

# D R A F T

## SUMMARY

Provides that developer or owner of capital project eligible for tax benefit must provide proof of certain information regarding project contractors, first-tier subcontractors and responsible managing individuals for contractors and first-tier subcontractors in order to receive tax benefit. Applies to tax years beginning on or after January 1, 2016.

### A BILL FOR AN ACT

Relating to capital projects eligible for tax benefits.

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

#### **SECTION 1. (1) As used in this section:**

(a) **“Capital project” means a project within this state for the construction, modification, replacement, repair, remodeling or renovation of a structure or structures.**

(b) **“Construction debt,” “developer” and “responsible managing individual” have the meanings given those terms in ORS 701.005.**

(c) **“Eligible” means qualifying for a tax benefit.**

(d) **“First-tier subcontractor” means a person who subcontracts directly from a general contractor to perform work, if the subcontracted work has a value that:**

(A) **Equals or exceeds the greater of \$15,000 or five percent of the construction contract for the capital project; or**

(B) **If less than five percent of the construction contract for the capital project, equals or exceeds \$350,000.**

(e) **“Owner” has the meaning given that term in ORS 701.094.**

(f) **“Prevailing rate of wage” has the meaning given that term in**

1 **ORS 279C.800.**

2 (g) "Resumes work" means that a contractor or first-tier subcon-  
3 tractor continues construction work on a capital project after not  
4 having worked on the project for a period of \_\_\_\_ days or more.

5 (h) "Tax benefit" means a reduction in property or income taxes  
6 levied by a public body as defined in ORS 174.109, whether conferred  
7 as a credit, deduction, exemption, reimbursement, subsidy or sub-  
8 traction or in other form.

9 (2) A developer or owner may not receive a tax benefit for an eli-  
10 gible capital project unless, for each tax year in which construction  
11 of the capital project occurs, the developer or owner files with the  
12 taxing entity a verification by the Department of Consumer and  
13 Business Services, or by a municipality carrying out a building in-  
14 spection program under ORS 455.148 or 455.150, that the developer or  
15 owner has provided the department or municipality with all of the  
16 following:

17 (a) One or more lists identifying each contractor or first-tier sub-  
18 contractor for the capital project prior to that contractor or subcon-  
19 tractor commencing or resuming work on the capital project during  
20 the tax year.

21 (b) Proof satisfactory to the department or municipality that for  
22 each contractor or first-tier subcontractor that commenced or re-  
23 sumed working on the capital project during the tax year the developer  
24 or owner exercised due diligence to verify, prior to the contractor or  
25 subcontractor commencing or resuming work, that the contractor or  
26 subcontractor:

27 (A) Held a license under ORS 701.021 having the proper endorsement  
28 for the work to be performed;

29 (B) Was in compliance with applicable insurance requirements im-  
30 posed under ORS 701.073, 701.081 and 701.084;

31 (C) Was in compliance with applicable bonding requirements im-

1 posed under ORS 701.068, 701.081 and 701.084; and

2 (D) If classed under ORS 701.035 as exempt and licensed as a com-  
3 mercial contractor, was in compliance with the workers' compensation  
4 insurance requirement imposed under ORS 701.035.

5 (c) Affidavits by each contractor and first-tier subcontractor per-  
6 forming work on the capital project during the tax year, and by the  
7 responsible managing individual for that contractor or first-tier sub-  
8 contractor, stating that at the time of the affidavit the contractor,  
9 subcontractor or responsible managing individual:

10 (A) Was not the subject of any judgment or award for a con-  
11 struction debt; and

12 (B) Was in compliance with all tax laws described under ORS 305.620  
13 and all provisions of ORS chapters 314, 316, 317 and 318.

14 (d) If required by law or contract, certified payroll statements  
15 proving that each contractor or first-tier subcontractor performing  
16 work on the capital project during the tax year paid any prevailing  
17 rate of wage applicable to the work. If the developer or owner claims  
18 that the capital project is not subject to payment of the prevailing rate  
19 of wage, the developer or owner must provide a copy of the contract  
20 establishing that the contract does not require payment of the pre-  
21 vailing rate of wage.

22 SECTION 2. Section 1 of this 2015 Act applies to tax years beginning  
23 on or after January 1, 2016.

24