

House Bill 2629

Sponsored by Representative SCHAUFLER (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**.

Changes definition of "public works" to include construction, reconstruction, painting or major renovation of road, highway, building, structure or improvement that occurs, with or without using funds of public agency, on land that Oregon University System or institution of Oregon University System owns or will use, occupy and ultimately own under lease-purchase agreement.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to applying a prevailing rate of wage to projects on land owned by state universities; cre-
3 ating new provisions; amending ORS 279C.800 and 351.086; and declaring an emergency.

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

5 **SECTION 1.** ORS 279C.800, as amended by section 1, chapter 45, Oregon Laws 2010, is amended
6 to read:

7 279C.800. As used in ORS 279C.800 to 279C.870:

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

9 (a) The rate of contribution a contractor or subcontractor makes irrevocably to a trustee or to
10 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, except for items that federal, state or local law requires the con-
13 tractor or subcontractor to provide:

14 (A) Benefits to workers pursuant to an enforceable written commitment to the workers to carry
15 out a financially responsible plan or program for:

16 (i) Medical or hospital care;

17 (ii) Pensions on retirement or death; or

18 (iii) Compensation for injuries or illness that result from occupational activity;

19 (B) Insurance to provide the benefits described in subparagraph (A) of this paragraph;

20 (C) Unemployment benefits;

21 (D) Life insurance;

22 (E) Disability and sickness insurance or accident insurance;

23 (F) Vacation and holiday pay;

24 (G) Costs of apprenticeship or other similar programs; or

25 (H) Other bona fide fringe benefits.

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

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

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

30 (b) District 2, composed of Clackamas, Multnomah and Washington 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 (c) District 3, composed of Marion, Polk and Yamhill Counties;
- 2 (d) District 4, composed of Benton, Lincoln and Linn Counties;
- 3 (e) District 5, composed of Lane County;
- 4 (f) District 6, composed of Douglas County;
- 5 (g) District 7, composed of Coos and Curry Counties;
- 6 (h) District 8, composed of Jackson and Josephine Counties;
- 7 (i) District 9, composed of Hood River, Sherman and Wasco Counties;
- 8 (j) District 10, composed of Crook, Deschutes and Jefferson Counties;
- 9 (k) District 11, composed of Klamath and Lake Counties;
- 10 (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;
- 11 (m) District 13, composed of Baker, Union and Wallowa Counties; and
- 12 (n) District 14, composed of Harney and Malheur Counties.

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

16 (5) "Public agency" means the State of Oregon or a political subdivision of the State of Oregon,
 17 or a county, city, district, authority, public corporation or public entity organized and existing under
 18 law or charter or an instrumentality of the county, city, district, authority, public corporation or
 19 public entity.

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

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

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

27 (C) A project that uses funds of a private entity for constructing a privately owned road, high-
 28 way, building, structure or improvement of any type in which a public agency will use or occupy
 29 25 percent or more of the square footage of the completed project; [*or*]

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

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

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

35 **(E) Notwithstanding the provisions of paragraph (b)(A) of this subsection and of ORS**
 36 **279C.810 (2)(b) and (c), the construction, reconstruction, painting or major renovation of a**
 37 **road, highway, building, structure or improvement of any type that occurs, with or without**
 38 **using funds of a public agency, on land that the Oregon University System or an institution**
 39 **of the Oregon University System owns or will use, occupy and ultimately own under a**
 40 **lease-purchase agreement.**

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

42 (A) The reconstruction or renovation of privately owned property that a public agency leases;
 43 or

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

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

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

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

6 **SECTION 2.** ORS 351.086 is amended to read:

7 351.086. (1) Except as otherwise provided in this chapter and ORS chapter 352, the provisions
8 of ORS chapters 240, 279A, 279B, 279C, 282 and 292 do not apply to the Oregon University System.

9 (2) Notwithstanding subsection (1) of this section, ORS 240.167, 240.185, 279A.065 (2), 279B.055
10 (3), 279C.380 (1)(a) and (3), 279C.600 to 279C.625, 279C.800[, 279C.810, 279C.825, 279C.830, 279C.835,
11 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865,] **to** 279C.870 and 292.043 apply to the
12 Oregon University System.

13 (3) Notwithstanding any other law, the following provisions do not apply to the Oregon Uni-
14 versity System:

15 (a) ORS 182.310 to 182.400;

16 (b) ORS 273.413 to 273.456;

17 (c) ORS 276.071 [*and 276.072*]; and

18 (d) ORS 291.038.

19 (4) Notwithstanding subsection (3)(b) of this section, ORS 273.413 to 273.456 apply to [*any*] **a**
20 structure, equipment or asset [*owned by*] the Oregon University System **owns and** that is encum-
21 bered by a certificate of participation.

22 (5) **Notwithstanding subsection (3)(c) of this section, ORS 279C.800 to 279C.870 apply to a**
23 **public improvement that the Oregon University System constructs, reconstructs or reno-**
24 **vates under a lease-purchase agreement or other agreement under which the State of**
25 **Oregon, the Oregon University System or an institution of the Oregon University System**
26 **will use, occupy and ultimately own the public improvement.**

27 [(5)] (6) In carrying out the duties, functions and powers imposed by law upon the Oregon Uni-
28 versity System, the State Board of Higher Education or the Chancellor of the Oregon University
29 System may contract with [*any*] **a** public agency [*for the performance of such*] **to perform** duties,
30 functions and powers [*as*] **that** the Oregon University System considers appropriate.

31 **SECTION 3. The amendments to ORS 279C.800 and 351.086 by sections 1 and 2 of this 2011**
32 **Act apply to a contract that a contracting agency advertises or otherwise solicits on or after**
33 **the operative date specified in section 4 of this 2011 Act or, if the contracting agency does**
34 **not advertise or solicit the contract, to a contract that the contracting agency enters into**
35 **on or after the operative date specified in section 4 of this 2011 Act.**

36 **SECTION 4. (1) The amendments to ORS 279C.800 and 351.086 by sections 1 and 2 of this**
37 **2011 Act become operative January 1, 2012.**

38 (2) **The Chancellor of the Oregon University System and the presiding officer of an in-**
39 **stitution of the Oregon University System that is authorized by law or rule to conduct a**
40 **procurement may take any action before the operative date specified in subsection (1) of this**
41 **section that is necessary to enable the chancellor or the presiding officer to exercise, on and**
42 **after the operative date specified in subsection (1) of this section, the duties, functions and**
43 **powers conferred on the chancellor or presiding officer by the amendments to ORS 279C.800**
44 **and 351.086 by sections 1 and 2 of this 2011 Act.**

45 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
2 **on its passage.**

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