

Enrolled
House Bill 3651

Sponsored by COMMITTEE ON BUSINESS AND LABOR

CHAPTER

AN ACT

Relating to paying the prevailing rate of wage for solar energy systems; creating new provisions; amending ORS 279C.800; and declaring an emergency.

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

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

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

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

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

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

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

(i) Medical or hospital care[,];

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

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

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

(C) Unemployment benefits[,];

(D) Life insurance[,];

(E) Disability and sickness insurance or accident insurance[, for];

(F) Vacation and holiday pay[, *for defraying*];

(G) Costs of apprenticeship or other similar programs; or [*for*]

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

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

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

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

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

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

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

- (e) District 5, composed of Lane County;
- (f) District 6, composed of Douglas County;
- (g) District 7, composed of Coos and Curry Counties;
- (h) District 8, composed of Jackson and Josephine Counties;
- (i) District 9, composed of Hood River, Sherman and Wasco Counties;
- (j) District 10, composed of Crook, Deschutes and Jefferson Counties;
- (k) District 11, composed of Klamath and Lake Counties;
- (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;
- (m) District 13, composed of Baker, Union and Wallowa Counties; and
- (n) District 14, composed of Harney and Malheur Counties.

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

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

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

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

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

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

(D) **Notwithstanding the provisions of ORS 279C.810 (2)(a), (b) and (c), a device, structure or mechanism, or a combination of devices, structures or mechanisms, that:**

(i) **Uses solar radiation as a source for generating heat, cooling or electrical energy; and**

(ii) **Is constructed or installed, with or without using funds of a public agency, on land, premises, structures or buildings that a public body, as defined in ORS 174.109, owns.**

(b) "Public works" does not include:

(A) The reconstruction or renovation of privately owned property that *[is leased by]* a public agency **leases;** or

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

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

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

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

SECTION 2. The amendments to ORS 279C.800 by section 1 of this 2010 Act apply to contracts for public works that are advertised or otherwise solicited or, if not advertised or solicited, that are entered into on or after the operative date of section 1 of this 2010 Act.

SECTION 3. (1) The amendments to ORS 279C.800 by section 1 of this 2010 Act become operative on January 1, 2011.

(2) The Commissioner of the Bureau of Labor and Industries may take any action before the operative date set forth in subsection (1) of this section that is necessary to enable the commissioner to exercise, on and after the operative date set forth in subsection (1) of this section, all the duties, functions and powers conferred on the commissioner by the amendments to ORS 279C.800 by section 1 of this 2010 Act.

SECTION 4. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 10, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 20, 2010

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President of Senate

Received by Governor:

.....M,....., 2010

Approved:

.....M,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M,....., 2010

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Secretary of State