

STAFF MEASURE SUMMARY

Senate Committee On Workforce

**Fiscal:** Fiscal impact issued

**Revenue:** No Revenue Impact

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**Action Date:** 05/18/15

**Action:** Do Pass With Amendments To The A-Eng Bill To Resolve Conflicts.  
(Printed B-Eng)

**Meeting Dates:** 04/29, 05/04, 05/18

**Vote:**

Yeas: 5 - Dembrow, Gelser, Knopp, Rosenbaum, Thatcher

**Prepared By:** Matthew Germer, Committee Administrator

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**WHAT THE MEASURE DOES:**

Requires contracting agencies provide as material condition of public contract that contractor remain certified as disadvantaged, minority, women or emerging small business enterprise (MWESB) during entire term of contract if contract was awarded on basis of contractor's certification. Requires contractors include similar provision in subcontracts. Requires contracting agency to verify certification status of contractor or subcontractor during entire term of contract, and provides that contracting agency may terminate contract, require contractor to terminate subcontract, or pursue remedies for breach of contract if contractor or subcontractor does not retain certification. Makes exception for emerging small businesses that no longer qualify because of growth in employees or gross receipts. Provides that Oregon Business Development Department may independently impose civil penalty up to \$5,000 for each violation of certification requirement if contracting agency does not impose civil penalty. Becomes operative January 1, 2016. Declares emergency, effective upon passage.

**ISSUES DISCUSSED:**

- Level of MWESB participation
- Difficulties faced by MWESBs
- Prevalence of fraud in MWESB contracting
- Coordination with other MWESB measures

**EFFECT OF COMMITTEE AMENDMENT:**

Resolves conflicts with Senate Bill 584.

**BACKGROUND:**

The Oregon Business Development Department, also known as Business Oregon, certifies businesses who meet the criteria for the Disadvantaged Business Enterprise (DBE), Minority/Women Business Enterprise (MWBE) and Emerging Small Business (ESB) certifications (collectively known as MWESBs). 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.

House Bill 2716-B requires contracting agencies to include a requirement in public contracts that the contractor remain certified as an MWESB during the entire term of the contract if the contract was awarded on the basis of the contractor's certification. Contractors must include a similar provision in any subcontracts for the project. The bill

requires a contracting agency to verify the certification status of a contractor or subcontractor during the entire term of a contract, and provides that the contracting agency may terminate a contract, require the contractor to terminate a subcontract, or pursue remedies for breach of contract if a contractor or subcontractor does not retain certification, with the exception of emerging small businesses that no longer qualify because they have grown. The bill provides that Business Oregon may independently impose a civil penalty of up to \$5,000 for each violation of the certification requirement if the contracting agency does not impose a civil penalty.