

HOUSE AMENDMENTS TO HOUSE BILL 3115

By COMMITTEE ON HIGHER EDUCATION AND WORKFORCE DEVELOPMENT

April 18

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and line 3 and insert
2 “279C.850; appropriating money; and declaring an emergency.”.

3 Delete lines 5 through 19 and delete pages 2 through 10.

4 On page 11, delete lines 1 through 4 and insert:

5 **“SECTION 1. Sections 2 and 6 of this 2013 Act are added to and made a part of ORS**
6 **chapter 279C.**

7 **“SECTION 2. (1) As used in this section:**

8 **“(a)(A) ‘Apprentice’ has the meaning given that term in ORS 660.010.**

9 **“(B) ‘Apprentice’ does not include a youth apprentice as described in ORS 344.745 and**
10 **344.750.**

11 **“(b) ‘Apprenticeable occupation’ has the meaning given that term in ORS 660.010.**

12 **“(2) In specifications and solicitation documents for every procurement for a public im-**
13 **provement that a state contracting agency anticipates will have a total contract price that**
14 **exceeds \$5 million, the state contracting agency shall notify prospective bidders and**
15 **proposers that the state contracting agency will require each contractor and subcontractor**
16 **to employ apprentices who are participating in programs of apprenticeship and training un-**
17 **der ORS 660.002 to 660.210 for at least 10 percent of the total work hours that workers in**
18 **apprenticeable occupations perform, as applicable, on the entire public improvement or under**
19 **each contract or subcontract for the public improvement that has a contract price that ex-**
20 **ceeds \$500,000.**

21 **“(3) Except as provided in subsection (7) of this section, each public improvement con-**
22 **tract between a state contracting agency and a contractor that has a contract price that**
23 **exceeds \$500,000 and is part of a public improvement for which the total contract price ex-**
24 **ceeds \$5 million shall provide that:**

25 **“(a) Each contractor shall employ apprentices that are participating in programs of ap-**
26 **prenticeship and training under ORS 660.002 to 660.210 for at least 10 percent of the total**
27 **work hours that workers in apprenticeable occupations perform on the public improvement;**
28 **and**

29 **“(b) Each contractor, in each subcontract for which the contract price exceeds \$500,000,**
30 **shall require the subcontractor to employ apprentices that are participating in programs of**
31 **apprenticeship and training under ORS 660.002 to 660.210 for at least 10 percent of the total**
32 **work hours that workers in apprenticeable occupations perform on the public improvement.**

33 **“(4)(a) A state contracting agency shall retain an amount equivalent to not more than**
34 **three percent of the amount due a contractor under a contract for an entire public im-**
35 **provement or, as appropriate, under each contract or subcontract for the public improve-**

1 ment. Within 10 days after the contractor completes the public improvement, or within the
2 time otherwise specified in the public improvement contract, the state contracting agency
3 shall pay the contractor the amount the state contracting agency retained, less \$20 for each
4 hour in which the contractor or a subcontractor that is subject to this section did not em-
5 ploy an apprentice for work that an apprentice must perform under subsection (3) of this
6 section.

7 “(b) A state contracting agency shall immediately pay into the State Apprenticeship Ed-
8 ucation and Training Fund any moneys that remain after the state contracting agency pays
9 the amount due a contractor from amounts the state contracting agency retained under
10 paragraph (a) of this subsection.

11 “(5) Each contractor or subcontractor that is subject to the requirement set forth in
12 subsection (3) of this section shall post notices of the requirement in conspicuous and ac-
13 cessible places in or around the construction site for the public improvement. The notices
14 must describe the requirement and contain information about how to report a violation of
15 the requirement to the Commissioner of the Bureau of Labor and Industries and where to
16 obtain further information.

17 “(6) A person may not take any action to circumvent the requirements set forth in this
18 section including, but not limited to, structuring the work performed on a public improve-
19 ment so as to avoid employing workers in apprenticeable occupations.

20 “(7)(a) The requirement to employ apprentices in accordance with subsection (3) of this
21 section does not apply to:

22 “(A) A business that is certified as a disadvantaged, minority, women or emerging small
23 business enterprise under ORS 200.055 if the business has existed for less than five years;
24 or

25 “(B) The Department of Transportation, except that:

26 “(i) The department must have in the department’s public improvement contracts re-
27 quirements that are substantially similar to the requirement set forth in subsection (3) of
28 this section or that require a contractor to employ a higher percentage of apprentices to
29 perform work on the public improvement than the percentage set forth in subsection (3) of
30 this section; and

31 “(ii) The department is subject to the requirements set forth in ORS 279C.850 and section
32 6 of this 2013 Act.

33 “(b) This section applies to the State Board of Higher Education, to the Oregon Univer-
34 sity System as described in ORS 351.011, to a public university listed in ORS 352.002 as of
35 January 1, 2013, and to a community college as defined in ORS 341.005.

36 “**SECTION 3.** Section 2 of this 2013 Act is amended to read:

37 “**Sec. 2.** (1) As used in this section:

38 “(a)(A) ‘Apprentice’ has the meaning given that term in ORS 660.010.

39 “(B) ‘Apprentice’ does not include a youth apprentice as described in ORS 344.745 and 344.750.

40 “(b) ‘Apprenticeable occupation’ has the meaning given that term in ORS 660.010.

41 “(2) In specifications and solicitation documents for every procurement for a public improvement
42 that a state contracting agency anticipates will have a total contract price that exceeds [*\$5*
43 *million*] **\$3 million**, the state contracting agency shall notify prospective bidders and proposers that
44 the state contracting agency will require each contractor and subcontractor to employ apprentices
45 who are participating in programs of apprenticeship and training under ORS 660.002 to 660.210 for

1 at least [10] **15** percent of the total work hours that workers in apprenticeable occupations perform,
2 as applicable, on the entire public improvement or under each contract or subcontract for the public
3 improvement that has a contract price that exceeds [*\$500,000*] **\$300,000**.

4 “(3) Except as provided in subsection (7) of this section, each public improvement contract be-
5 tween a state contracting agency and a contractor that has a contract price that exceeds
6 [*\$500,000*] **\$300,000** and is part of a public improvement for which the total contract price exceeds
7 [*\$5 million*] **\$3 million** shall provide that:

8 “(a) Each contractor shall employ apprentices that are participating in programs of apprentice-
9 ship and training under ORS 660.002 to 660.210 for at least [10] **15** percent of the total work hours
10 that workers in apprenticeable occupations perform on the public improvement; and

11 “(b) Each contractor, in each subcontract for which the contract price exceeds [*\$500,000*]
12 **\$300,000**, shall require the subcontractor to employ apprentices that are participating in programs
13 of apprenticeship and training under ORS 660.002 to 660.210 for at least [10] **15** percent of the total
14 work hours that workers in apprenticeable occupations perform on the public improvement.

15 “(4)(a) A state contracting agency shall retain, from amounts due to a contractor under a public
16 improvement contract, \$20 for each hour in which the contractor or a subcontractor that is subject
17 to this section does not employ an apprentice for work that an apprentice must perform under sub-
18 section (3) of this section, up to a maximum of three percent of the contract price for, as appropri-
19 ate, the entire public improvement or a contract or subcontract for the public improvement.

20 “(b) If the contractor or a subcontractor meets the requirement set forth in subsection (3) of this
21 section before completing the public improvement, the state contracting agency shall pay to the
22 contractor the amount the state contracting agency retains under paragraph (a) of this subsection.

23 “(c) At the time a public improvement is completed, a state contracting agency shall pay into
24 the State Apprenticeship Education and Training Fund moneys that the state contracting agency
25 retained under paragraph (a) of this subsection and did not pay to the contractor under paragraph
26 (b) of this subsection.

27 “(5) Each contractor or subcontractor that is subject to the requirement set forth in subsection
28 (3) of this section shall post notices of the requirement in conspicuous and accessible places in or
29 around the construction site for the public improvement. The notices must describe the requirement
30 and contain information about how to report a violation of the requirement to the Commissioner of
31 the Bureau of Labor and Industries and where to obtain further information.

32 “(6) A person may not take any action to circumvent the requirements set forth in this section
33 including, but not limited to, structuring the work performed on a public improvement so as to avoid
34 employing workers in apprenticeable occupations.

35 “(7)(a) The requirement to employ apprentices in accordance with subsection (3) of this section
36 does not apply to:

37 “(A) A business that is certified as a disadvantaged, minority, women or emerging small business
38 enterprise under ORS 200.055 if the business has existed for less than five years; or

39 “(B) The Department of Transportation, except that:

40 “(i) The department must have in the department’s public improvement contracts requirements
41 that are substantially similar to the requirement set forth in subsection (3) of this section or that
42 require a contractor to employ a higher percentage of apprentices to perform work on the public
43 improvement than the percentage set forth in subsection (3) of this section; and

44 “(ii) The department is subject to the requirements set forth in ORS 279C.850 and section 6 of
45 this 2013 Act.

1 “(b) This section applies to the State Board of Higher Education, to the Oregon University
2 System as described in ORS 351.011, to a public university listed in ORS 352.002 as of January 1,
3 2013, and to a community college as defined in ORS 341.005.

4 **“SECTION 4. Section 5 of this 2013 Act is added to and made a part of ORS 660.002 to
5 660.210.**

6 **“SECTION 5. (1) The State Apprenticeship Education and Training Fund is established in
7 the State Treasury, separate and distinct from the General Fund. The moneys in the State
8 Apprenticeship Education and Training Fund consist of amounts that state contracting
9 agencies retain from public improvement contracts and do not pay to contractors in ac-
10 cordance with section 2 of this 2013 Act.**

11 **“(2) Moneys in the State Apprenticeship Education and Training Fund may be invested
12 as provided in ORS 293.701 to 293.820. Interest from any source derived from investing the
13 moneys of the fund must be credited to the fund.**

14 **“(3) The moneys in the State Apprenticeship Education and Training Fund are contin-
15 uously appropriated to the State Apprenticeship and Training Council for the purposes of:**

16 **“(a) Making grants on a competitive basis and in conformance with a plan adopted under
17 ORS 279C.807 to programs that directly provide career and technical education for occupa-
18 tions prevalent in the construction and manufacturing industries. The council may consult
19 the Department of Education in determining which programs should receive grants.**

20 **“(b) Overseeing and monitoring apprenticeship education and training programs, includ-
21 ing programs identified in paragraph (a) of this subsection, for compliance with applicable
22 rules, standards and laws.**

23 **“(4) The council may make grants from the State Apprenticeship Education and Training
24 Fund for the purposes described in subsection (3)(a) of this section to:**

25 **“(a) Apprenticeship education and training programs, direct entry programs, and preap-
26 prenticeship and youth apprenticeship programs that are registered with the council;**

27 **“(b) Public school districts and education service districts; or**

28 **“(c) Public post-secondary educational institutions.**

29 **“SECTION 6. (1) A public improvement contract between a state contracting agency and
30 a contractor shall provide that a contractor or subcontractor that is subject to section 2 of
31 this 2013 Act, or the contractor or subcontractor’s surety, shall submit to the state con-
32 tracting agency the statements described in ORS 279C.845, even if the public improvement
33 is not otherwise subject to the provisions of ORS 279C.800 to 279C.870. Statements that a
34 contractor or subcontractor submits to a state contracting agency under this subsection, in
35 addition to the information required under ORS 279C.845, must include each worker’s ap-
36 prenticeship agreement registration number, if the worker has a number.**

37 **“(2) A state contracting agency, using the information included in the statements de-
38 scribed in subsection (1) of this section, shall total and compare the number of work hours
39 that workers in apprenticeable occupations performed under a public improvement contract
40 with the number of work hours that apprentices performed under the public improvement
41 contract to verify the extent to which the contractor or subcontractor complied with the
42 requirements set forth in section 2 of this 2013 Act.”.**

43 In line 5, delete “14” and insert “7”.

44 In line 7, after “performing” insert “work under a public improvement contract or on”.

45 In line 12, delete “4” and insert “2” and after “Act” insert “for work under a public improve-

1 ment contract”.

2 In line 14, after “work” insert “under a public improvement contract or”.

3 In line 19, delete “4” and insert “2”.

4 In line 20, after “Act” insert “for work under a public improvement contract”.

5 Delete lines 31 through 45 and delete page 12 and insert:

6 **“SECTION 8. (1) Sections 2, 5 and 6 of this 2013 Act and the amendments to ORS 279C.850**
7 **by section 7 of this 2013 Act become operative January 1, 2014.**

8 **“(2) The amendments to section 2 of this 2013 Act by section 3 of this 2013 Act become**
9 **operative January 1, 2017, and apply to public improvement contracts that a state contract-**
10 **ing agency first advertises or otherwise solicits on or after January 1, 2017, or, if the state**
11 **contracting agency does not advertise or solicit the public improvement contract, to a public**
12 **improvement contract into which the state contracting agency first enters on or after Jan-**
13 **uary 1, 2017.**

14 **“(3) Sections 2, 5 and 6 of this 2013 Act and the amendments to ORS 279C.850 by section**
15 **7 of this 2013 Act apply to public improvement contracts that a state contracting agency first**
16 **advertises or otherwise solicits on or after the operative date specified in subsection (2) of**
17 **this section or, if the state contracting agency does not advertise or solicit the public im-**
18 **provement contract, to a public improvement contract into which the state contracting**
19 **agency first enters on or after the operative date specified in subsection (2) of this section.**

20 **“(4) A state contracting agency that adopts rules under ORS 279A.065 may take any**
21 **action before the operative date specified in subsection (2) of this section that is necessary**
22 **to enable the state contracting agency to exercise, on and after the operative date specified**
23 **in subsection (2) of this section, all of the duties, functions and powers conferred on the state**
24 **contracting agency by sections 2, 5 and 6 of this 2013 Act and the amendments to ORS**
25 **279C.850 by section 7 of this 2013 Act.**

26 **“SECTION 9. This 2013 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
28 **on its passage.”.**

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