

# House Bill 2744

Sponsored by Representatives GELSER, WITT

## 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 qualified nonprofit agency for individuals with disabilities to pay minimum wage or prevailing rate of wage set forth in state or federal law to individuals with disabilities. Requires Oregon Department of Administrative Services to verify that qualified nonprofit agency for individuals with disabilities pays minimum wage or prevailing rate of wage.

Becomes operative on January 1, 2014.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to working conditions for individuals with disabilities in qualified nonprofit agencies; cre-  
3 ating new provisions; amending ORS 279.835, 279.840, 279.845 and 279.850; and declaring an  
4 emergency.

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

6 **SECTION 1.** ORS 279.835 is amended to read:

7 279.835. As used in ORS 279.835 to 279.855:

8 [(1) "Department" means the Oregon Department of Administrative Services.]

9 [(2) (1)(a) "Direct labor" [*includes all*] **means** work required for preparation, processing and  
10 packing[.].

11 **(b) "Direct labor" does not include** [*but not*] supervision, administration, inspection [*and*] **or**  
12 shipping.

13 [(3) (2) "Individual with a disability" means an individual who, because of the nature of **the**  
14 **individual's** disabilities, is not able to participate fully in competitive employment[,], and for whom  
15 specialized employment opportunities must be provided.

16 [(4) (3) "Public agency" [*or "public contracting agency"*] means [*any*] **an** agency of the State  
17 of Oregon or [*any*] a political subdivision [*thereof*] **of the State of Oregon that is** authorized by law  
18 to enter into a public **contract or a** [*contracts and any*] public body **that is** created by intergov-  
19 ernmental agreement.

20 [(5) (4) "Qualified nonprofit agency for individuals with disabilities" means a nonprofit activity  
21 center or rehabilitation facility **that:**

22 (a) **Is** organized under the laws of the United States or of this state and **is** operated in the in-  
23 terest of individuals with disabilities, [*and*] the net income of which does not inure in whole or in  
24 part to the benefit of [*any*] a shareholder or other individual;

25 (b) [*That*] Complies with [*any*] applicable occupational health and safety [*standard required by*]  
26 **standards that** the laws of the United States or of this state **require**; [*and*]

27 **(c) Pays individuals with disabilities the minimum wage set forth in state or federal law**  
28 **or the prevailing rate of wage set forth in state or federal law if the individual is employed**  
29 **on a project for public works, as defined in ORS 279C.800; and**

**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           [(c)] **(d)** [That in the manufacture of products and in the provision of services] **Employs individ-**  
 2 **uals with disabilities for not less than 75 percent of the work hours of direct labor necessary**  
 3 **during each fiscal year to manufacture products or provide services**, whether or not the pro-  
 4 ducts or services are procured under ORS 279.835 to 279.855[, during the fiscal year employs indi-  
 5 viduals with disabilities for not less than 75 percent of the work hours of direct labor required for the  
 6 manufacture or provision of the products or services].

7           **SECTION 2.** ORS 279.840 is amended to read:

8           279.840. The **policy of this state and the** purpose of ORS 279.835 to 279.855, 279A.025 (4) and  
 9 279C.335 [is to further the policy of this state to] **are to** encourage and assist individuals with disa-  
 10 bilities to achieve maximum personal independence [through useful and productive gainful employ-  
 11 ment] by [assuring] **ensuring** an expanded and constant market for [sheltered workshop and activity  
 12 center] products and services **that individuals with disabilities provide through useful and pro-**  
 13 **ductive gainful employment**, thereby enhancing [their] **the individuals'** dignity and capacity for  
 14 self-support and minimizing [their] **the individuals'** dependence on welfare and need for costly  
 15 institutionalization.

16           **SECTION 3.** ORS 279.845 is amended to read:

17           279.845. (1) [It is the duty of] The Oregon Department of Administrative Services [to] **shall**:

18           (a) Determine the price of [all] products **and services that a qualified nonprofit agency for**  
 19 **individuals with disabilities produces or provides to public agencies** [manufactured and services  
 20 offered for sale to the various public agencies by any qualified nonprofit agency for individuals with  
 21 disabilities]. The price [shall] **must** recover for the [workshops] **qualified nonprofit agency** the cost  
 22 of raw materials, labor, overhead[,] **and** delivery costs and **of** a margin [held] **the qualified**  
 23 **nonprofit agency holds** in reserve for inventory and equipment replacement;

24           (b) [To] Revise [such prices] **from time to time the price the department determines under**  
 25 **paragraph (a) of this subsection** [from time to time] in accordance with changing cost factors;  
 26 [and]

27           **(c) Verify that the qualified nonprofit agency for individuals with disabilities pays the**  
 28 **minimum wage or prevailing rate of wage set forth in state or federal law; and**

29           [(c)] **(d)** [To make such rules regarding] **Adopt rules to set** specifications, **specify** [time of] de-  
 30 livery **times** and **address** other relevant matters of procedure as [shall be] **are** necessary to carry  
 31 out the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335.

32           (2) The department shall establish and publish a list of sources or potential sources of products  
 33 [produced by any] **and services that a** qualified nonprofit agency for individuals with disabilities  
 34 [and the services provided by any such agency, which] **produces or provides and that** the depart-  
 35 ment determines are suitable for [procurement by] public agencies [pursuant to] **to procure under**  
 36 ORS 279.835 to 279.855, 279A.025 (4) and 279C.335. [This] **The department shall distribute the**  
 37 procurement list and revisions [thereof shall be distributed] **to the procurement list** to all public  
 38 purchasing officers.

39           (3) The department may not delegate [any duty imposed under] **a duty that** this section **imposes**  
 40 **on the department** to any **other** person or public agency [outside of the department].

41           **SECTION 4.** ORS 279.850 is amended to read:

42           279.850. (1) If [any] **a** public agency intends to procure [any] **a** product or service on the pro-  
 43 curement list **the Oregon Department of Administrative Services established under ORS**  
 44 **279.845**, [that] **the** public agency shall, in accordance with **the department's** rules [of the Oregon  
 45 Department of Administrative Services], procure [such] **the** product or service[,] at the price **the**

1 **department** established [*by the department,*] from a qualified nonprofit agency for individuals with  
 2 disabilities, provided **that** the product or service is of the appropriate specifications and is available  
 3 within the period [*required by that*] **the** public agency **requires**.

4 (2) In furthering the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335, [*it is the*  
 5 *intent of*] the Legislative Assembly [*that there be close cooperation between the*] **intends that the**  
 6 department, public [*contracting*] agencies and qualified nonprofit agencies for individuals with disa-  
 7 bilities **cooperate closely**. The department, on behalf of public [*contracting*] agencies and qualified  
 8 nonprofit agencies for individuals with disabilities, [*is authorized to*] **may** enter into [*such*] contrac-  
 9 tual agreements, cooperative working relationships or other arrangements [*as may be determined to*  
 10 *be*] **that are** necessary [*for effective coordination and efficient realization of*] **to effectively coordi-**  
 11 **nate and efficiently realize** the objectives of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 and  
 12 any other law [*requiring*] **that governs a** procurement of products or services.

13 **SECTION 5.** The amendments to ORS 279.835, 279.840, 279.845 and 279.850 by sections 1  
 14 to 4 of this 2013 Act apply to contracts that a public agency advertises or otherwise solicits  
 15 or, if the public agency does not advertise or otherwise solicit the contract, to contracts into  
 16 which the public agency enters on or after the operative date specified in section 6 of this  
 17 2013 Act.

18 **SECTION 6.** (1) The amendments to ORS 279.835, 279.840, 279.845 and 279.850 by sections  
 19 1 to 4 of this 2013 Act become operative January 1, 2014.

20 (2) The Director of the Oregon Department of Administrative Services, the Director of  
 21 Transportation, the Attorney General or a public agency that is authorized by law or rule  
 22 to conduct a procurement may take any action before the operative date specified in sub-  
 23 section (1) of this section that is necessary to enable the director, the Attorney General or  
 24 the public agency to exercise, on and after the operative date specified in subsection (1) of  
 25 this section, the duties, functions and powers conferred on the director, the Attorney Gen-  
 26 eral or the public agency by the amendments to ORS 279.835, 279.840, 279.845 and 279.850 by  
 27 sections 1 to 4 of this 2013 Act.

28 **SECTION 7.** This 2013 Act being necessary for the immediate preservation of the public  
 29 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect  
 30 on its passage.