

D R A F T

SUMMARY

Requires state contracting agency that awards public improvement contract with contract price of more than \$5 million to set goal for apprentices to perform certain percentage, not to exceed 10 percent, of work hours on public improvement that workers in apprenticeable occupations perform. Provides that state contracting agency shall pay contractor for imputed costs contractor incurs in complying with requirement.

Specifies reporting requirements for contractor and requires contractor to repay amounts that state contracting agency pays in excess of amount due contractor.

Becomes operative January 1, 2014.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to incentives for increasing apprentice utilization on public im-
3 provements for state contracting agencies; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part**
6 **of ORS chapter 279C.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **“Apprentice” has the meaning given that term in ORS 660.010.**

9 (b) **“Apprenticeable occupation” has the meaning given that term**
10 **in ORS 660.010.**

11 (c) **“Apprenticeship agreement” has the meaning given that term**
12 **in ORS 660.010.**

13 (d) **“Apprenticeship training program” means the total system of**
14 **apprenticeship that a particular local joint committee, as defined in**
15 **ORS 660.010, operates, including the local joint committee’s registered**

1 standards and all other terms and conditions for qualifying, recruiting,
2 selecting, employing and training apprentices in an apprenticeable
3 occupation.

4 (2) A state contracting agency shall:

5 (a) Specify in each public improvement contract for which the
6 contract price exceeds \$5 million a goal for the contractor to meet in
7 employing apprentices for work on the public improvement. The goal
8 may not exceed 10 percent of the work hours that workers in
9 apprenticeable occupations perform on the public improvement. In
10 setting the goal, the state contracting agency shall consider, and shall
11 adjust the goal to take account of, the type of work the contractor
12 will perform, the location of the public improvement and the contract
13 price for the public improvement contract.

14 (b) Provide in the public improvement contract that, subject to
15 subsection (4) of this section, the state contracting agency will pay the
16 contractor at a rate of \$20 per hour for imputed costs the contractor
17 incurs in having apprentices perform work on the public improvement.

18 (3) A contractor or subcontractor shall pay an apprentice for work
19 on the public improvement at the hourly rate to which the apprentice
20 is entitled under an apprenticeship agreement or that the apprentice-
21 ship training program specifies.

22 (4) A state contracting agency shall provide in the public improve-
23 ment contract that the state contracting agency will pay a contractor
24 at the rate specified in subsection (2)(b) of this section for the total
25 number of work hours that apprentices perform on a public improve-
26 ment, up to the maximum amount that the state contracting agency
27 specifies as the goal in the public improvement contract.

28 (5) Subject to the terms of the public improvement contract, a
29 contractor on a public improvement may decide the locations in
30 which, the types of work for which and other details concerning how
31 the contractor employs apprentices for work on the public improve-

1 ment. The contractor may meet the goal that a state contracting
2 agency sets under subsection (2)(a) of this section by requiring a sub-
3 contractor to employ apprentices for work on the public improvement.

4 (6) A contractor shall report the extent of the contractor's compli-
5 ance with this section to the state contracting agency on forms, with
6 contents the state contracting agency specifies by rule, and at regular
7 intervals that the state contracting agency specifies in the public im-
8 provement contract. The forms and the contents that the state con-
9 tracting agency specifies must include, at a minimum, a report in
10 which the contractor provides a detailed accounting of the total
11 number of work hours each month and the cumulative total number
12 of work hours since the public improvement contract term began in
13 which:

14 (a) Workers in apprenticeable occupations performed work on the
15 public improvement; and

16 (b) Apprentices performed work on the public improvement.

17 (7) Subject to subsection (8) of this section, a state contracting
18 agency may pay a contractor for the contractor's imputed costs in
19 complying with the requirement in subsection (2)(a) of this section in
20 regular installments or periodically during the term of the public im-
21 provement contract if the contractor requests regular installment
22 payments or periodic payments.

23 (8)(a) At least 30 days before making any final payment to a con-
24 tractor under a public improvement contract, a state contracting
25 agency shall determine the extent of the contractor's compliance with
26 the requirement in subsection (2)(a) of this section. The state con-
27 tracting agency shall base the determination on the ratio between the
28 actual number of work hours that workers in apprenticeable occupa-
29 tions performed on the public improvement and the actual number of
30 work hours that apprentices performed on the public improvement,
31 as shown in reports the state contracting agency receives under sub-

1 section (6) of this section.

2 (b) The state contracting agency, in accordance with the limitations
3 set forth in subsection (4) of this section, shall pay the contractor at
4 the rate specified for the contractor's imputed costs in subsection
5 (2)(b) of this section only for work hours that apprentices performed
6 on the public improvement.

7 (c) If the state contracting agency pays the contractor for the
8 contractor's imputed costs of complying with the requirement in sub-
9 section (2)(a) of this section in regular installments or at periodic in-
10 tervals, the state contracting agency shall make the determination
11 required under paragraph (a) of this subsection before each scheduled
12 payment of the imputed costs and shall pay the contractor at the rate
13 specified for the contractor's imputed costs in subsection (2)(b) of this
14 section only for work hours that apprentices performed on the public
15 improvement in the interval since the previous scheduled payment.

16 (d) If a state contracting agency previously paid a contractor an
17 amount that exceeds the amount due the contractor under paragraph
18 (b) or (c) of this subsection, the state contracting agency shall notify
19 the contractor immediately and require the contractor to repay the
20 excess amount within 30 days after receiving the notice.

21 (9) A state contracting agency by rule shall specify a procedure
22 under which a contractor may dispute the goal that the state con-
23 tracting agency sets under subsection (2)(a) of this section or the state
24 contracting agency's determination under subsection (8)(a) of this
25 section.

26 **SECTION 3.** Section 2 of this 2013 Act applies to public improvement
27 contracts that a state contracting agency first advertises or otherwise
28 solicits or, if the state contracting agency does not advertise or solicit
29 the public improvement contract, to public improvement contracts
30 that the state contracting agency enters into on or after the operative
31 date specified in section 4 (1) of this 2013 Act.

1 **SECTION 4.** (1) Section 2 of this 2013 Act becomes operative Janu-
2 ary 1, 2014.

3 (2) The Attorney General, the Director of the Oregon Department
4 of Administrative Services, the Director of Transportation or a state
5 contracting agency that adopts rules under ORS 279A.065 may take any
6 action before the operative date specified in subsection (1) of this sec-
7 tion that is necessary to enable the Attorney General, the director or
8 the state contracting agency to exercise, on and after the operative
9 date specified in subsection (1) of this section, all of the duties, func-
10 tions and powers conferred on the Attorney General, the director or
11 the state contracting agency by section 2 of this 2013 Act.

12 **SECTION 5.** This 2013 Act being necessary for the immediate pres-
13 ervation of the public peace, health and safety, an emergency is de-
14 clared to exist, and this 2013 Act takes effect on its passage.

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