

House Bill 4115

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on General Government and Consumer 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**.

Requires contracting agency to pay fee to Secretary of State in amount of one-tenth of one percent of contract price for public contract. Requires secretary to use fee proceeds to conduct or enter into contract with person to conduct, without notice, financial, performance and compliance audits of public contracts.

Establishes Public Contracting Audit Account in State Treasury. Continuously appropriates moneys in 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 public contracts for construction; 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 2012 Act is added to and made a part of ORS chapter 279C.**

5 **SECTION 2. (1)(a) Except as provided in paragraph (b), (c) or (d) of this subsection, a**
6 **contracting agency that awards a public contract subject to this chapter, in addition to and**
7 **not in lieu of the charges specified in ORS 297.230, shall pay a fee equivalent to one-tenth**
8 **of one percent of the contract price for the public contract from funds appropriated for the**
9 **public contract to the office of the Secretary of State at the time the contracting agency**
10 **executes the public contract. The Secretary of State shall pay the moneys received under**
11 **this subsection to the State Treasurer for deposit in the Public Contracting Audit Account**
12 **established under section 4 of this 2012 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 a contracting agency does not pay a fee described in paragraph (a) of this sub-**
18 **section, the secretary may enter into an interagency agreement or an intergovernmental**
19 **agreement under ORS chapter 190 to require the contracting agency to pay the costs for**
20 **auditing a specific public contract.**

21 **(d) A contracting agency that is a party to an interagency agreement or intergovern-**
22 **mental agreement under paragraph (c) of this subsection is not subject to the fee described**
23 **in paragraph (a) of this subsection with respect to the public contract that is the subject of**
24 **the interagency agreement or intergovernmental agreement.**

25 **(2)(a) The secretary shall use moneys available in the Public Contracting Audit Account**
26 **to conduct or enter into contracts for conducting financial, compliance and performance**
27 **audits under this section. The secretary shall choose the subject of the audit and conduct**
28 **each audit according to standards adopted under ORS 297.070 and without advance notice to**

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 the contracting agency or other parties to the public contract. A person that the secretary
2 assigns or enters into a contract with to conduct the audit must have substantial familiarity
3 with and experience in public improvement contracting and auditing.

4 (b) If the secretary finds in an audit, or receives reliable information at any time, that
5 fraud, waste, misconduct or abuse has occurred under a particular public contract, the sec-
6 retary may conduct a special investigation of the contracting agency or other parties to the
7 public contract. The secretary may use moneys available in the Public Contracting Audit
8 Account to conduct the special investigation.

9 (c) The secretary, in accordance with policies and priorities that the secretary estab-
10 lishes, each year shall allocate the amount of moneys available or projected to be available
11 in the Public Contracting Audit Account that year for conducting a regular course of audits
12 under this section.

13 (3) In addition to complying with the requirements of ORS 297.050, the secretary shall
14 publish, on the secretary's website and on the Oregon transparency website described in ORS
15 184.483, a report for each audit conducted under this section.

16 (4) An appropriate committee of the Legislative Assembly may review the audit reports
17 described in subsection (3) of this section and may establish and convene a work group
18 composed of representatives from contracting agencies, contractors, the office of the Sec-
19 retary of State and other interested persons to review the audit reports and make recom-
20 mendations to the Legislative Assembly concerning the content of the audit reports and
21 public contracting practices and procedures.

22 SECTION 3. Section 4 of this 2012 Act is added to and made a part of ORS chapter 297.

23 SECTION 4. The Public Contracting Audit Account is established in the State Treasury,
24 separate and distinct from the General Fund. All moneys in the Public Contracting Audit
25 Account are continuously appropriated to the Secretary of State for the purposes set forth
26 in section 2 of this 2012 Act.

27 SECTION 5. This 2012 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect
29 on its passage.

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