

# Senate Bill 285

Sponsored by Senator BOQUIST (Pre-session filed.)

## 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**.

Exempts individual who performs work as contractor or subcontractor alone and without employing any other workers on project for public works from requirement to file public works bond.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to exemptions from requirements to file public works bonds; creating new provisions;  
3 amending ORS 279C.836; and declaring an emergency.

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

5 **SECTION 1.** ORS 279C.836 is amended to read:

6 279C.836. (1) Except as provided in subsection (4), (7), (8) or (9) of this section, before starting  
7 work on a contract or subcontract for a public works project, a contractor or subcontractor shall  
8 file with the Construction Contractors Board a public works bond [*with*] **from** a corporate surety  
9 authorized to do business in this state in the amount of \$30,000. The bond must provide that the  
10 contractor or subcontractor will pay claims [*ordered by the Bureau of Labor and Industries*] to  
11 workers [*performing*] **that perform** labor upon public works projects **in accordance with an order**  
12 **of the Bureau of Labor and Industries**. The bond must be a continuing obligation, and the  
13 surety's liability for the aggregate of claims that may be payable from the bond may not exceed the  
14 penal sum of the bond. The bond must remain in effect continuously until [*depleted by*] claims paid  
15 under this section **deplete the bond**, unless the surety [*sooner*] cancels the bond **sooner**. The surety  
16 may cancel the bond by giving 30 days' written notice to the contractor or subcontractor, to the  
17 board and to the Bureau of Labor and Industries. When the bond is canceled, the surety is relieved  
18 of further liability for work [*performed*] **the contractor or subcontractor performs** on contracts  
19 [*entered into*] **into which the contractor or subcontractor enters** after the cancellation. The  
20 cancellation does not limit the surety's liability for work **the contractor or subcontractor per-**  
21 **formed on contracts the contractor or subcontractor** entered into before the cancellation.

22 (2) Before permitting a subcontractor to start work on a public works project, the contractor  
23 shall verify that the subcontractor has filed a public works bond as required under this section, has  
24 elected not to file a public works bond under subsection (7) or (8) of this section or is exempt under  
25 subsection (4) or (9) of this section.

26 (3) A contractor or subcontractor is not required under this section to file a separate public  
27 works bond for each public works project for which the contractor or subcontractor has a contract.

28 (4)(a) A person that is not required under ORS 279C.800 to 279C.870 to pay prevailing rates of  
29 wage on a public works project is not required to file a public works bond under this section.

30 **(b) An individual who performs work as a contractor or subcontractor alone and without**  
31 **employing any other workers on a project for public works is not required to file a public**

**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 **works bond under this section.**

2 (5) A public works bond required by this section is in addition to any other bond the contractor  
3 or subcontractor [*is required to*] **must** obtain.

4 (6) The board may, by rule, require a contractor or subcontractor to obtain a new public works  
5 bond if a surety pays a claim out of an existing public works bond. The new bond must be in the  
6 amount of \$30,000. The board may allow a contractor or subcontractor to obtain, instead of a new  
7 bond, a certification that the surety remains liable for the full penal sum of the existing bond,  
8 notwithstanding **the surety's** payment [*by the surety*] on the claim.

9 (7)(a) A disadvantaged, minority, women or emerging small business enterprise certified under  
10 ORS 200.055 may, for up to four years after certification, elect not to file a public works bond as  
11 required under subsection (1) this section. If a business enterprise elects not to file a public works  
12 bond, the business enterprise shall give the board written verification of the certification and writ-  
13 ten notice that the business enterprise elects not to file the bond.

14 (b) A business enterprise that elects not to file a public works bond under this subsection shall  
15 notify the public agency for whose benefit the contract was awarded or, if the business enterprise  
16 is a subcontractor, the contractor of the election before starting work on a public works project.  
17 [*When*] **If** a business enterprise elects not to file a public works bond under this subsection, a **per-**  
18 **son may make** a claim for unpaid wages [*may be made against the payment bond of*] **against** the  
19 business [*enterprise*] **enterprise's payment bond** or, if the business enterprise is a subcontractor,  
20 **against** the [*payment bond of the contractor*] **contractor's payment bond**.

21 (c) An election not to file a public works bond expires four years after the date **on which** the  
22 business enterprise is certified. After an election has expired and before starting or continuing work  
23 on a contract or subcontract for a public works project, the business enterprise shall file a public  
24 works bond with the board as required under subsection (1) of this section.

25 (8) A contractor or subcontractor may elect not to file a public works bond as required under  
26 subsection (1) of this section for any public works project for which the contract price does not  
27 exceed \$100,000.

28 (9) In cases of emergency, or when the interest or property of the public agency for whose  
29 benefit the contract was awarded probably would suffer material injury by delay or other cause, the  
30 requirement for filing a public works bond may be excused, if a declaration of the emergency is  
31 made in accordance with rules adopted under ORS 279A.065.

32 (10) The board shall make available on a searchable public website information concerning  
33 public works bonds filed with the board, claims made on [*those*] **the public works** bonds, elections  
34 [*made by*] **that** certified business enterprises **made** not to file [*those bonds*] **a public works bond**  
35 and the expiration date of each election. The board may adopt rules necessary to perform the duties  
36 [*required*] **this section requires** of the board [*by this section*].

37 (11) The Commissioner of the Bureau of Labor and Industries, with approval of the board, shall  
38 adopt rules that establish language for public works bonds.

39 **SECTION 2. The amendments to ORS 279C.836 by section 1 of this 2013 Act apply to a**  
40 **contract for public works into which a contractor or subcontractor enters on or after the**  
41 **effective date of this 2013 Act.**

42 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
44 **on its passage.**