

Enrolled
House Bill 3000

Sponsored by Representatives CLEM, CANNON, Senator BATES; Senators MONNES ANDERSON, VERGER (Presession filed.)

CHAPTER

AN ACT

Relating to preferences in public contracting; creating new provisions; amending ORS 279A.128; and declaring an emergency.

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

SECTION 1. ORS 279A.128 is amended to read:

279A.128. (1) **As used in this section, “services” means services as defined in ORS 279A.010 (1)(kk) and personal services designated under ORS 279A.055.**

(2)(a) Notwithstanding provisions of law requiring a contracting agency to award a contract to the lowest responsible bidder or best proposer or provider of a quotation, a contracting agency that uses public funds to procure goods **or services** for a public use **under ORS chapter 279B** may give preference to procuring [*an agricultural product that is*] **goods that are fabricated or processed, or services that are** [*produced and transported*] **performed**, entirely within this state if the [*agricultural product costs*] **goods or services cost** not more than 10 percent more than [*an agricultural product that is*] **goods that are not fabricated or processed, or services that are** not [*produced and transported*] **performed**, entirely within this state. **If more than one bidder or proposer qualifies for the preference described in this subsection, the contracting agency may give a further preference to a qualifying bidder or proposer that resides in or is headquartered in this state.**

(b) The contracting agency **by order** may set a higher percentage [*by order*] **than the percentage set forth in paragraph (a) of this subsection** if the contracting agency, in a written determination to support the order, finds good cause to set the higher percentage and explains the contracting agency’s reasons and evidence for the finding.

(3) **Notwithstanding ORS 279C.320 (1), subsection (2) of this section does not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts described in ORS 279C.320 (1).**

SECTION 2. (1) The amendments to ORS 279A.128 by section 1 of this 2011 Act become operative January 1, 2012.

(2) **Before January 1, 2012, the Attorney General, the Oregon Department of Administrative Services and a contracting agency that adopts rules under ORS 279A.065 may adopt rules that are necessary to enable the Attorney General, the department and the contracting agency to exercise, on and after January 1, 2012, all the duties, powers and functions conferred on the Attorney General, the department and the contracting agency by the amendments to ORS 279A.128 by section 1 of this 2011 Act.**

SECTION 3. The amendments to ORS 279A.128 by section 1 of this 2011 Act apply to contracts that a contracting agency first advertises or otherwise solicits or, if the contracting agency does not advertise or solicit the contract, to contracts that the contracting agency enters into on or after the operative date specified in section 2 of this 2011 Act.

SECTION 4. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House April 29, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 26, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State