

# House Bill 2966

Sponsored by Representative DEMBROW (at the request of Oregon AFL-CIO) (Pre-session 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**.

Prohibits contracting agency from awarding public contract for services to bidder or proposer that performs services outside United States. Requires contracting agency to state prohibition in solicitation documents and to provide in contract that contractor covenants to perform services within United States. Provides exceptions.

Becomes operative January 1, 2012.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public contracting for services; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 279A.**

5 **SECTION 2. (1) A contracting agency may not award a public contract for services to a**  
6 **bidder or proposer that will perform the services specified in the invitation to bid or request**  
7 **for proposals at or from a location that is outside the United States.**

8 **(2) A contracting agency shall state in the invitation to bid or request for proposals that**  
9 **the contracting agency may not award a public contract in the circumstances described in**  
10 **subsection (1) of this section.**

11 **(3) A bidder or proposer for a public contract shall certify in the bid or proposal that the**  
12 **bidder or proposer will perform the services specified in the invitation to bid or request for**  
13 **proposals within the United States.**

14 **(4) A contracting agency shall require as a covenant in each public contract for services**  
15 **that the contractor must perform the services specified in the contract within the United**  
16 **States. The contract shall provide that if the contractor breaches the covenant, the con-**  
17 **tracting agency is entitled to all or any one of the following remedies, as appropriate:**

18 **(a) To obtain liquidated damages in an amount specified in the contract;**

19 **(b) To obtain specific performance from the contractor; or**

20 **(c) To rescind or to terminate the contract.**

21 **(5) A contracting agency may commence and maintain an action in a circuit court of this**  
22 **state to seek a remedy for a breach of the covenant described in subsection (4) of this sec-**  
23 **tion. The court shall award reasonable attorney fees and costs to a contracting agency that**  
24 **prevails in the action.**

25 **(6) The provisions of subsections (1) to (5) of this section do not apply if the contracting**  
26 **agency determines that complying with the provisions of subsections (1) to (4) of this section**  
27 **would violate:**

28 **(a) A provision of federal law; or**

29 **(b) A provision of an international treaty or trade agreement to which this state is a**

**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 party or to which this state has agreed to be bound.

2 **SECTION 3.** Section 2 of this 2011 Act applies to contracts that a contracting agency first  
3 advertises or otherwise solicits on or after the operative date specified in section 4 of this  
4 2011 Act or, if the contracting agency does not advertise or solicit the contract, to contracts  
5 that the contracting agency first enters into on or after the operative date specified in sec-  
6 tion 4 of this 2011 Act.

7 **SECTION 4.** (1) Section 2 of this 2011 Act becomes operative on January 1, 2012.

8 (2) The Director of the Oregon Department of Administrative Services, the Attorney  
9 General or a contracting agency that adopts rules under ORS 279A.065 may take any action  
10 before the operative date specified in subsection (1) of this section that is necessary to enable  
11 the director, the Attorney General or the contracting agency to exercise, on and after the  
12 operative date specified in subsection (1) of this section, all of the duties, functions and  
13 powers conferred on the director, the Attorney General or the contracting agency by section  
14 2 of this 2011 Act.

15 **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public  
16 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
17 on its passage.

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