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# MEMORANDUM

Legislative Fiscal Office  
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**To:** *Transportation and Economic Development Subcommittee*

**From:** *Susie Jordan, Legislative Fiscal Office*  
*(503) 986-1835*

**Date:** May 10 2013

**Subject:** *HB 2977 relating to Construction Labor Contractors*  
*Public Hearing*

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HB 29777 requires construction labor contractors to be licensed by the Commissioner of the Bureau of Labor and Industries. The measure adds the definition of “construction labor contractor” to ORS 658.250 governing farm and forest labor contractors. The measure directs the Commissioner to administer and enforce licensing and regulatory requirements, adopt rules, and assess civil penalties for violations. An applicant for licensure is required to pay the fees for established in ORS 658.418 (currently under review in HB 2113). The measure also creates cause of action against persons acting as construction labor contractors without a license and against persons using an unlicensed contractor.

The measure, the original staff measure summary, preliminary staff measure summary, are available on the Oregon Legislative Information System (OLIS).

The measure previously had a work session April 19, 2013 in the Business and Labor Committee and was referred to the Joint Committee on Ways and Means with a “do pass” recommendation by majority vote.

The Fiscal Impact Statement is attached. The fiscal impact is indeterminate because the number construction labor contractors in the state is unknown.

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 2977 - A**

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office

***Only Impacts on Original or Engrossed  
Versions are Considered Official***

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Prepared by: Krista McDowell  
Reviewed by: Susie Jordan  
Date: 5/8/2013

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**Measure Description:**

Requires construction labor contractors to be licensed by Commissioner of Bureau of Labor and Industries.

**Government Unit(s) Affected:**

Bureau of Labor and Industries (BOLI)

**Summary of Expenditure Impact:**

See Analysis

**Local Government Mandate:**

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**Analysis:**

The bill brings construction labor contractors under the same statutes as farm labor contractors. The Commissioner of the Bureau of Labor and Industries (BOLI) would be required to administer and enforce licensing and regulatory requirements as well as adopt rules related to licensing of construction labor contractors. The proposed broader scope of statute would apply to an unknown number of previously unlicensed and unregulated contractors operating in the state of Oregon.

The Legislative Fiscal Office (LFO) anticipates that enactment of the proposed legislation would have a fiscal impact to BOLI. However because the number of potential licensees is unknown, the possible increase in workload and expenses in addition to fee revenue, are not measurable at this time. Therefore LFO believes that the ramifications of this measure are not fully understood and the fiscal impact is indeterminate.

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

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<b>Action:</b>	Do Pass as Amended, Be Printed Engrossed, and Be Referred to the Committee on Ways and Means by Prior Reference
<b>Vote:</b>	6 - 4 - 0
<b>Yeas:</b>	Barton, Fagan, Holvey, Matthews, Witt, Doherty
<b>Nays:</b>	Kenemer, Thatcher, Thompson, Weidner
<b>Exc.:</b>	0
<b>Prepared By:</b>	Jan Nordlund, Administrator
<b>Meeting Dates:</b>	3/13, 4/12, 4/17

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**WHAT THE MEASURE DOES:** Requires construction labor contractors to be licensed by the Commissioner of the Bureau of Labor and Industries. Establishes licensing requirements, fees and exceptions. Directs the Commissioner to administer and enforce licensing and regulatory requirements and to adopt rules. Establishes grounds for denying, suspending and revoking licenses. Specifies duties of construction labor contractors. Authorizes the Commissioner to assess civil penalties for violations. Prohibits certain actions and discrimination against employees. Creates a cause of action against persons acting as construction labor contractors without a license and against persons using an unlicensed contractor. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Prevalence of wage theft among construction labor contractors
- Whether contractors who do not follow existing regulations will follow provisions of measure
- Need for employee to know who employer of record is
- Whether certain provisions for farm labor contractors are relevant for construction labor contractors
- Increased outreach and enforcement by BOLI as an alternative to licensing construction labor contractors

**EFFECT OF COMMITTEE AMENDMENT:** Specifies that nothing in farm labor contractor statutes affects whether a person is an employee of a construction labor contractor or a user of services of construction labor contractor for purposes of wage claim under ORS chapters 652 (age and hour) and 653 (minimum wage and employment conditions) and ORS 658.415 (farm labor contractors).

**BACKGROUND:** Under current law, farm labor contractors must be licensed with the Bureau of Labor and Industries (BOLI) and are subject to examination, insurance and bonding requirements and BOLI is authorized to assess civil penalties not to exceed \$2,000 for violations. House Bill 2977-A brings construction labor contractors under the same statutes as farm labor contractors.