

A-Engrossed
House Bill 2800

Ordered by the House February 20
Including House Amendments dated February 20

Sponsored by Representatives READ, BENTZ, Senators BEYER, STARR

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.

Declares that it is in state's interest to undertake Interstate 5 bridge replacement project. Enacts provisions relating to tolls for project. Specifies borrowing authority of Department of Transportation for project.

Provides that department may not request issuance of bonds for project unless certain criteria are met.

Sets cap on total cost of project.

Requires department to include certain provisions in public contracts awarded in connection with project.

Directs Oregon Transportation Commission to conduct study and make recommendations on creating fund to address *[public health issues along portion of Interstate 5 corridor impacted by project]* **project public health issues, on construction material stationing and on project diversion impacts.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to the Interstate 5 bridge replacement project; creating new provisions; amending ORS 367.163, 381.005, 381.020, 383.003, 383.005, 383.009, 383.015 and 383.035; repealing ORS 381.075; and declaring an emergency.

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

INTERSTATE 5 BRIDGE REPLACEMENT PROJECT

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 381.005 to 381.075.

SECTION 2. The Legislative Assembly finds that it is in the interests of this state to undertake the Interstate 5 bridge replacement project, a bistate, multimodal corridor improvement project between the Washington State Route 500 interchange with Interstate 5 in Vancouver, Washington, and the Victory Boulevard interchange with Interstate 5 in Portland, Oregon. The project includes:

(1) New multimodal river crossings;

(2) Replacement, modification and removal of the existing Interstate 5 bridges;

(3) Improvements to existing interchanges; and

(4) Multimodal improvements to facilitate travel in the bistate corridor.

SECTION 3. (1) As used in this section, "Interstate 5 bridge replacement project" means the project described in section 2 of this 2013 Act.

(2) The total cost of the Interstate 5 bridge replacement project may not exceed \$3.413

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 billion after the effective date of this 2013 Act.

2 (3) For the purpose of financing the Interstate 5 bridge replacement project, the State
3 Treasurer may not have outstanding, at any one time, bonds in an amount exceeding \$450
4 million of net proceeds, plus an amount determined by the State Treasurer to pay estimated
5 bond-related costs of issuance, for the purpose of funding Oregon's share of the aggregated
6 contribution to the project from Oregon and the State of Washington as described in the
7 Final Environmental Impact Statement submitted to the United States Government for the
8 project. It is the intent of the Legislative Assembly that moneys from the United States
9 Government or toll revenues be used to directly fund the project, be used to repay other
10 borrowings for the project or be pledged alone or with other security to lower the costs of
11 other borrowings for the project.

12 (4) The Department of Transportation may not request and the State Treasurer may not
13 issue any bond to finance the Interstate 5 bridge replacement project unless:

14 (a) No later than September 30, 2013, the State of Washington has appropriated, author-
15 ized or committed sufficient funds to:

16 (A) Satisfy the United States Department of Transportation requirement for a proposed
17 full funding grant agreement application; and

18 (B) Meet the requirements of the finance section included in the project's Final Envi-
19 ronmental Impact Statement published on September 11, 2011 and endorsed by the Federal
20 Transit Administration and the Federal Highway Administration in the record of decision
21 dated December 7, 2011;

22 (b) The United States Department of Transportation has submitted a full funding grant
23 agreement application, in an amount of at least \$850 million of Federal Transit Adminis-
24 tration funds, for congressional review;

25 (c) The State Treasurer has participated in and approved the findings of an investment
26 grade analysis of toll revenues associated with the project's application for a loan from the
27 Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act
28 program, and provided for ongoing financial analysis of the project;

29 (d) The State Treasurer has reviewed and approved a comprehensive financing plan for
30 the project, after making written findings that there are sources of funds committed by
31 contract or law or otherwise obligated that are reasonably expected to be available and that
32 will provide sufficient cash flows to pay the estimated costs of the initial phase of the project
33 described in the full funding grant agreement without revenues from borrowings in addition
34 to those described in subsection (3) of this section; and

35 (e) The United States Coast Guard has issued a general bridge permit for the main
36 channel of the Columbia River for the project.

37 **SECTION 4.** ORS 381.005 is amended to read:

38 381.005. (1) The Department of Transportation in the name of the state may construct, recon-
39 struct, purchase, rent, lease or otherwise acquire, improve, operate and maintain bridges over the
40 Columbia River *[to the State of Washington]*.

41 (2) Notwithstanding the designation of state highways within this state under ORS 366.005
42 and 366.220, the department may acquire real property necessary for the Interstate 5 bridge
43 replacement project, together with approaches and connecting roads, on both sides of the
44 Columbia River. For the purposes of the Interstate 5 bridge replacement project, the Oregon
45 Transportation Commission by resolution may designate additional approaches, connecting

1 **roads and related facilities within the Interstate 5 corridor on both sides of the Columbia**
2 **River as a part of the Oregon state highway system.**

3 **SECTION 5.** ORS 381.020 is amended to read:

4 381.020. The Department of Transportation may *[pay out of state highway funds or]* **use moneys**
5 **in the State Highway Fund, and** any other *[funds]* **moneys** available to *[it]* **the department, to**
6 **pay** any part of the cost of the construction, purchase, **financing**, maintenance, operation, repair,
7 reconstruction and improvement of any bridge mentioned in ORS 381.005. *[assessed and allocated to*
8 *this state. In the event the bridge is operated as a toll bridge, then the share of toll revenues accruing*
9 *to this state shall be applied by the department to reimburse the state highway funds for expenditures*
10 *made in connection with the bridge.]*

11 **SECTION 6.** ORS 381.075 is repealed.

12
13 **TOLLS**
14

15 **SECTION 7.** Section 8 of this 2013 Act is added to and made a part of ORS 383.003 to
16 **383.075.**

17 **SECTION 8.** (1) The Oregon Transportation Commission may enter into agreements with
18 the State of Washington, or the State of Washington's designee, relating to establishing,
19 reviewing, adjusting and collecting tolls for the Interstate 5 bridge replacement project.

20 (2) The commission shall consider the factors listed in ORS 383.004 and traffic demand
21 management in considering tolls for the Interstate 5 bridge replacement project. Toll for
22 the project must be sufficient to:

23 (a) Meet debt service requirements for debt issued to finance construction, development,
24 equipping or improvement for the project, including any reserves required by bond or other
25 contractual covenants;

26 (b) Pay for maintenance and operation of the project; and

27 (c) Fund any repair reserves, replacement reserves or other reserves that are required
28 by bond or other contractual covenants or that are otherwise determined by the commission
29 to be necessary in connection with the project.

30 (3) The portion of toll revenues accruing to the State of Oregon from the Interstate 5
31 bridge replacement project may be used only for the purposes described in Article IX, section
32 3a, of the Oregon Constitution. The toll revenues shall be used exclusively for the project,
33 and may not be used for any other purpose, for as long as bonds issued to finance the
34 project, including any refunding bonds, remain outstanding. After all bonds issued to finance
35 the project, including any refunding bonds, have been repaid, the toll revenues shall be re-
36 duced to an amount that is sufficient to do only the following:

37 (a) Pay the cost of maintenance and operation of the project; and

38 (b) Pay the cost of, including the cost of funding reserves for, reconstruction, improve-
39 ment and replacement of facilities related to the project.

40 **SECTION 9.** ORS 383.003 is amended to read:

41 383.003. As used in ORS 383.003 to 383.075:

42 (1) "Department" means the Department of Transportation.

43 (2) "Electronic toll collection system" means a system that records use of a tollway by elec-
44 tronic transmissions to or from the vehicle using the tollway and that collects tolls, or that is ca-
45 pable of charging an account established by a person for use of the tollway.

1 (3) "Photo enforcement system" means a system of sensors installed to work in conjunction with
2 an electronic toll collection system and other traffic control devices and that automatically produces
3 videotape or one or more photographs, microphotographs or other recorded images of a vehicle in
4 connection with the collection or enforcement of tolls.

5 (4) "Private entity" means any nongovernmental entity, including a corporation, partnership,
6 company or other legal entity, or any natural person.

7 (5) "Related facility" means any real or personal property that:

8 (a) Will be used to operate, maintain, renovate or facilitate the use of the tollway;

9 (b) Will provide goods or services to the users of the tollway; or

10 (c) Can be developed efficiently when tollways are developed and will generate revenue that
11 may be used to reduce tolls or will be deposited in the State Tollway Account.

12 (6) "Toll" means any fee or charge for the use of a tollway.

13 (7) "Toll booth collections" means the manual or mechanical collection of cash or charging of
14 an account at a toll plaza, toll booth or similar fixed toll collection facility.

15 (8) "Tollway" means any roadway, path, highway, bridge, tunnel, railroad track, bicycle path or
16 other paved surface or structure specifically designed as a land vehicle transportation route, the
17 construction, operation or maintenance of which is wholly or partially funded with toll revenues
18 resulting from an agreement under ORS 383.005.

19 (9) "Tollway operator" means the unit of government or the private entity that is responsible
20 for the construction, reconstruction, installation, improvement, **financing**, maintenance, repair and
21 operation of a tollway or a related facility.

22 (10) "Tollway project" means any capital project involving the acquisition of land for, or the
23 construction, reconstruction, improvement, installation, development or equipping of, a tollway, re-
24 lated facilities or any portion thereof.

25 (11) "Unit of government" means any department or agency of the federal government, any state,
26 [or any agency, office or department thereof,] **any department or agency of a state, any bistrate**
27 **entity created by agreement under ORS 190.420 or other law for the purposes of the Inter-**
28 **state 5 bridge replacement project**, and any city, county, district, port or other public corporation
29 organized and existing under statutory law or under a voter-approved charter.

30 **SECTION 10.** ORS 383.035 is amended to read:

31 383.035. (1) A person who fails to pay a toll, established pursuant to ORS 383.004, shall pay to
32 the Department of Transportation the amount of the toll, a civil penalty of not more than \$25 and
33 an administrative fee established by the tollway operator not to exceed the actual cost of collecting
34 the unpaid toll.

35 (2) In addition to any other penalty, the department [of *Transportation*] shall refuse to renew the
36 motor vehicle registration of the motor vehicle owned by a person who has not paid the toll, the
37 civil penalty and any administrative fee charged under this section.

38 (3) This section does not apply to:

39 (a) A person operating a vehicle owned by a unit of government or the tollway operator;

40 (b) A person who is a member of a category of persons exempted by the Oregon Transportation
41 Commission from paying a toll; or

42 (c) A person who is a member of a category of persons made eligible by the commission for
43 paying a reduced toll, to the extent of the reduction.

44 (4) **Subsection (1) of this section does not apply to a person who fails to pay a toll es-**
45 **ablished under section 8 of this 2013 Act.**

1 (5)(a) Upon receiving a request from the State of Washington, or from the State of
2 Washington's designee that has contracted with the State of Washington to collect tolls, the
3 department shall provide information to identify registered owners of vehicles who fail to pay
4 a toll established under section 8 of this 2013 Act.

5 (b) If the State of Washington, or the State of Washington's designee that has contracted
6 with the State of Washington to collect tolls, gives notice to the department that a person
7 has not paid a toll established under section 8 of this 2013 Act, or a civil penalty or admin-
8 istrative fee imposed by reason of failure to pay the toll, the department shall refuse to re-
9 new the Oregon motor vehicle registration of the motor vehicle operated by the person at
10 the time of the violation.

11 (c) The department may renew an Oregon motor vehicle registration of a person de-
12 scribed in paragraph (b) of this subsection upon receipt of a notice from the State of
13 Washington, or from the State of Washington's designee, indicating that all tolls, civil pen-
14 alties and other administrative fees owed by the person have been paid.

15
16 **BORROWING FOR THE INTERSTATE 5 BRIDGE REPLACEMENT PROJECT**

17
18 **SECTION 11.** The Department of Transportation may request the State Treasurer to is-
19 sue short-term bonds as provided in ORS chapter 286A for the purpose of managing cash
20 flows for the Interstate 5 bridge replacement project, which may include, but is not limited
21 to, repaying moneys borrowed from any unit of government, as defined in ORS 383.003. ORS
22 286A.035 does not apply to any short-term bonds issued under this section. Any bonds issued
23 under this section shall be repaid from the proceeds of bonds or other moneys available to
24 the department for the Interstate 5 bridge replacement project.

25 **SECTION 12.** (1) The Department of Transportation may request the State Treasurer to
26 issue bonds as provided in ORS chapter 286A for the purpose of financing the Interstate 5
27 bridge replacement project. The provisions of ORS 367.555 and 367.560 do not apply to bonds
28 issued under this section. The proceeds of bonds issued under this section may be deposited
29 in a segregated account within the State Highway Fund or with a trustee as provided in ORS
30 286A.025. A unit of government, as defined in ORS 383.003, may be used as a trustee for bonds
31 issued under the authority of this section. The proceeds of the bonds may be invested as
32 provided in ORS 286A.025.

33 (2) The proceeds of bonds issued under this section may be used by the department, or
34 loaned to a private entity or to a unit of government both as defined in ORS 383.003, for the
35 purpose of:

36 (a) Financing any portion of the Interstate 5 bridge replacement project, including the
37 payment of costs of acquisition of interests in land;

38 (b) Providing a financial reserve required under any federal funding agreement;

39 (c) Paying costs of issuing bonds and funding bond reserves; and

40 (d) Reimbursing the State Tollway Account established by ORS 383.009, as provided in
41 ORS 383.015 (4).

42 (3) Moneys attributable to the Interstate 5 bridge replacement project and deposited to,
43 and accounted for as part of, the State Tollway Account may be held by a third party, in-
44 cluding a unit of government as defined in ORS 383.003, as trustee or custodian of such
45 moneys.

1 **(4) The moneys described in section 13 (1) of this 2013 Act shall be used, to the extent**
2 **such moneys are necessary, to pay or secure the bonds authorized under this section.**

3 **SECTION 13. (1) Except as provided in subsection (2) of this section, the following mon-**
4 **eys may be pledged to payment of bonds issued under section 12 of this 2013 Act:**

5 **(a) Moneys attributable to tolls deposited in the State Tollway Account established under**
6 **ORS 383.009 or tolls collected and held by a third party for the State of Oregon.**

7 **(b) Moneys deposited in the State Highway Fund that are not otherwise pledged or dedi-**
8 **cated to other purposes, except that moneys otherwise pledged or dedicated may be used for**
9 **a subordinate lien if allowed by law or contract.**

10 **(c) Moneys loaned, granted or otherwise provided by the United States Government that**
11 **may legally be used to finance costs of the Interstate 5 bridge replacement project.**

12 **(2) The following moneys may not be pledged to payment of bonds issued under section**
13 **12 of this 2013 Act:**

14 **(a) Moneys appropriated to counties under ORS 366.762 to 366.768.**

15 **(b) Moneys appropriated to cities under ORS 366.785 to 366.820.**

16 **(c) Fees for the registration of campers, motor homes and travel trailers that are re-**
17 **quired to be paid into the State Parks and Recreation Department Fund under ORS 366.512.**

18 **SECTION 14. ORS 383.005 is amended to read:**

19 383.005. (1) For purposes of the acquisition, design, construction, reconstruction, operation or
20 maintenance and repair of tollway projects, the Department of Transportation may enter into any
21 combination of contracts, agreements and other arrangements with any one or more private entities
22 or units of government, or any combination thereof, including but not limited to the following:

23 **(a) Design-build contracts with private entities pursuant to which a portion or all aspects of the**
24 **design, construction and installation of all or any portion of a tollway project are accomplished by**
25 **the private entity;**

26 **(b) Lease agreements, lease-purchase agreements and installment sale arrangements for the**
27 **lease, sale or purchase of real and personal property for tollway projects by the state from private**
28 **entities or units of government or by private entities or units of government from the state;**

29 **(c) Licenses, franchises or other agreements for the periodic or long-term operation or mainte-**
30 **nance of a tollway project;**

31 **(d) Financing agreements for a tollway project pursuant to which the department **borrow****
32 **from, or makes any loan, grant, guaranty or other financing arrangement to or with, a private**
33 **entity or unit of government; and**

34 **(e) Agreements for purchase or acquisition of fee ownership, easements, rights of way or any**
35 **other interests in land upon which a tollway project is to be built.**

36 **(2) The department may operate tollway projects and impose and collect tolls on any tollway**
37 **project the department operates. Any private entity or unit of government that operates a tollway**
38 **project pursuant to an agreement with the department may impose and collect tolls on the tollway**
39 **project.**

40 **SECTION 15. ORS 383.009 is amended to read:**

41 383.009. (1) There is hereby established the State Tollway Account as a separate account within
42 the State Highway Fund. The State Tollway Account shall consist of:

43 **(a) All moneys and revenues received by the Department of Transportation from or made avail-**
44 **able by the federal government to the department for any tollway project or for the operation or**
45 **maintenance of any tollway;**

1 (b) Any moneys received by the department from any other unit of government or any private
2 entity for a tollway project or from the operation or maintenance of any tollway;

3 (c) All moneys and revenues received by the department from any loan made by the department
4 for a tollway project pursuant to ORS 383.005, and from any lease, agreement, franchise or license
5 for the right to the possession and use, operation or management of a tollway project;

6 (d) All tolls and other revenues received by the department from the users of any tollway
7 project;

8 (e) The proceeds of any bonds authorized to be issued [*under ORS 383.023*] for tollway projects;

9 (f) Any moneys that the department has legally transferred from the State Highway Fund to the
10 State Tollway Account for tollway projects;

11 (g) All moneys and revenues received by the department from all other sources that by donation,
12 grant, contract or law are allocated or dedicated for tollway projects;

13 (h) All interest earnings on investments made from any of the moneys held in the State Tollway
14 Account; and

15 (i) All civil penalties and administrative fees paid to the department from the enforcement of
16 tolls.

17 (2) Moneys in the State Tollway Account may be used by the department for the following pur-
18 poses:

19 (a) To finance preliminary studies and reports for any tollway project;

20 (b) To acquire land to be owned by the state for tollways and any related facilities therefor;

21 (c) To finance the construction, renovation, operation, improvement, maintenance or repair of
22 any tollway project;

23 (d) To make grants or loans to a unit of government for tollway projects;

24 (e) To make loans to private entities for tollway projects;

25 (f) To pay the principal, interest and premium due with respect to, and to pay the costs con-
26 nected with the issuance or ongoing administration of any bonds or other financial obligations au-
27 thorized to be issued by, or the proceeds of which are received by, the department for any tollway
28 project;

29 (g) To provide a guaranty or other security for any bonds or other financial obligations, in-
30 cluding but not limited to financial obligations with respect to any bond insurance, surety or credit
31 enhancement device issued or incurred by the department, a unit of government or a private entity,
32 for the purpose of financing a single tollway project or any related group or system of tollways or
33 related facilities; and

34 (h) To pay the costs incurred by the department in connection with its oversight, operation and
35 administration of the State Tollway Account, the proposals and projects submitted under ORS
36 383.015 and the tollway projects financed under ORS 383.005.

37 (3) For purposes of **paying or** securing bonds [*authorized by ORS 383.023*] or providing a guar-
38 anty, surety or other security authorized by subsection (2)(g) of this section, the department may:

39 (a) Irrevocably pledge all or any portion of the amounts that are credited to, or are required to
40 be credited to, the State Tollway Account;

41 (b) Establish subaccounts in the State Tollway Account, and make covenants regarding the
42 credit to and use of amounts in those accounts and subaccounts; and

43 (c) Establish separate trust funds or accounts and make covenants to transfer to those separate
44 trust funds or accounts all or any portion of the amounts that are required to be deposited in the
45 State Tollway Account.

1 (4) Notwithstanding any other provision of ORS 383.001 to 383.075, the department shall not
2 pledge any funds or amounts at any time held in the State Tollway Account as security for the ob-
3 ligations of a private entity unless the department has entered into a binding and enforceable
4 agreement that provides the department reasonable assurance that the department will be repaid,
5 with appropriate interest, any amounts that the department is required to advance pursuant to that
6 pledge.

7 (5) Moneys in the State Tollway Account are continuously appropriated to the department for
8 purposes authorized by this section.

9 **SECTION 16.** ORS 383.015 is amended to read:

10 383.015. (1) Tollway projects may be initiated by the Department of Transportation, by a unit
11 of government having an interest in the installation of a tollway, or by a private entity interested
12 in constructing or operating a tollway project. The department shall charge an administrative fee
13 for reviewing and considering any tollway project proposed by a private entity, which the depart-
14 ment shall establish by rule. All such administrative fees shall be deposited into the State Tollway
15 Account.

16 (2) The department shall adopt rules pursuant to which it will consider authorization of a
17 tollway project. The rules shall require consideration of:

18 (a) The opinions and interests of units of government encompassing or adjacent to the path of
19 the proposed tollway project in having the tollway installed;

20 (b) The probable impact of the proposed tollway project on local environmental, aesthetic and
21 economic conditions and on the economy of the state in general;

22 (c) The extent to which funding other than state funding is available for the proposed tollway
23 project;

24 (d) The likelihood that the estimated use of the tollway project will provide sufficient revenues
25 to independently finance the costs related to the construction and future maintenance, repair and
26 reconstruction of the tollway project, including the repayment of any loans to be made from moneys
27 in the State Tollway Account;

28 (e) With respect to tollway projects, any portion of which will be financed with state funds or
29 department loans or grants:

30 (A) The relative importance of the proposed tollway project compared to other proposed
31 tollways; and

32 (B) Traffic congestion and economic conditions in the communities that will be affected by
33 competing tollway projects; and

34 (f) The effects of tollway implementation on community and local street traffic.

35 (3) Notwithstanding any other provision of ORS 383.001 to 383.075, no tollway project shall be
36 authorized unless the department finds that either:

37 (a) Based on the department's estimate of present and future traffic patterns, the revenues gen-
38 erated by the tollway project will be sufficient, after payment of all obligations incurred in con-
39 nection with the acquisition, construction and operation of such tollway project, to ensure the
40 continued maintenance, repair and reconstruction of the tollway project without the contribution
41 of additional public funds; or

42 (b) The revenues generated by the tollway project will be at least sufficient to pay its opera-
43 tional expenses and a portion of the costs of its construction, maintenance, repair and recon-
44 struction, and the importance of the tollway project to the welfare or economy of the state is great
45 enough to justify the use of public funding for a portion of its construction, maintenance, repair and

1 reconstruction.

2 (4) If the department finds that a proposed tollway project qualifies for authorization under this
3 section, the department may conduct or cause to be conducted any environmental, geological or
4 other studies required by law as a condition of construction of the tollway project. The costs of
5 completing the studies for any proposed tollway project may be paid [by] **from** moneys in the State
6 Tollway Account[, *provided that any such payment shall constitute a loan against the proposed tollway*
7 *project and shall be reimbursed to the State Tollway Account as a part of]* **that are reimbursed from**
8 the permanent financing for the project.

9 **SECTION 17.** ORS 367.163 is amended to read:

10 367.163. The State Treasurer, at the request of the Department of Transportation, may issue
11 grant anticipation revenue bonds for the purposes of:

12 (1) Financing highway improvement projects including highway improvement projects already
13 under way or scheduled;

14 (2) Financing the restoration, reconstruction or renovation of highway improvements in Oregon;

15 (3) Financing transportation projects;

16 (4) Paying the costs of issuance of the revenue bonds including, but not limited to, the costs and
17 fees of paying agents, trustees and remarketing agents; [or]

18 (5) Paying the costs of credit enhancements[.]; or

19 **(6) Financing the Interstate 5 bridge replacement project.**

20
21 **PUBLIC CONTRACTS**

22
23 **SECTION 18.** (1) As used in this section, “Interstate 5 bridge replacement project” means
24 the project described in section 2 of this 2013 Act.

25 (2)(a) The Department of Transportation shall require, in accordance with 23 C.F.R.
26 635.410, that in each public contract that the department awards to a contractor in con-
27 nection with the Interstate 5 bridge replacement project that steel, iron, coatings for steel
28 and iron and manufactured products that the contractor purchases for the Interstate 5
29 bridge replacement project and that become part of a permanent structure must be produced
30 in the United States.

31 (b)(A) The requirement set forth in paragraph (a) of this subsection does not apply if the
32 Secretary of the United States Department of Transportation, or the secretary’s designee,
33 finds that:

34 (i) The requirement is inconsistent with the public interest;

35 (ii) Steel, iron, coatings for steel and iron and manufactured products required for the
36 Interstate 5 bridge replacement project are not produced in the United States in sufficient
37 and reasonably available quantities and with satisfactory quality; or

38 (iii) The requirement set forth in paragraph (a) of this subsection will increase the con-
39 struction and related costs of the Interstate 5 bridge replacement project, exclusive of labor
40 costs involved in final assembly for manufactured products, by 25 percent or more.

41 (B) At the earliest practicable time, the department shall give notice of any waiver that
42 the Secretary of the United States Department of Transportation grants. The department
43 shall give the notice by means of the same methods the department used to advertise pro-
44 curements for the Interstate 5 bridge replacement project, or by other means reasonably
45 suited to notifying contractors and subcontractors of the waiver.

1 (c)(A) Notwithstanding a finding from the Secretary of the United States Department of
2 Transportation under paragraph (b)(A) of this subsection, a contractor shall spend at least
3 75 percent of the total amount the contractor spends in connection with the Interstate 5
4 bridge replacement project on steel, iron, coatings for steel and iron and manufactured pro-
5 ducts that become part of a permanent structure to purchase steel, iron, coatings for steel
6 and iron and manufactured products that are produced in the United States.

7 (B) The Director of Transportation may waive the requirement set forth in subparagraph
8 (A) of this paragraph if the director finds that the requirement will increase the cost of a
9 contract the department awards in connection with the Interstate 5 bridge replacement
10 project by 25 percent or more, that steel, iron, coatings for steel and iron or manufactured
11 products are not produced in the United States in sufficient and reasonable quantities and
12 with satisfactory quality to meet the requirement or that the requirement violates regu-
13 lations promulgated by the Federal Highway Administration of the United States Department
14 of Transportation.

15 (d) The requirements set forth in this subsection are subject to applicable state and fed-
16 eral trade agreements.

17 (3)(a) The department, in awarding public contracts in connection with the Interstate 5
18 bridge replacement project, shall seek to the extent permissible under law, and in compliance
19 with the provisions of 49 C.F.R. part 26, as in effect on the effective date of this 2013 Act,
20 to:

21 (A) Ensure nondiscrimination in awarding public contracts;

22 (B) Remove barriers that prevent disadvantaged business enterprises from obtaining
23 public contracts;

24 (C) Create conditions under which disadvantaged business enterprises may compete fairly
25 for public contracts; and

26 (D) Otherwise seek to implement the policies set forth in ORS 279A.100, 279A.105 and
27 279A.110.

28 (b)(A) The Director of Transportation, in consultation with the Advocate for Minority,
29 Women and Emerging Small Business, with disadvantaged, minority, women or emerging
30 small business enterprises certified under ORS 200.055, with contractors and with other
31 knowledgeable persons, shall prepare a plan for complying with the requirements described
32 in paragraph (a) of this subsection and shall deliver the plan not later than January 1, 2014,
33 to an interim committee of the Legislative Assembly with oversight over transportation is-
34 sues. The plan must include a process for:

35 (i) Identifying opportunities for disadvantaged, minority, women or emerging small busi-
36 ness enterprises certified under ORS 200.055 to competitively bid for subcontracts and for
37 disadvantaged, minority, women or emerging small business enterprises to build the capacity
38 necessary to bid for larger contracts; and

39 (ii) Identifying opportunities to create and foster mentoring relationships between con-
40 tractors and subcontractors with extensive experience in performing public contracts and
41 disadvantaged, minority, women or emerging small businesses that are certified under ORS
42 200.055.

43 (B) The director, in accordance with ORS chapter 183, shall adopt rules that incorporate
44 the plan and that have an effective date that is not earlier than July 1, 2014.

45 (4)(a) As used in this subsection:

1 (A) "Apprentice" has the meaning given that term in ORS 660.010.

2 (B) "Local joint committee" has the meaning given that term in ORS 660.010.

3 (C) "Program" has the meaning given that term in ORS 660.010.

4 (b) The department shall provide in each public contract that the department awards to
5 a contractor in connection with the Interstate 5 bridge replacement project that apprentices
6 employed in a program that a local joint committee has approved under ORS 660.002 to
7 660.210 and that has existed for at least two years must perform at least 10 percent of all
8 work hours performed under the public contract. The department shall also require con-
9 tractors to provide in each of the contractor's subcontracts that apprentices with the qual-
10 ifications specified in this paragraph must perform at least 10 percent of the work hours
11 performed under the subcontract.

12 (c) Paragraph (b) of this subsection does not apply to a contract or subcontract with a
13 contract price that is less than \$250,000.

14 (5) The department shall provide in public contracts that the department awards to a
15 contractor in connection with the Interstate 5 bridge replacement project that:

16 (a) Each contractor is subject to the same standards and restrictions set forth in federal
17 law or the laws of this state that apply to the entire Interstate 5 bridge replacement project;
18 and

19 (b) Each contractor's own contracts with subcontractors must provide that each sub-
20 contractor is subject to the same standards and restrictions set forth in federal law or the
21 laws of this state that apply to the entire Interstate 5 bridge replacement project.

22 (6) The department shall develop goals for specifying types of work and contract prices
23 for contracts that are awarded in connection with the Interstate 5 bridge replacement
24 project so as to maximize economic development opportunities for small businesses. The de-
25 partment shall deliver a plan to achieve the goals not later than January 1, 2014, to an in-
26 terim committee of the Legislative Assembly with oversight over transportation issues.

27 (7) The department by rule shall establish a procedure that the department will follow
28 to resolve disputes between the States of Oregon and Washington with respect to the
29 Interstate 5 bridge replacement project.

30
31 **STUDY**

32
33 **SECTION 19.** (1) As used in this section, "Interstate 5 bridge replacement project" means
34 the project described in section 2 of this 2013 Act.

35 (2) The Oregon Transportation Commission shall conduct studies and develop recom-
36 mendations on each of the following:

37 (a) Establishing a fund that may be used to address any air quality or other public health
38 concerns that may impact the communities along the Interstate 5 corridor from the Fremont
39 Bridge to the Columbia River.

40 (b) Determining locations in this state to station construction materials for the Inter-
41 state 5 bridge replacement project.

42 (c) Developing strategies for managing the potential diversion impacts on Interstate 205
43 as a result of the Interstate 5 bridge replacement project.

44 (3) The commission shall present the studies and recommendations to the appropriate
45 interim committees of the Legislative Assembly related to transportation no later than

1 **September 15, 2014.**

2 **SECTION 20. Section 19 of this 2013 Act is repealed on the date of the convening of the**
3 **2015 regular session of the Legislative Assembly as specified in ORS 171.010.**

4
5 **REPORT**

6
7 **SECTION 21. Each calendar quarter, the Department of Transportation shall prepare and**
8 **submit a report on the progress of the Interstate 5 bridge replacement project described in**
9 **section 2 of this 2013 Act to the Legislative Assembly as provided in ORS 192.245 or, if the**
10 **report is submitted during the interim between sessions of the Legislative Assembly, to the**
11 **appropriate interim committees related to transportation.**

12 **SECTION 22. Section 21 of this 2013 Act is repealed on January 2, 2024.**

13
14 **CAPTIONS**

15
16 **SECTION 23. The unit captions used in this 2013 Act are provided only for the conven-**
17 **ience of the reader and do not become part of the statutory law of this state or express any**
18 **legislative intent in the enactment of this 2013 Act.**

19
20 **EMERGENCY CLAUSE**

21
22 **SECTION 24. This 2013 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
24 **on its passage.**

25
