

House Bill 3477

Sponsored by Representative CONGER; Representatives CAMERON, ESQUIVEL, HANNA, HUFFMAN, JOHNSON, KRIEGER, PARRISH, SHEEHAN, THATCHER, THOMPSON, WEIDNER, WHISNANT, WINGARD, Senators OLSEN, TELFER, THOMSEN

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**.

Requires State Parks and Recreation Department to establish pilot program under which department contracts with one or more private contractors to administer, operate and maintain certain state parks. Requires department to evaluate implementation of program annually and report to Legislative Assembly. Prescribes contents of report.

Exempts department from requirement to demonstrate by means of cost analysis that department would incur less cost in conducting procurement than in performing service with department's own personnel and resources. Becomes operative 91 days after effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public contracting by the State Parks and Recreation Department; creating new pro-
3 visions; amending ORS 279B.030; and declaring an emergency.

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

5 **SECTION 1. (1)(a) The State Parks and Recreation Department shall establish a pilot**
6 **program under which the department, in accordance with the Public Contracting Code, so-**
7 **licits bids from and awards one or more contracts to one or more private contractors to**
8 **administer, operate and maintain not fewer than 10 and not more than 20 of the state parks**
9 **that the department now administers, operates and maintains.**

10 **(b) The department shall ensure that each contractor to which the department awards**
11 **a contract in accordance with paragraph (a) of this subsection:**

12 **(A) Is qualified to provide the services that the rules of the department and provisions**
13 **of law relating to state parks now require; and**

14 **(B) Will provide services that are substantially similar to the services the department**
15 **provides in each state park that the contractor administers, operates and maintains.**

16 **(c) Under the terms of the pilot program, the department shall permit a contractor to**
17 **set entrance fees or other fees for members of the public and to enter into subcontracts with**
18 **concession operators or other entities as the contractor deems necessary to provide services**
19 **that are substantially the same as the services that were available in the state parks subject**
20 **to the pilot program before the effective date of this 2011 Act.**

21 **(d) The department may accept, in a bid from a prospective contractor under paragraph**
22 **(a) of this subsection, an offer to provide the department with a percentage of the entrance**
23 **fees or other fees the contractor proposes to charge or a percentage of the revenue the**
24 **contractor expects to realize from subcontracts with concession operators or other entities.**
25 **The bid must specify categories and levels of services, staffing and other details concerning**
26 **how the contractor intends to administer, operate and maintain the state parks, that will**
27 **enable the department to evaluate the bid in accordance with the criteria specified in this**

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 subsection.

2 (2) The department shall implement the pilot program on a phased or incremental basis
 3 or otherwise in a manner that is consistent with minimizing disruption or interruption of
 4 service to the public.

5 (3) The department shall evaluate the implementation of the pilot program annually and
 6 shall report the results of the evaluation to the Legislative Assembly on or before the date
 7 on which each regular session of the Legislative Assembly convenes. The report must, at a
 8 minimum:

9 (a) Compare the costs of administering, operating and maintaining the state parks sub-
 10 ject to the pilot program through one or more contractors with the costs of providing the
 11 service using the department's own personnel and resources; and

12 (b) Evaluate the performance of the required services under the pilot program on the
 13 basis of customer satisfaction, efficiency and cost.

14 **SECTION 2.** ORS 279B.030 is amended to read:

15 279B.030. (1) Except as provided in ORS 279B.036, before conducting a procurement for services
 16 with an estimated contract price that exceeds \$250,000, a contracting agency shall:

17 (a) Demonstrate, by means of a written cost analysis in accordance with ORS 279B.033, that the
 18 contracting agency would incur less cost in conducting the procurement than in performing the
 19 services with the contracting agency's own personnel and resources; or

20 (b) Demonstrate, in accordance with ORS 279B.036, that performing the services with the con-
 21 tracting agency's own personnel and resources is not feasible.

22 (2) If a local contracting agency authorizes a department, bureau, office or other subdivision of
 23 the local contracting agency to conduct a procurement on behalf of another department, bureau,
 24 office or subdivision of the local contracting agency, the department, bureau, office or subdivision
 25 on whose behalf the procurement is conducted shall comply with the requirement set forth in sub-
 26 section (1) of this section.

27 (3) Subsection (1) of this section does not apply to:

28 (a) A local contracting agency or a local contract review board for a city that has a population
 29 of not more than 15,000 or a county that has a population of not more than 30,000;

30 (b) A community college that enrolls not more than 1,000 full-time equivalent students, as de-
 31 fined in ORS 341.005;

32 (c) A special district, as defined in ORS 198.010, a diking district formed under ORS chapter 551
 33 and a soil and water conservation district organized under ORS 568.210 to 568.808;

34 **(d) The State Parks and Recreation Department;**

35 ~~[(d)]~~ (e) The Port of Portland; or

36 ~~[(e)]~~ (f) Procurements for client services, *[as defined in OAR 125-246-0110]* **the definition and**
 37 **scope of which the Oregon Department of Administrative Services specifies by rule.**

38 **SECTION 3.** The amendments to ORS 279B.030 by section 2 of this 2011 Act apply to a
 39 contract that the State Parks and Recreation Department first advertises or otherwise so-
 40 licits on or after the operative date set forth in section 4 of this 2011 Act or, if the depart-
 41 ment does not advertise or otherwise solicit the contract, to a contract that the department
 42 enters into on or after the operative date set forth in section 4 of this 2011 Act.

43 **SECTION 4.** (1) The amendments to ORS 279B.030 by section 2 of this 2011 Act become
 44 operative on the 91st day following the effective date of this 2011 Act.

45 (2) The State Parks and Recreation Director may take any action before the operative

1 **date specified in subsection (1) of this section that is necessary to enable the director to**
2 **exercise, on and after the operative date specified in subsection (1) of this section, all of the**
3 **duties, functions and powers conferred on the director by the amendments to ORS 279B.030**
4 **by section 2 of this 2011 Act.**

5 **SECTION 5. Section 1 of this 2011 Act is repealed on January 1, 2015.**

6 **SECTION 6. This 2011 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
8 **on its passage.**

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