

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 04/28/15

Action: Do Pass.

Meeting Dates: 04/07, 04/28

Vote:

Yeas: 7 - Buehler, Fagan, Holvey, McLain, Nearman, Rayfield, Stark

Prepared By: Wendy Simons, Committee Administrator

WHAT THE MEASURE DOES:

Requires contracting agency to suspend the right to submit a bid or proposal for disadvantaged, minority, women or emerging small business (DMWESB) enterprise that exhibits pattern of failing to perform a commercially useful function. Extends maximum possible length of suspension for violations. Requires Oregon Business Development Department (OBDD) to revoke certification for DMWESB enterprises after investigation reveals violations.

Requires contracting agency to notify OBDD when investigating contractor for failing to perform a commercially useful function. Allows OBDD to conduct independent investigation in response to notification. Becomes operative January 1, 2016. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- How bill relates to provisions of House Bill 2716 (2015)
- Ability of contracting agencies to enforce bidding requirements
- Source of “commercially useful function” standard
- Sufficiency of provisions in bill to deter fraud by businesses bidding for contracts under DMWESB certification

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

The Oregon Business Development Department (OBDD), also known as Business Oregon, certifies businesses who meet the criteria for the Disadvantaged Business Enterprise, Minority/Women Business Enterprise and Emerging Small Business (DMWESB) certifications. In order to qualify, a firm must be an independently owned and operated for-profit business which is properly licensed and registered with the Secretary of State, and at least 51 percent owned and controlled by a socially and economically disadvantaged individual who manages the day-to-day operations. Businesses meeting these criteria are eligible for certain contracting opportunities with federal, state, county and city governments and special jurisdictions.

Under current law, the bidder, contractor or subcontractor loses the right to bid on or participate in public contracts for a length of time tied to the number of violations if they misrepresent the role the DMWESB will perform in the contract, exercise control over the internal operations of the DMWESB, or use a DMWESB that fails to perform a commercially useful function. Senate Bill 584-A requires OBDD to revoke, instead of suspend, the DMWESB certification when violations are found in an investigation.

Senate Bill 584-A requires a public contracting agency to suspend the right to submit bids or proposals on future projects if the bidder, proposer, contractor or subcontractor is presented as a DMWESB but fails to perform a commercially useful function in public contracts with that agency. The bill adds a requirement for contracting agencies to notify OBDD when investigating a DMWESB for failing to perform a commercially useful function, and allows OBDD to conduct its own investigation in response when it receives notification from one or more contracting agencies.