(3)]* (2) The specifications for every contract for public works shall contain a provision stating
15 that the contractor and every subcontractor must have a public works bond filed with the Con-
16 struction Contractors Board before starting work on the project, unless **the contractor or sub-**
17 **contractor is** exempt under ORS 279C.836 (4), (7), (8) or (9). Every contract *[awarded by a*
18 *contracting agency]* **for public works** shall contain a provision requiring the contractor:

19 (a) To have a public works bond filed with the Construction Contractors Board before starting
20 work on the project, unless **the contractor is** exempt under ORS 279C.836 (4), (7), (8) or (9).

21 (b) To include in every subcontract a provision requiring the subcontractor to have a public
22 works bond filed with the Construction Contractors Board before starting work on the project, un-
23 less **the subcontractor is** exempt under ORS 279C.836 (4), (7), (8) or (9).

24 **SECTION 7.** ORS 279C.835 is amended to read:

25 279C.835. (1)(a) *[Public agencies]* **A public agency** shall notify the Commissioner of the Bureau
26 of Labor and Industries in writing, on a form prescribed by the commissioner, whenever a contract
27 subject to the provisions of ORS 279C.800 to 279C.870 has been awarded.

28 (b) **A sponsor shall notify the commissioner in writing, on a form prescribed by the**
29 **commissioner, whenever the sponsor approves, under ORS 285C.140, an eligible business**
30 **firm's application to have qualified property that is a public work and is in the sponsor's**
31 **enterprise zone exempted from ad valorem property taxation.**

32 (2)(a) *[The]* A notification **under subsection (1)(a) of this section** shall be made within 30 days
33 *[of]* **after** the date *[that]* **on which** the contract is awarded.

34 (b) **A notification under subsection (1)(b) of this section shall be made within 30 days af-**
35 **ter the date on which the sponsor approves, under ORS 285C.140, an eligible business firm's**
36 **application to have qualified property exempted from ad valorem property taxation.**

37 (c) *[The]* A notification **under subsection (1) of this section** shall include **payment of the fee**
38 **required under ORS 279C.825. A notification under subsection (1)(a) of this section shall also**
39 **include** a copy of the disclosure of first-tier subcontractors that was submitted under ORS 279C.370.

40 **SECTION 8.** ORS 279C.845 is amended to read:

41 279C.845. (1) *[The]* **A** contractor or *[the]* contractor's surety and every subcontractor or *[the]*
42 subcontractor's surety shall file certified statements *[with the public agency]* in writing, on a form
43 prescribed by the Commissioner of the Bureau of Labor and Industries, *[certifying]* **with:**

44 (a) **The public agency that awarded the contract for public works to which the contractor**
45 **is a party. If the project is a public works as defined in ORS 279C.800 (6)(a)(B) or (C), the**

1 contractor shall submit the certified statements to the public agency that provided public
 2 funds for the project or that will occupy 25 percent or more of the square footage of the
 3 completed project. If more than one public agency provided public funds for the project or
 4 will occupy 25 percent or more of the square footage of the completed project, the public
 5 agencies involved shall agree upon which public agency will receive the certified statements.

6 (b) The sponsor of the enterprise zone in which the public works project is located. If
 7 more than one sponsor participated in designating the enterprise zone, the participating
 8 sponsors shall agree upon which sponsor shall receive the certified statements.

9 (2) The statements must certify:

10 (a) The hourly rate of wage paid each worker whom the contractor or the subcontractor has
 11 employed upon the public works; and

12 (b) That no worker employed upon the public works has been paid less than the prevailing rate
 13 of wage or less than the minimum hourly rate of wage specified in the contract.

14 [(2)] (3) The certified [statement] statements shall be verified by the oath of the contractor or
 15 the contractor's surety or subcontractor or the subcontractor's surety that the contractor or sub-
 16 contractor has read the certified [statement] statements and knows the contents [thereof] of the
 17 certified statements and that the [same is] certified statements are true to the contractor or
 18 subcontractor's knowledge.

19 [(3)] (4) The certified statements shall set out accurately and completely the payroll records for
 20 the prior week, including the name and address of each worker, the worker's correct classification,
 21 rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid.

22 [(4)] (5) The contractor or subcontractor shall deliver or mail [each] the certified [statement]
 23 statements required by subsection (1) of this section to the public agency or to the sponsor.
 24 Certified statements for each week during which the contractor or subcontractor employs a worker
 25 upon the public works shall be submitted once a month, by the fifth business day of the following
 26 month. Information submitted on certified statements may be used only to ensure compliance with
 27 the provisions of ORS 279C.800 to 279C.870.

28 [(5)] (6) Each contractor or subcontractor shall preserve the certified statements for a period
 29 of three years from the date of completion of the contract.

30 [(6)] (7) Certified statements received by a public agency or a sponsor are public records sub-
 31 ject to the provisions of ORS 192.410 to 192.505.

32 [(7)] (8) Notwithstanding ORS 279C.555 or 279C.570 (7), if a contractor is required to file certi-
 33 fied statements with a public agency under this section, the public agency shall retain 25 percent
 34 of any amount earned by the contractor on the public works until the contractor has filed with the
 35 public agency certified statements as required by this section. The public agency shall pay the
 36 contractor the amount retained under this subsection within 14 days after the contractor files the
 37 certified statements as required by this section, regardless of whether a subcontractor has failed to
 38 file certified statements as required by this section. [The public agency is not required to verify the
 39 truth of the contents of certified statements filed by the contractor under this section.]

40 [(8)] (9) Notwithstanding ORS 279C.555, the contractor shall retain 25 percent of any amount
 41 earned by a first-tier subcontractor on a public works until the subcontractor has filed with the
 42 public agency certified statements as required by this section. The contractor shall verify that the
 43 first-tier subcontractor has filed the certified statements before the contractor may pay the subcon-
 44 tractor any amount retained under this subsection. The contractor shall pay the first-tier subcon-
 45 tractor the amount retained under this subsection within 14 days after the subcontractor files the

1 certified statements as required by this section. [*Neither the public agency nor the contractor is re-*
2 *quired to verify the truth of the contents of certified statements filed by a first-tier subcontractor under*
3 *this section.*]

4 **(10) This section does not require:**

5 **(a) A public agency or a sponsor to verify the truth of the contents of a contractor's**
6 **certified statements; or**

7 **(b) A public agency, sponsor or contractor to verify the truth of the contents of a sub-**
8 **contractor's certified statements.**

9 **SECTION 9.** ORS 651.170 is amended to read:

10 651.170. The Commissioner of the Bureau of Labor and Industries may incur [*such expense*] **ex-**
11 **penses** and employ [*such*] clerical aids as [*may be*] necessary to carry out ORS [279C.830 (2),]
12 651.030, 651.050, 651.060 and 651.120. The Oregon Department of Administrative Services may draw
13 warrants on the State Treasurer [*for the payment of such expense*] **to pay the expenses** upon prop-
14 erly verified vouchers approved by the commissioner. However, [*such expense shall*] **the expenses**
15 **may** not exceed at any time the amount appropriated [*therefor*] **for the expenses.**

16 **SECTION 10.** The amendments to ORS 279C.800, 279C.810, 279C.825, 279C.827, 279C.830,
17 279C.835, 279C.845 and 651.170 and section 8, chapter 844, Oregon Laws 2007, by sections 1 to
18 9 of this 2009 Act apply to contracts for public works first advertised or otherwise solicited
19 or, if not advertised or solicited, first entered into on or after the operative date specified
20 in section 11 (1) of this 2009 Act.

21 **SECTION 11.** (1) The amendments to ORS 279C.800, 279C.810, 279C.825, 279C.827, 279C.830,
22 279C.835, 279C.845 and 651.170 and section 8, chapter 844, Oregon Laws 2007, by sections 1 to
23 9 of this 2009 Act become operative 90 days after the effective date of this 2009 Act.

24 (2) The Commissioner of the Bureau of Labor and Industries may take any action before
25 the operative date set forth in subsection (1) of this section that is necessary to enable the
26 commissioner to exercise, on and after the operative date set forth in subsection (1) of this
27 section, all the duties, functions and powers conferred on the commissioner by the amend-
28 ments to ORS 279C.800, 279C.810, 279C.825, 279C.827, 279C.830, 279C.835, 279C.845 and 651.170
29 and section 8, chapter 844, Oregon Laws 2007, by sections 1 to 9 of this 2009 Act.

30 **SECTION 12.** This 2009 Act being necessary for the immediate preservation of the public
31 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
32 on its passage.