

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 254**

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
3 more intermediaries, controls, is controlled by or is under common control
4 with another person.”.

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

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

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

10 Delete lines 21 through 32 and insert:

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

15 “(C) An energy savings performance contract;

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

17 “(i) Is exempt from the competitive bidding requirement under ORS
18 279C.335;

19 “(ii) Requires the contractor to construct the project according to plans
20 and specifications that a design professional provides under a separate con-
21 tract with the contracting agency and without significant participation from
22 the contractor; and

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

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

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

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

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

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

13 “(f) Specify terms and conditions that govern how the fixed price, guar-
14 anteed maximum price or other maximum price set forth in the public im-
15 provement contract will be determined and whether the price includes or is
16 based on unit pricing or allows for work that is constructed in phases;”.

17 In line 23, after “contract” insert “and the parties to the public improve-
18 ment contract agree in writing to the material changes”.

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

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

21 Delete lines 36 through 45.

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

23 “(e) Describe the conditions under which the construction
24 manager/general contractor will discuss the qualification and selection pro-
25 cess described in this subsection with a prospective subcontractor that the
26 construction manager/general contractor did not select for a subcontract if
27 the construction manager/general contractor receives a request from the
28 prospective subcontractor to discuss the process.

29 “(4) As used in this section, ‘savings’ means a positive difference between
30 a fixed price, a guaranteed maximum price or other maximum price set forth

1 in a public improvement contract and the actual cost of the work, including
2 costs for which a contracting agency reimburses a construction
3 manager/general contractor and fees or profits the construction
4 manager/general contractor earns.”.

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

6 “(3)(a) The Attorney General shall adopt model rules that specify proce-
7 dures for all contracting agencies to use to procure construction
8 manager/general contractor services. Before adopting or amending a rule
9 under this subsection, the Attorney General shall consult with the Director
10 of the Oregon Department of Administrative Services, the Director of
11 Transportation, local contracting agencies, construction contractors, con-
12 struction subcontractors and other knowledgeable persons.”.

13 On page 6, delete lines 21 through 23.

14 On page 7, delete line 34 and insert:

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

16
