

**A-Engrossed**  
**Senate Bill 772**

Ordered by the Senate May 4  
Including Senate Amendments dated May 4

Sponsored by COMMITTEE ON BUSINESS, TRANSPORTATION AND ECONOMIC DEVELOPMENT

**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.

Requires contracting agency to pay fee to Secretary of State in amount of one-tenth of one percent of contract price for [*certain*] public improvement contracts. **Creates exceptions.** Requires Secretary of State to use proceeds of fee to conduct [*random*] financial, compliance and performance audits of [*certain*] public contracts in accordance with certain standards.

Requires secretary to appoint advisory committee and specifies composition of advisory committee.

Establishes Public Contracting Audit [*Fund*] **Account.** Continuously appropriates moneys in [*fund*] **account** to Secretary of State for purpose of conducting audits of public contracts.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to audits of public contracts; appropriating money; 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 279C.**

5 **SECTION 2. (1)(a) Except as provided in paragraph (b) or (c) of this subsection, a con-**  
6 **tracting agency that awards a public contract subject to this chapter, in addition to and not**  
7 **in lieu of the charges specified in ORS 297.230, shall pay a fee equivalent to one-tenth of one**  
8 **percent of the contract price for the public contract from funds appropriated for the public**  
9 **contract to the office of the Secretary of State at the time the contracting agency executes**  
10 **the public contract. The Secretary of State shall pay the moneys received under this sub-**  
11 **section to the State Treasurer for deposit in the Public Contracting Audit Account created**  
12 **under section 4 of this 2011 Act.**

13 **(b) A contracting agency that uses funds for a public contract that are subject to pro-**  
14 **visions under the Oregon Constitution or under state or federal law that restrict the use of**  
15 **the funds may not pay the fee described in paragraph (a) of this subsection except in ac-**  
16 **cordance with the restrictive provisions.**

17 **(c) If in accordance with paragraph (b) of this subsection a contracting agency does not**  
18 **pay a fee under paragraph (a) of this subsection, the Secretary of State in an interagency**  
19 **agreement or an intergovernmental agreement under ORS chapter 190 may require a con-**  
20 **tracting agency to pay the costs for auditing a specific public contract. A contracting agency**  
21 **that is a party to an interagency or intergovernmental agreement described in this para-**  
22 **graph is not subject to the provisions of paragraph (a) of this subsection with respect to the**  
23 **public contract that is the subject of the interagency or intergovernmental agreement.**

24 **(2)(a) The secretary shall use the moneys available in the account to conduct or enter**

**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 into contracts to conduct financial, compliance and performance audits of public contracts  
2 that contracting agencies award under the provisions of this chapter. The secretary shall  
3 choose the subject of and conduct each audit according to standards adopted under ORS  
4 297.070 and without advance notice to the contracting agency or other parties to the public  
5 contract. A person that the secretary assigns or enters into a contract with to conduct the  
6 audit must have substantial familiarity with and experience in public improvement con-  
7 tracting and auditing.

8 (b) If the secretary finds during an audit conducted in accordance with the provisions  
9 of this section or receives reliable information at any time concerning fraud, waste, mis-  
10 conduct or abuse for a particular public contract that was awarded under an exemption  
11 granted under ORS 279C.335 (2), the secretary may conduct a special investigation of the  
12 contracting agency or other parties to the public contract and may use moneys from the  
13 account to conduct the special investigation.

14 (c) The secretary, in accordance with policies and priorities that the secretary estab-  
15 lishes, each year shall allocate the amount of moneys available or projected to be available  
16 in the account during the year toward conducting a regular course of audits under this sec-  
17 tion.

18 (3) The secretary shall appoint a committee to advise the secretary concerning the scope,  
19 contents and expected results of the audits the secretary conducts under this section. The  
20 membership of the committee must consist of at least one person from each of the following  
21 categories:

22 (a) A representative from a construction industry trade group;

23 (b) A person that successfully completed a contract that a contracting agency awarded  
24 under this chapter in which the contracting agency deemed the person's performance under  
25 the contract as exemplary;

26 (c) An employee of a state contracting agency;

27 (d) An employee of a local contracting agency; and

28 (e) A member of the public who has knowledge of and expertise in generally accepted  
29 auditing standards and procedures.

30 (4) In addition to complying with the requirements of ORS 297.050, the secretary shall  
31 publish the report for every audit conducted under this section on the secretary's website  
32 and on the Oregon transparency website described in ORS 184.483.

33 (5) An appropriate committee of the Legislative Assembly may review the audit reports  
34 described in subsection (4) of this section and may establish and convene a work group  
35 composed of representatives from contracting agencies, contractors, the office of the Sec-  
36 retary of State and other interested persons to review the audit reports and make recom-  
37 mendations to the Legislative Assembly concerning the content of the audit reports and  
38 public contracting practices and procedures.

39 **SECTION 3.** Section 4 of this 2011 Act is added to and made a part of ORS chapter 297.

40 **SECTION 4.** The Public Contracting Audit Account is established separate and distinct  
41 from the General Fund. All moneys in the Public Contracting Audit Account are contin-  
42 uously appropriated to the Secretary of State for the purposes set forth in section 2 of this  
43 2011 Act.

44 **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public  
45 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect

1 **on its passage.**

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