

House Bill 2545

Sponsored by Representative HOLVEY (Pre-session filed.)

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**.

Permits Commissioner of Bureau of Labor and Industries to debar from public works contract contractor or subcontractor that is limited liability company if member or manager of limited liability company fails to pay or post prevailing rate of wage, fails to pay subcontractor's employees when contractor pays employees on subcontractor's behalf or falsifies information on contractor's or subcontractor's certified statements.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to debarments from public works contracts; creating new provisions; amending ORS
3 279C.860; and declaring an emergency.

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

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

6 279C.860. (1) A contractor[,] **or a** subcontractor or [*any*] **a** firm, corporation, partnership, **lim-**
7 **ited liability company** or association in which the contractor or subcontractor has a financial in-
8 terest [*is ineligible to*] **may not** receive [*any*] **a** contract or subcontract for public works for a period
9 of three years [*from*] **after** the date on which the Commissioner of the Bureau of Labor and Indus-
10 tries publishes the contractor's or subcontractor's name on the list described in subsection (2) of this
11 section. The commissioner shall add a contractor's or subcontractor's name to the list after deter-
12 mining, in accordance with ORS chapter 183, that:

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

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

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

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

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

27 (3) [*When the*] **If a** contractor or subcontractor is a corporation **or a limited liability**
28 **company**, the provisions of this section apply to any corporate officer or **agent of the corporation**
29 **or any member or manager of the limited liability company** [*corporate agent*] who is responsible

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 for *[the failure or refusal]* **failing or refusing** to pay or post the prevailing rate of wage, *[the*
 2 *failure]* **failing** to pay to a subcontractor's employees amounts required *[by]* **under** ORS 279C.840
 3 that *[are paid by]* the contractor **pays** on the subcontractor's behalf or *[the intentional falsification*
 4 *of]* **intentionally falsifying** information in the *[contractor's or subcontractor's]* certified statements
 5 *[submitted]* **the contractor or subcontractor submits** under ORS 279C.845.

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

8 (5) *[To assist the commissioner in determining whether the contractor or subcontractor is paying*
 9 *the prevailing rate of wage,]* When a prevailing rate of wage claim is filed[,] or **the commissioner**
 10 **receives** evidence indicating **that** a violation has occurred, a contractor or subcontractor required
 11 to pay the prevailing rate of wage to workers employed upon public works under ORS 279C.800 to
 12 279C.870 shall send a certified copy of the payroll for *[those]* workers **employed upon public works**
 13 when the commissioner requests the certified copy.

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

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

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

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