

House Bill 3604

Sponsored by Representative BAILEY (Presession 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**.

Requires contracting agency that issues request for proposals or invitation to bid for construction related to interstate bridge to include preference for products, materials and components fabricated in close proximity to site at which products, materials and components will be used and to consider, consistent with life cycle analysis, whether products, materials and components will help state to meet greenhouse gas reduction targets.

Requires contracting agency to give preference to procuring goods for public use that are manufactured close to location at which goods will be used and to goods for which life cycle analysis shows that methods and materials used in manufacturing, using and disposing of goods will help state meet greenhouse gas reduction targets.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to preference factors for public contracting; creating new provisions; amending ORS
3 279A.125, 381.015 and 381.100; and declaring an emergency.

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

5 **SECTION 1.** ORS 381.015 is amended to read:

6 381.015. (1) A request for proposals or an invitation to bid issued in accordance with the pro-
7 visions of ORS 381.005 to 381.080 at a minimum must:

8 (a) Require the proposer or bidder to comply with the requirements of ORS chapters 279A, 279B
9 and 279C and other applicable laws related to environmental protection, worker health and safety
10 and employment of apprentices; and

11 (b) State that the contracting agency will give a preference to procuring products, materials and
12 components that are fabricated [*within the boundaries of this state or the State of Washington*] **in**
13 **close proximity to the site at which the products, materials and components will be used** to
14 the maximum extent feasible and practicable and taking into consideration:

15 (A) Applicable state and federal law;

16 (B) Whether in fabricating the products, materials and components a proposer or bidder can
17 recycle materials or use recycled materials;

18 (C) Whether the sites at which the products, materials or components are fabricated are in close
19 proximity to the bridge location; [*and*]

20 **(D) Whether, consistent with a life cycle analysis of the amount of greenhouse gases that**
21 **will be produced in fabricating, using and disposing of the products, materials and compo-**
22 **nents, the products, materials and components will help to meet this state's targets under**
23 **state and federal law for reducing greenhouse gas production and emissions; and**

24 [*(D)*] **(E) Whether transportation costs and other conveniences favor or disfavor using products,**
25 **materials and components [*manufactured in this state or the State of Washington*] fabricated in close**
26 **proximity to the site at which the products, materials and components will be used.**

27 (2) An agreement made or contract entered into pursuant to the authority of ORS 381.005 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.

1 381.080 shall, among other things, contain express provisions with respect to:

- 2 (a) The site of the bridge.
- 3 (b) The maximum financial obligation assumed by each of the contracting parties.
- 4 (c) The estimated cost of the structure with the structure's approaches and connecting roads.
- 5 (d) The sources from which all the funds are to be obtained or derived.
- 6 (e) Whether the bridge is to be operated free to the public or as toll bridge.
- 7 (f) Any other appropriate matters or provisions consistent with the prudent principles of econ-
- 8 omy and good business.

9 **SECTION 2.** ORS 381.100 is amended to read:

10 381.100. (1) A request for proposals or an invitation to bid issued in accordance with the provi-

11 sions of ORS 381.096 or 381.098 at a minimum must:

- 12 (a) Require the proposer or bidder to comply with the requirements of ORS chapters 279A, 279B
- 13 and 279C and other applicable laws related to environmental protection, worker health and safety
- 14 and employment of apprentices; and
- 15 (b) State that the contracting agency will give a preference to procuring products, materials and
- 16 components that are fabricated [*within the boundaries of this state or the State of Idaho*] **in close**
- 17 **proximity to the site at which the products, materials and components will be used** to the
- 18 maximum extent feasible and practicable and taking into consideration:

- 19 (A) Applicable state and federal law;
- 20 (B) Whether in fabricating the products, materials and components a proposer or bidder can
- 21 recycle materials or use recycled materials;
- 22 (C) Whether the sites at which the products, materials or components are fabricated are in close
- 23 proximity to the bridge location; [*and*]
- 24 **(D) Whether, consistent with a life cycle analysis of the amount of greenhouse gases that**
- 25 **will be produced in fabricating, using and disposing of the products, materials and compo-**
- 26 **ponents, the products, materials and components will help to meet this state's targets under**
- 27 **state and federal law for reducing greenhouse gas production and emissions; and**

28 [*D*] **(E) Whether transportation costs and other conveniences favor or disfavor using products,**

29 **materials and components [*manufactured in this state or the State of Idaho*] fabricated in close**

30 **proximity to the site at which the products, materials and components will be used.**

31 (2) An agreement made or contract entered into pursuant to the authority of ORS 381.096 or

32 381.098 shall, among other things, contain express provisions with respect to:

- 33 (a) The site of the bridge.
- 34 (b) The maximum financial and other obligations assumed by each of the contracting parties.
- 35 (c) The estimated cost of the structure with the structure's approaches and connecting roads.
- 36 (d) The sources from which all the funds are to be obtained or derived.
- 37 (e) Any other appropriate matters or provisions consistent with the prudent principles of econ-
- 38 omy and good business.

39 **SECTION 3.** ORS 279A.125 is amended to read:

40 279A.125. (1) Notwithstanding provisions of law requiring a contracting agency to award a

41 contract to the lowest responsible bidder or best proposer or provider of a quotation [*and subject*

42 *to subsection (2) of this section*], a contracting agency charged with [*the procurement of*] **procuring**

43 **goods for [*any*] a public use shall give preference to [*the procurement of*] **procuring** goods:**

- 44 **(a) That, subject to subsection (2) of this section, are** manufactured from recycled
- 45 **materials[.];**

1 **(b) That are manufactured in close proximity to the location at which the goods will be**
2 **used; and**

3 **(c) For which a life cycle analysis shows that the methods and materials used in manu-**
4 **facturing, using and disposing of the goods will help this state to meet greenhouse gas re-**
5 **duction targets that are set forth in state and federal law.**

6 (2) A contracting agency shall give preference to goods that are certified to be made from re-
7 cycled materials if:

8 (a) The recycled product is available;

9 (b) The recycled product meets applicable standards;

10 (c) The recycled product can be substituted for a comparable nonrecycled product; and

11 (d) The recycled product's costs do not exceed the costs of nonrecycled products by more than
12 five percent, or a higher percentage if **the contracting agency makes** a written determination [*is*
13 *made by the contracting agency*].

14 **SECTION 4. The amendments to ORS 279A.125, 381.015 and 381.100 by sections 1, 2 and 3**
15 **of this 2010 Act apply to requests for proposals or invitations to bid that are issued, and**
16 **contracts that are advertised or otherwise solicited or, if not advertised or otherwise solici-**
17 **ted, are entered into, on or after the operative date of this 2010 Act.**

18 **SECTION 5. (1) The amendments to ORS 279A.125, 381.015 and 381.100 by sections 1, 2 and**
19 **3 of this 2010 Act become operative 91 days following the effective date of this 2010 Act.**

20 (2) A contracting agency may take any action before the operative date set forth in
21 subsection (1) of this section that is necessary to enable the contracting agency to exercise
22 all of the duties, functions and powers that are conferred on the contracting agency by the
23 amendments to ORS 279A.125, 381.015 and 381.100 by sections 1, 2 and 3 of this 2010 Act.

24 **SECTION 6. This 2010 Act being necessary for the immediate preservation of the public**
25 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
26 **on its passage.**