

# Enrolled House Bill 2545

Sponsored by Representative HOLVEY (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to debarments from public works contracts; creating new provisions; amending ORS 279C.860; and declaring an emergency.

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

**SECTION 1.** ORS 279C.860 is amended to read:

279C.860. (1) A contractor[,] **or a** subcontractor or [any] a firm, corporation, partnership, **limited liability company** or association in which the contractor or subcontractor has a financial interest [is ineligible to] **may not** receive [any] a contract or subcontract for public works for a period of three years [from] **after** the date on which the Commissioner of the Bureau of Labor and Industries publishes the contractor's or subcontractor's name on the list described in subsection (2) of this section. The commissioner shall add a contractor's or subcontractor's name to the list after determining, in accordance with ORS chapter 183, that:

(a) The contractor or subcontractor has intentionally failed or refused to pay the prevailing rate of wage to workers employed upon public works;

(b) The subcontractor has failed to pay to the subcontractor's employees amounts required [by] **under** ORS 279C.840 and the contractor has paid [those] **the** amounts on the subcontractor's behalf;

(c) The contractor or subcontractor has intentionally failed or refused to post the prevailing rates of wage as required [by] **under** ORS 279C.840 (4); or

(d) The contractor or subcontractor has intentionally falsified information in the **certified statements the contractor or subcontractor** [contractor's or subcontractor's certified statements] submitted under ORS 279C.845.

(2) The commissioner shall maintain a written list of the names of [those] contractors and subcontractors **the commissioner determines are** [determined to be] ineligible under this section and the period of time for which [they] **the contractors and subcontractors** are ineligible. The commissioner shall publish [a copy of] the list, furnish **a copy of** the list upon request and make the list available to contracting agencies.

(3) [When the] **If a** contractor or subcontractor is a corporation **or a limited liability company**, the provisions of this section apply to any corporate officer or **agent of the corporation or any member or manager of the limited liability company** [corporate agent] who is responsible for [the failure or refusal] **failing or refusing** to pay or post the prevailing rate of wage, [the failure] **failing** to pay to a subcontractor's employees amounts required [by] **under** ORS 279C.840 that [are paid by] the contractor **pays** on the subcontractor's behalf or [the intentional falsification of] **intentionally falsifying** information in the [contractor's or subcontractor's] certified statements [submitted] **the contractor or subcontractor submits** under ORS 279C.845.

(4) For good cause shown, the commissioner may [*direct the removal of*] **remove** the name of a contractor or subcontractor from the ineligible list.

(5) [*To assist the commissioner in determining whether the contractor or subcontractor is paying the prevailing rate of wage,*] When a prevailing rate of wage claim is filed[,] or **the commissioner receives** evidence indicating **that** a violation has occurred, a contractor or subcontractor required to pay the prevailing rate of wage to workers employed upon public works under ORS 279C.800 to 279C.870 shall send a certified copy of the payroll for [*those*] workers **employed upon public works** when the commissioner requests the certified copy.

**SECTION 2. (1) The amendments to ORS 279C.860 by section 1 of this 2013 Act become operative January 1, 2014.**

**(2) The amendments to ORS 279C.860 by section 1 of this 2013 Act apply to contracts for public works into which a contracting agency enters before, on or after the operative date specified in subsection (1) of this section.**

**(3) The Commissioner of the Bureau of Labor and Industries may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commissioner to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commissioner by the amendments to ORS 279C.860 by section 1 of this 2013 Act.**

**SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.**

Passed by House March 14, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 21, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State