

Senate Bill 887

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS PROTECTION

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**.

Includes certain types of apartment housing in definition of "residential construction" for purposes of determining whether prevailing rates of wage in public works contracts apply.

A BILL FOR AN ACT

1
2 Relating to prevailing rates of wage as applied to residential construction; creating new provisions;
3 and amending ORS 279C.810.

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

5 **SECTION 1.** ORS 279C.810 is amended to read:

6 279C.810. (1) As used in this section:

7 (a) "Funds of a public agency" does not include:

8 (A) Funds provided in the form of a government grant to a nonprofit organization, unless the
9 government grant is issued for the purpose of construction, reconstruction, major renovation or
10 painting;

11 (B) Building and development permit fees paid or waived by the public agency;

12 (C) Tax credits or tax abatements;

13 (D) Land that a public agency sells to a private entity at fair market value;

14 (E) The difference between:

15 (i) The value of land that a public agency sells to a private entity as determined at the time of
16 the sale after taking into account any plan, requirement, covenant, condition, restriction or other
17 limitation, exclusive of zoning or land use regulations, that the public agency imposes on the de-
18 velopment or use of the land; and

19 (ii) The fair market value of the land if the land is not subject to the limitations described in
20 sub-subparagraph (i) of this subparagraph;

21 (F) Staff resources of the public agency used to manage a project or to provide a principal
22 source of supervision, coordination or oversight of a project;

23 (G) Staff resources of the public agency used to design or inspect one or more components of
24 a project;

25 (H) Moneys derived from the sale of bonds that are loaned by a state agency to a private entity,
26 unless the moneys will be used for a public improvement;

27 (I) Value added to land as a consequence of a public agency's site preparation, demolition of real
28 property or remediation or removal of environmental contamination, except for value added in ex-
29 cess of the expenses the public agency incurred in the site preparation, demolition or remediation
30 or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870;

31 or

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 (J) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289 or
2 ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

3 (b) “Nonprofit organization” means an organization or group of organizations described in sec-
4 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of
5 the Internal Revenue Code.

6 (2) ORS 279C.800 to 279C.870 do not apply to:

7 (a) Projects for which the contract price does not exceed \$50,000. In determining the price of a
8 project, a public agency:

9 (A) May not include the value of donated materials or work performed on the project by indi-
10 viduals volunteering to the public agency without pay; and

11 (B) Shall include the value of work performed by every person paid by a contractor or subcon-
12 tractor in any manner for the person’s work on the project.

13 (b) Projects for which no funds of a public agency are directly or indirectly used. In accordance
14 with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries shall adopt rules to
15 carry out the provisions of this paragraph.

16 (c) Projects:

17 (A) That are privately owned;

18 (B) That use funds of a private entity;

19 (C) In which less than 25 percent of the square footage of a completed project will be occupied
20 or used by a public agency; and

21 (D) For which less than \$750,000 of funds of a public agency are used.

22 (d) Projects for residential construction that are privately owned and that predominantly provide
23 affordable housing. As used in this paragraph:

24 (A) “Affordable housing” means housing that serves occupants whose incomes are no greater
25 than 60 percent of the area median income or, if the occupants are owners, whose incomes are no
26 greater than 80 percent of the area median income.

27 (B) “Predominantly” means 60 percent or more.

28 (C) “Privately owned” includes:

29 (i) Affordable housing provided on real property owned by a public agency if the real property
30 and related structures are leased to a private entity for 50 or more years; and

31 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-
32 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or
33 managing member and the housing authority is not a majority owner in the partnership, nonprofit
34 corporation or limited liability company.

35 (D) “Residential construction” [*includes*] **means** the construction, reconstruction, major reno-
36 vation or painting of single-family houses or apartment buildings not more than four stories in
37 height, **including structures owned and operated by nonprofit organizations in which more**
38 **than 60 percent of the square footage of the structure is affordable housing that consists of**
39 **single rooms, rooms similar to dormitory rooms or similar housing units**, and all incidental
40 items, such as site work, parking areas, utilities, streets and sidewalks, pursuant to the United
41 States Department of Labor’s “All Agency Memorandum No. 130: Application of the Standard of
42 Comparison “Projects of a Character Similar” Under Davis-Bacon and Related Acts,” dated March
43 17, 1978. However, the commissioner may consider different definitions of residential construction
44 in determining whether a project is [*a*] residential construction [*project*] for purposes of this para-
45 graph, including definitions that:

1 (i) Exist in local ordinances or codes; or

2 (ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States
3 Department of Labor's description of residential construction.

4 **SECTION 2. The amendments to ORS 279C.810 by section 1 of this 2011 Act apply to**
5 **contracts that are advertised or otherwise solicited or, if not advertised or solicited, that are**
6 **entered into on or after the effective date of this 2011 Act.**

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