

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 254

By COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT EFFICIENCY

June 3

1 On page 1 of the printed A-engrossed bill, after line 9, insert:

2 “(1) ‘Affiliate’ means a person that, directly or indirectly through one or more intermediaries,
3 controls, is controlled by or is under common control with another person.”

4 In line 10, delete “(1)” and insert “(2)”.

5 In line 13, delete “(2)(a)” and insert “(3)(a)”.

6 On page 2, line 6, after “agency” delete the rest of the line and lines 7 and 8 and insert “decides
7 to proceed with construction, a construction manager/general contractor’s:”.

8 Delete lines 21 through 32 and insert:

9 “(B) A public improvement contract that results from a design-build procurement, as defined in
10 rules the Attorney General or a contracting agency adopts under ORS 279A.065, and that is exempt
11 from the competitive bidding requirement under ORS 279C.335;

12 “(C) An energy savings performance contract;

13 “(D) A public improvement contract for a transportation project that:

14 “(i) Is exempt from the competitive bidding requirement under ORS 279C.335;

15 “(ii) Requires the contractor to construct the project according to plans and specifications that
16 a design professional provides under a separate contract with the contracting agency and without
17 significant participation from the contractor; and

18 “(iii) The contracting agency awards on the basis of the contracting agency’s evaluation of:

19 “(I) The contractor’s qualifications, the price to perform the work on the project and the amount
20 of time the contractor will take to perform the work; or

21 “(II) The contractor’s qualifications, past experience with similar projects, the price to perform
22 the work on the project and the contractor’s planned approach to the project; or

23 “(E) A public improvement contract that is otherwise exempt or excepted from the competitive
24 bidding requirement under ORS 279C.335.”

25 In line 33, delete “(3)” and insert “(4)”.

26 On page 3, delete lines 17 through 19 and insert:

27 “(f) Specify terms and conditions that govern how the fixed price, guaranteed maximum price
28 or other maximum price set forth in the public improvement contract will be determined and
29 whether the price includes or is based on unit pricing or allows for work that is constructed in
30 phases;”.

31 In line 23, after “contract” insert “and the parties to the public improvement contract agree in
32 writing to the material changes”.

33 In line 25, after the semicolon insert “and”.

34 In line 35, delete the semicolon and insert a period.

35 Delete lines 36 through 45.

1 On page 4, delete lines 29 through 32 and insert:

2 “(e) Describe the conditions under which the construction manager/general contractor will dis-
3 cuss the qualification and selection process described in this subsection with a prospective subcon-
4 tractor that the construction manager/general contractor did not select for a subcontract if the
5 construction manager/general contractor receives a request from the prospective subcontractor to
6 discuss the process.

7 “(4) As used in this section, ‘savings’ means a positive difference between a fixed price, a guar-
8 anteed maximum price or other maximum price set forth in a public improvement contract and the
9 actual cost of the work, including costs for which a contracting agency reimburses a construction
10 manager/general contractor and fees or profits the construction manager/general contractor
11 earns.”.

12 On page 5, delete lines 5 through 13 and insert:

13 “(3)(a) The Attorney General shall adopt model rules that specify procedures for all contracting
14 agencies to use to procure construction manager/general contractor services. Before adopting or
15 amending a rule under this subsection, the Attorney General shall consult with the Director of the
16 Oregon Department of Administrative Services, the Director of Transportation, local contracting
17 agencies, construction contractors, construction subcontractors and other knowledgeable persons.”.

18 On page 6, delete lines 21 through 23.

19 On page 7, delete line 34 and insert:

20 “(C) Public benefits that may result from granting the exemption;”.

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