

**REVENUE:** No revenue impact

**FISCAL:** Minimal fiscal impact, no statement issued

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**Action:** Do Pass as Amended and Be Printed Engrossed

**Vote:** 4 - 1 - 0

**Yeas:** Bonamici, Boquist, Monroe, Shields

**Nays:** George

**Exc.:** 0

**Prepared By:** Patrick Brennan, Administrator

**Meeting Dates:** 4/4, 4/11, 4/13

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**WHAT THE MEASURE DOES:** Requires contracting agencies to include a condition in public contracts under which a contractor must pay subcontractors in a timely fashion or risk action for damages or other relief from the contracting agency or disqualification from future public contracts. Specifies actions that contracting agencies and contractors must undertake. Provides exceptions to requirement for timely payment. Provides requirements for elimination and payment of retainage. Becomes operative January 1, 2012. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Impact on subcontractors and suppliers when not paid promptly
- Effect of punitive measures provided for in the measure

**EFFECT OF COMMITTEE AMENDMENT:** Deletes references to ORS 279B and amendments to ORS 279B.220. Amends ORS 279C.570 to clarify duties of contracting agencies in prompt payment of contractors, of contractors in prompt payment of subcontractors, and providing for requirements for elimination and payment of retainage. Changes term “permitted under the terms of the subcontract” to “in dispute” in section 3(4)(a)(C).

**BACKGROUND:** Current law requires public contracts to contain provisions directing contractors to promptly pay all persons supplying the contractor and all persons performing work for the contract, as well as to pay all contributions due the Industrial Accident Fund and to the Department of Revenue for withholding.

Senate Bill 890-A revises the statutory requirements for prompt payment of subcontractors and suppliers by first-tier contractors under public contracts. The measure specifies that public contracts must specify that payment is to be made no later than 30 days after a request is submitted for payment. Exceptions are provided in cases where there is a good faith dispute (such as unsatisfactory job progress, defective work not remedied, evidence that the subcontract cannot be completed for the unpaid balance, etc.), or in cases where the contractor cannot pay due to not having received payment from the contracting agency. Violations of such contract provisions can result in damages for breach of contract or debarment of the contractor.