

House Bill 2800

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 **as introduced**.

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.

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 billion after the effective date of this 2013 Act.

(3) For the purpose of financing the Interstate 5 bridge replacement project, the State Treasurer may not have outstanding, at any one time, bonds in an amount exceeding \$450

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 million of net proceeds, plus an amount determined by the State Treasurer to pay estimated
 2 bond-related costs of issuance. This subsection does not apply to borrowings from the United
 3 States government or borrowings intended to be repaid or secured by toll revenues generated
 4 by the Interstate 5 bridge replacement project.

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

7 (a) The State of Washington has appropriated, authorized or otherwise committed suffi-
 8 cient funds to satisfy the United States Department of Transportation requirement for a
 9 proposed full funding grant agreement application no later than September 30, 2013;

10 (b) The United States Department of Transportation has submitted a full funding grant
 11 agreement application, in amount of at least \$800 million, for congressional review;

12 (c) The State Treasurer has reviewed and approved an ongoing investment grade analysis
 13 and a comprehensive financing plan for the project that demonstrate sufficient cash flows
 14 and sources of funds to pay the estimated costs of the project so that additional revenues
 15 from borrowings in addition to those described in subsection (3) of this section are not nec-
 16 essary; and

17 (d) The United States Coast Guard has issued a general bridge permit for the main
 18 channel of the Columbia River for the project.

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

20 381.005. (1) The Department of Transportation in the name of the state may construct, recon-
 21 struct, purchase, rent, lease or otherwise acquire, improve, operate and maintain bridges over the
 22 Columbia River *[to the State of Washington]*.

23 (2) Notwithstanding the designation of state highways within this state under ORS 366.005
 24 and 366.220, the department may acquire real property necessary for the Interstate 5 bridge
 25 replacement project, together with approaches and connecting roads, on both sides of the
 26 Columbia River. For the purposes of the Interstate 5 bridge replacement project, the Oregon
 27 Transportation Commission by resolution may designate additional approaches, connecting
 28 roads and related facilities within the Interstate 5 corridor on both sides of the Columbia
 29 River as a part of the Oregon state highway system.

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

31 381.020. The Department of Transportation may *[pay out of state highway funds or]* use moneys
 32 in the State Highway Fund, and any other *[funds]* moneys available to *[it]* the department, to
 33 pay any part of the cost of the construction, purchase, financing, maintenance, operation, repair,
 34 reconstruction and improvement of any bridge mentioned in ORS 381.005. *[assessed and allocated to*
 35 *this state. In the event the bridge is operated as a toll bridge, then the share of toll revenues accruing*
 36 *to this state shall be applied by the department to reimburse the state highway funds for expenditures*
 37 *made in connection with the bridge.]*

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

39
 40 **TOLLS**

41
 42 **SECTION 7.** Section 8 of this 2013 Act is added to and made a part of ORS 383.003 to
 43 383.075.

44 **SECTION 8.** (1) The Oregon Transportation Commission may enter into agreements with
 45 the State of Washington, or the State of Washington's designee, relating to establishing,

1 reviewing, adjusting and collecting tolls for the Interstate 5 bridge replacement project.

2 (2) The commission shall consider the factors listed in ORS 383.004 in considering tolls
3 for the Interstate 5 bridge replacement project. Tolls for the project must be sufficient to:

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

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

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

11 (3) The portion of toll revenues accruing to the State of Oregon from the Interstate 5
12 bridge replacement project may be used only for the purposes described in Article IX, section
13 3a, of the Oregon Constitution. The toll revenues shall be used exclusively for the project,
14 and may not be used for any other purpose, for as long as bonds issued to finance the
15 project, including any refunding bonds, remain outstanding. After all bonds issued to finance
16 the project, including any refunding bonds, have been repaid, the toll revenues shall be re-
17 duced to an amount that is sufficient to do only the following:

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

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

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

22 383.003. As used in ORS 383.003 to 383.075:

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

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

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

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

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

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

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

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

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

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

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

45 (9) "Tollway operator" means the unit of government or the private entity that is responsible

1 for the construction, reconstruction, installation, improvement, **financing**, maintenance, repair and
 2 operation of a tollway or a related facility.

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

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

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

12 383.035. (1) A person who fails to pay a toll, established pursuant to ORS 383.004, shall pay to
 13 the Department of Transportation the amount of the toll, a civil penalty of not more than \$25 and
 14 an administrative fee established by the tollway operator not to exceed the actual cost of collecting
 15 the unpaid toll.

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

19 (3) This section does not apply to:

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

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

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

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

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

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

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

41
 42 **BORROWING FOR THE INTERSTATE 5 BRIDGE REPLACEMENT PROJECT**
 43

44 **SECTION 11.** **The Department of Transportation may request the State Treasurer to is-**
 45 **sue short-term bonds as provided in ORS chapter 286A for the purpose of managing cash**

1 flows for the Interstate 5 bridge replacement project, which may include, but is not limited
 2 to, repaying moneys borrowed from any unit of government, as defined in ORS 383.003. ORS
 3 286A.035 does not apply to any short-term bonds issued under this section. Any bonds issued
 4 under this section shall be repaid from the proceeds of bonds or other moneys available to
 5 the department for the Interstate 5 bridge replacement project.

6 **SECTION 12.** (1) The Department of Transportation may request the State Treasurer to
 7 issue bonds as provided in ORS chapter 286A for the purpose of financing the Interstate 5
 8 bridge replacement project. The provisions of ORS 367.555 and 367.560 do not apply to bonds
 9 issued under this section. The proceeds of bonds issued under this section may be deposited
 10 in a segregated account within the State Highway Fund or with a trustee as provided in ORS
 11 286A.025. A unit of government, as defined in ORS 383.003, may be used as a trustee for bonds
 12 issued under the authority of this section. The proceeds of the bonds may be invested as
 13 provided in ORS 286A.025.

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

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

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

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

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

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

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

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

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

33 (b) Moneys deposited in the State Highway Fund that are not otherwise pledged or dedi-
 34 cated to other purposes.

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

37 (2) The following moneys may not be pledged to payment of bonds issued under section
 38 12 of this 2013 Act:

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

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

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

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

44 383.005. (1) For purposes of the acquisition, design, construction, reconstruction, operation or
 45 maintenance and repair of tollway projects, the Department of Transportation may enter into any

1 combination of contracts, agreements and other arrangements with any one or more private entities
 2 or units of government, or any combination thereof, including but not limited to the following:

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

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

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

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

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

16 (2) The department may operate tollway projects and impose and collect tolls on any tollway
 17 project the department operates. Any private entity or unit of government that operates a tollway
 18 project pursuant to an agreement with the department may impose and collect tolls on the tollway
 19 project.

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

21 383.009. (1) There is hereby established the State Tollway Account as a separate account within
 22 the State Highway Fund. The State Tollway Account shall consist of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (h) To pay the costs incurred by the department in connection with its oversight, operation and
 15 administration of the State Tollway Account, the proposals and projects submitted under ORS
 16 383.015 and the tollway projects financed under ORS 383.005.

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

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

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

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

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

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

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

35 383.015. (1) Tollway projects may be initiated by the Department of Transportation, by a unit
 36 of government having an interest in the installation of a tollway, or by a private entity interested
 37 in constructing or operating a tollway project. The department shall charge an administrative fee
 38 for reviewing and considering any tollway project proposed by a private entity, which the depart-
 39 ment shall establish by rule. All such administrative fees shall be deposited into the State Tollway
 40 Account.

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

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

45 (b) The probable impact of the proposed tollway project on local environmental, aesthetic and

1 economic conditions and on the economy of the state in general;

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

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

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

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

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

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

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

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

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

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

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

35 367.163. The State Treasurer, at the request of the Department of Transportation, may issue
36 grant anticipation revenue bonds for the purposes of:

37 (1) Financing highway improvement projects including highway improvement projects already
38 under way or scheduled;

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

40 (3) Financing transportation projects;

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

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

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

45

PUBLIC CONTRACTS

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

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

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

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

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

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

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

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

(B) The Director of Transportation may waive the requirement set forth in subparagraph (A) of this paragraph if the director finds that the requirement will increase the cost of a contract the department awards in connection with the Interstate 5 bridge replacement project by 25 percent or more or that the requirement violates regulations promulgated by the Federal Highway Administration of the United States Department of Transportation.

(d) The requirements set forth in this subsection are subject to applicable state and federal trade agreements.

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

(A) Ensure nondiscrimination in awarding public contracts;

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

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

3 (D) Otherwise seek to implement the policies set forth in ORS 279A.100, 279A.105 and
 4 279A.110.

5 (b) The Director of Transportation, in consultation with the Advocate for Minority,
 6 Women and Emerging Small Business, with disadvantaged, minority, women or emerging
 7 small business enterprises certified under ORS 200.055, with contractors and with other
 8 knowledgeable persons, shall prepare a plan for complying with the requirements described
 9 in paragraph (a) of this subsection and shall deliver the plan not later than January 1, 2014,
 10 to an interim committee of the Legislative Assembly with oversight over transportation is-
 11 sues. The director, in accordance with ORS chapter 183, shall adopt rules that incorporate
 12 the plan and that have an effective date that is not earlier than July 1, 2014.

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

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

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

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

17 (b) The department shall provide in each public contract that the department awards to
 18 a contractor in connection with the Interstate 5 bridge replacement project that apprentices
 19 employed in a program that a local joint committee has approved under ORS 660.002 to
 20 660.210 and that has existed for at least two years must perform at least 10 percent of all
 21 work hours performed under the public contract. The department shall also require con-
 22 tractors to provide in each of the contractor's subcontracts that apprentices with the qual-
 23 ifications specified in this paragraph must perform at least 10 percent of the work hours
 24 performed under the subcontract.

25 (c) Paragraph (b) of this subsection does not apply to a contract or subcontract with a
 26 contract price that is less than \$100,000.

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

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

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

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

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

43
 44 **STUDY**
 45

1 **SECTION 19.** The Oregon Transportation Commission shall conduct a study and develop
2 recommendations on establishing a fund that may be used to address any air quality or other
3 public health concerns that may impact the communities along the Interstate 5 corridor
4 from the Fremont Bridge to the Columbia River as a result of the Interstate 5 bridge re-
5 placement project. The commission shall present the study and recommendations to the ap-
6 propriate interim committees of the Legislative Assembly related to transportation no later
7 than September 15, 2014.

8 **SECTION 20.** Section 19 of this 2013 Act is repealed on the date of the convening of the
9 2015 regular session of the Legislative Assembly as specified in ORS 171.010.

10
11 **CAPTIONS**

12
13 **SECTION 21.** The unit captions used in this 2013 Act are provided only for the conven-
14 ience of the reader and do not become part of the statutory law of this state or express any
15 legislative intent in the enactment of this 2013 Act.

16
17 **EMERGENCY CLAUSE**

18
19 **SECTION 22.** This 2013 Act being necessary for the immediate preservation of the public
20 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
21 on its passage.
22
