

**PROPOSED AMENDMENTS TO
HOUSE BILL 3115**

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

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**
6 **made a part of ORS chapter 279C.**

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

8 **“(a)(A) ‘Apprentice’ has the meaning given that term in ORS**
9 **660.010.**

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

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

14 **“(2) In specifications and solicitation documents for every procure-**
15 **ment for a public improvement that a state contracting agency antic-**
16 **ipates will have a total contract price that exceeds \$5 million, the state**
17 **contracting agency shall notify prospective bidders and proposers that**
18 **the state contracting agency will require each contractor and subcon-**
19 **tractor to employ apprentices who are participating in programs of**
20 **apprenticeship and training under ORS 660.002 to 660.210 for at least**
21 **10 percent of the total work hours that workers in apprenticeable oc-**
22 **cupations perform, as applicable, on the entire public improvement or**

1 under each contract or subcontract for the public improvement that
2 has a contract price that exceeds \$500,000.

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

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

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

18 “(4)(a) A state contracting agency shall retain, from amounts due
19 to a contractor under a public improvement contract, \$20 for each
20 hour in which the contractor or a subcontractor that is subject to this
21 section does not employ an apprentice for work that an apprentice
22 must perform under subsection (3) of this section, up to a maximum
23 of three percent of the contract price for, as appropriate, the entire
24 public improvement or a contract or subcontract for the public im-
25 provement.

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

1 “(c) At the time a public improvement is completed, a state con-
2 tracting agency shall pay into the State Apprenticeship Education and
3 Training Fund moneys that the state contracting agency retained un-
4 der paragraph (a) of this subsection and did not pay to the contractor
5 under paragraph (b) of this subsection.

6 “(5) Each contractor or subcontractor that is subject to the re-
7 quirement set forth in subsection (3) of this section shall post notices
8 of the requirement in conspicuous and accessible places in or around
9 the construction site for the public improvement. The notices must
10 describe the requirement and contain information about how to report
11 a violation of the requirement to the Commissioner of the Bureau of
12 Labor and Industries and where to obtain further information.

13 “(6) A person may not take any action to circumvent the require-
14 ments set forth in this section including, but not limited to, struc-
15 turing the work performed on a public improvement so as to avoid
16 employing workers in apprenticeable occupations.

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

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

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

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

29 “(ii) The department is subject to the requirements set forth in ORS
30 279C.850 and section 6 of this 2013 Act.

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

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

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

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

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

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

12 “(2) In specifications and solicitation documents for every procurement
13 for a public improvement that a state contracting agency anticipates will
14 have a total contract price that exceeds [*\$5 million*] **\$3 million**, the state
15 contracting agency shall notify prospective bidders and proposers that the
16 state contracting agency will require each contractor and subcontractor to
17 employ apprentices who are participating in programs of apprenticeship and
18 training under ORS 660.002 to 660.210 for at least [*10*] **15** percent of the total
19 work hours that workers in apprenticeable occupations perform, as applica-
20 ble, on the entire public improvement or under each contract or subcontract
21 for the public improvement that has a contract price that exceeds [*\$500,000*]
22 **\$300,000**.

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

28 “(a) Each contractor shall employ apprentices that are participating in
29 programs of apprenticeship and training under ORS 660.002 to 660.210 for at
30 least [*10*] **15** percent of the total work hours that workers in apprenticeable

1 occupations perform on the public improvement; and

2 “(b) Each contractor, in each subcontract for which the contract price
3 exceeds [~~\$500,000~~] **\$300,000**, shall require the subcontractor to employ ap-
4 prentices that are participating in programs of apprenticeship and training
5 under ORS 660.002 to 660.210 for at least [~~10~~] **15** percent of the total work
6 hours that workers in apprenticeable occupations perform on the public im-
7 provement.

8 “(4)(a) A state contracting agency shall retain, from amounts due to a
9 contractor under a public improvement contract, \$20 for each hour in which
10 the contractor or a subcontractor that is subject to this section does not
11 employ an apprentice for work that an apprentice must perform under sub-
12 section (3) of this section, up to a maximum of three percent of the contract
13 price for, as appropriate, the entire public improvement or a contract or
14 subcontract for the public improvement.

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

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

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

1 “(6) A person may not take any action to circumvent the requirements set
2 forth in this section including, but not limited to, structuring the work per-
3 formed on a public improvement so as to avoid employing workers in
4 apprenticeable occupations.

5 “(7)(a) The requirement to employ apprentices in accordance with sub-
6 section (3) of this section does not apply to:

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

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

11 “(i) The department must have in the department’s public improvement
12 contracts requirements that are substantially similar to the requirement set
13 forth in subsection (3) of this section or that require a contractor to employ
14 a higher percentage of apprentices to perform work on the public improve-
15 ment than the percentage set forth in subsection (3) of this section; and

16 “(ii) The department is subject to the requirements set forth in ORS
17 279C.850 and section 6 of this 2013 Act.

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

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

24 **“SECTION 5. (1) The State Apprenticeship Education and Training
25 Fund is established in the State Treasury, separate and distinct from
26 the General Fund. The moneys in the State Apprenticeship Education
27 and Training Fund consist of amounts that state contracting agencies
28 retain from public improvement contracts and do not pay to contrac-
29 tors in accordance with section 2 of this 2013 Act.**

30 **“(2) Moneys in the State Apprenticeship Education and Training**

1 Fund may be invested as provided in ORS 293.701 to 293.820. Interest
2 from any source derived from investing the moneys of the fund must
3 be credited to the fund.

4 “(3) The moneys in the State Apprenticeship Education and Train-
5 ing Fund are continuously appropriated to the State Apprenticeship
6 and Training Council for the purposes of:

7 “(a) Making grants on a competitive basis and in conformance with
8 a plan adopted under ORS 279C.807 to programs that directly provide
9 career and technical education for occupations prevalent in the con-
10 struction and manufacturing industries. The council may consult the
11 Department of Education in determining which programs should re-
12 ceive grants.

13 “(b) Overseeing and monitoring apprenticeship education and
14 training programs, including programs identified in paragraph (a) of
15 this subsection, for compliance with applicable rules, standards and
16 laws.

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

20 “(a) Apprenticeship education and training programs, direct entry
21 programs, and preapprenticeship and youth apprenticeship programs
22 that are registered with the council;

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

24 “(c) Public post-secondary educational institutions.

25 **“SECTION 6. (1) A contractor or subcontractor that is subject to**
26 **section 2 of this 2013 Act, or the contractor’s or subcontractor’s**
27 **surety, shall submit to the state contracting agency for which the**
28 **contractor or subcontractor is performing work under a public im-**
29 **provement contract that is subject to section 2 of this 2013 Act ap-**
30 **prenticeship utilization forms that show the weekly cumulative total**

1 of work hours that apprentices who are participating in programs of
2 apprenticeship and training under ORS 660.002 to 660.210 performed on
3 the public improvement. The Commissioner of the Bureau of Labor
4 and Industries shall prescribe the form and contents for the appren-
5 ticeship utilization forms.

6 “(2) The contractor or subcontractor, or the contractor’s or
7 subcontractor’s surety, shall certify by oath that the contractor or
8 subcontractor has read each apprenticeship utilization form, that the
9 contractor or subcontractor knows the contents of the apprenticeship
10 utilization form and that, to the contractor’s or subcontractor’s
11 knowledge, the apprenticeship utilization form is true.

12 “(3) Each apprenticeship utilization form shall set out accurately
13 and completely the contractor’s or subcontractor’s payroll records,
14 including the name and address of each worker, the worker’s correct
15 classification, the worker’s apprenticeship agreement registration
16 number, if any, rate of pay, daily and weekly number of hours worked
17 and the gross wages the worker earned for work on the public im-
18 provement during each week identified in the certified statement.

19 “(4) Once each month, the contractor or subcontractor shall deliver
20 or mail to the state contracting agency the apprenticeship utilization
21 forms required under this section for each week during which the
22 contractor or subcontractor employed a worker under a public im-
23 provement contract. The contractor or subcontractor shall deliver the
24 apprenticeship utilization forms by the fifth business day of the fol-
25 lowing month. Information the contractor or subcontractor submits
26 on an apprenticeship utilization form may be used only to ensure
27 compliance with section 2 of this 2013 Act.

28 “(5) Each contractor or subcontractor shall preserve the appren-
29 ticeship utilization forms required under this section for a period of
30 three years after completing the public improvement.

1 **“(6) An apprenticeship utilization form that a state contracting**
2 **agency receives under this section is a public record that is subject to**
3 **the provisions of ORS 192.410 to 192.505.**

4 **“(7) A state contracting agency shall retain 25 percent of any**
5 **amount due to a contractor in a progress payment or a final payment**
6 **until the contractor has submitted apprenticeship utilization forms to**
7 **the state contracting agency as required under this section. The state**
8 **contracting agency shall pay the contractor the amount the state**
9 **contracting agency retained under this subsection within 14 days after**
10 **the contractor submits the apprenticeship utilization forms required**
11 **under this section regardless of whether a subcontractor failed to**
12 **submit apprenticeship utilization forms as required under this section.**

13 **“(8) A contractor shall retain 25 percent of any amount due to a**
14 **first-tier subcontractor in a progress payment or a final payment until**
15 **the subcontractor has submitted apprenticeship utilization forms to**
16 **the state contracting agency as required under this section. The con-**
17 **tractor shall verify that the first-tier subcontractor has submitted the**
18 **apprenticeship utilization forms before the contractor may pay the**
19 **subcontractor any amount the contractor retains under this sub-**
20 **section. The contractor shall pay the first-tier subcontractor the**
21 **amount the contractor retains under this subsection within 14 days**
22 **after the subcontractor submits the apprenticeship utilization forms**
23 **required under this section.**

24 **“(9) This section does not require:**

25 **“(a) A state contracting agency to verify the truth of the contents**
26 **of apprenticeship utilization forms that a contractor submits under**
27 **this section; or**

28 **“(b) A state contracting agency or a contractor to verify the truth**
29 **of the contents of apprenticeship utilization forms that a subcontrac-**
30 **tor submits under this section.”.**

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

2 In line 7, after “performing” insert “work under a public improvement
3 contractor or on”.

4 In line 12, delete “4” and insert “2” and after “Act” insert “for work un-
5 der a public improvement contract”.

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

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

9 In line 20, after “Act” insert “for work under a public improvement con-
10 tract”.

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

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

15 **“(2) The amendments to section 2 of this 2013 Act by section 3 of
16 this 2013 Act become operative January 1, 2017, and apply to public
17 improvement contracts that a state contracting agency first advertises
18 or otherwise solicits on or after January 1, 2017, or, if the state con-
19 tracting agency does not advertise or solicit the public improvement
20 contract, to a public improvement contract into which the state con-
21 tracting agency first enters on or after January 1, 2017.**

22 **“(3) Sections 2, 5 and 6 of this 2013 Act and the amendments to ORS
23 279C.850 by section 7 of this 2013 Act apply to public improvement
24 contracts that a state contracting agency first advertises or otherwise
25 solicits on or after the operative date specified in subsection (2) of this
26 section or, if the state contracting agency does not advertise or solicit
27 the public improvement contract, to a public improvement contract
28 into which the state contracting agency first enters on or after the
29 operative date specified in subsection (2) of this section.**

30 **“(4) A state contracting agency that adopts rules under ORS**

1 279A.065 may take any action before the operative date specified in
2 subsection (2) of this section that is necessary to enable the state
3 contracting agency to exercise, on and after the operative date speci-
4 fied in subsection (2) of this section, all of the duties, functions and
5 powers conferred on the state contracting agency by sections 2, 5 and
6 6 of this 2013 Act and the amendments to ORS 279C.850 by section 7
7 of this 2013 Act.

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

11
