

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2294

By COMMITTEE ON HEALTH CARE

May 19

- 1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert “279A.050,”.
- 2 In line 3, after “413.308” insert “and section 1, chapter 77, Oregon Laws 2014”.
- 3 In line 16, after “(3)” insert “Subject to ORS 279A.050 (7),”.
- 4 On page 2, line 11, after “agreements” insert “, subject to ORS 279A.050 (7),”.
- 5 Delete lines 17 through 20.
- 6 In line 21, delete “(9)” and insert “(8)”.
- 7 On page 6, after line 45, insert:
- 8 **“SECTION 7.** ORS 279A.050 is amended to read:
- 9 “279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting
- 10 agency shall exercise all procurement authority in accordance with the provisions of the Public
- 11 Contracting Code.
- 12 “(b) When a contracting agency has authority under this section to carry out functions de-
- 13 scribed in this section, or has authority to make procurements under a provision of law other than
- 14 the Public Contracting Code, the contracting agency is not required to exercise that authority in
- 15 accordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the
- 16 contract or contracting authority.
- 17 “(2) Except as otherwise provided in the Public Contracting Code, for state agencies the Direc-
- 18 tor of the Oregon Department of Administrative Services has all the authority to carry out the
- 19 provisions of the Public Contracting Code.
- 20 “(3) Except as otherwise provided in the Public Contracting Code, the Director of Transporta-
- 21 tion has all the authority to:
- 22 “(a) Procure or supervise the procurement of all services and personal services to construct,
- 23 acquire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking
- 24 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);
- 25 “(b) Procure or supervise the procurement of all goods, services, public improvements and per-
- 26 sonal services relating to the operation, maintenance or construction of highways, bridges and other
- 27 transportation facilities that are subject to the authority of the Department of Transportation; and
- 28 “(c) Establish standards for, prescribe forms for and conduct the prequalification of prospective
- 29 bidders on public improvement contracts related to the operation, maintenance or construction of
- 30 highways, bridges and other transportation facilities that are subject to the authority of the De-
- 31 partment of Transportation.
- 32 “(4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has
- 33 all the authority to procure or supervise the procurement of goods, services and personal services
- 34 related to programs under the authority of the Secretary of State.
- 35 “(5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all

1 the authority to procure or supervise the procurement of goods, services and personal services re-
2 lated to programs under the authority of the State Treasurer.

3 “(6) The state agencies listed in this subsection have all the authority to do the following in
4 accordance with the Public Contracting Code:

5 “(a) The Department of Human Services to procure or supervise the procurement of goods, ser-
6 vices and personal services under ORS 179.040 for the department’s institutions and the procurement
7 of goods, services and personal services for the construction, demolition, exchange, maintenance,
8 operation and equipping of housing for the purpose of providing care to individuals with intellectual
9 disabilities or other developmental disabilities, subject to applicable provisions of ORS 427.335;

10 “(b) The Oregon Health Authority to procure or supervise the procurement of goods, services
11 and personal services under ORS 179.040 and construction materials, equipment and supplies for the
12 authority’s institutions and the procurement of goods, services, personal services, construction ma-
13 terials, equipment and supplies for the construction, demolition, exchange, maintenance, operation
14 and equipping of housing for persons with chronic mental illness, subject to applicable provisions
15 of ORS 426.504;

16 “(c) The State Department of Fish and Wildlife to procure or supervise the procurement of
17 construction materials, equipment, supplies, services and personal services for public improvements,
18 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
19 of the State Department of Fish and Wildlife;

20 “(d) The State Parks and Recreation Department to procure or supervise the procurement of all
21 goods, services, public improvements and personal services relating to state parks;

22 “(e) The Oregon Department of Aviation to procure or supervise the procurement of con-
23 struction materials, equipment, supplies, services and personal services for public improvements,
24 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
25 of the Oregon Department of Aviation;

26 “(f) The Oregon Business Development Department to procure or supervise the procurement of
27 all goods, services, personal services and public improvements related to its foreign trade offices
28 operating outside the state;

29 “(g) The Housing and Community Services Department to procure or supervise the procurement
30 of goods, services and personal services as provided in ORS 279A.025 (2)(n);

31 “(h) The Department of Corrections to procure or supervise the procurement of construction
32 materials, equipment, supplies, services and personal services for public improvements, public works
33 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-
34 ment of Corrections;

35 “(i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,
36 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, ser-
37 vices and personal services under ORS 179.040 for its institutions;

38 “(j) The Department of Veterans’ Affairs to procure or supervise the procurement of real estate
39 broker and principal real estate broker services related to programs under the department’s au-
40 thority;

41 “(k) The Oregon Military Department to procure or supervise the procurement of construction
42 materials, equipment, supplies, services and personal services for public improvements, public works
43 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
44 Military Department;

45 “(L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085

1 and 329.485 and the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425), to procure or supervise the procurement of goods, services, personal services and information technology
2 relating to student assessment; and

3
4 “(m) Any state agency to conduct a procurement when the agency is specifically authorized by
5 any provision of law other than the Public Contracting Code to enter into a contract.

6 “(7) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department
7 of Administrative Services has exclusive authority, unless the director delegates this authority, to
8 procure or supervise the procurement of all price agreements on behalf of the state agencies identified
9 in subsection (6)(a) to (k) of this section under which more than one state agency may order
10 goods, services or personal services and[, *except for contracts procured by the Oregon Health Authority,*]
11 all state agency information technology contracts. This subsection does not apply to contracts
12 under which the contractor delivers to the state agency information technology products or
13 services incidental to the performance of personal services contracts described in ORS chapter 279C
14 or construction contracts described in ORS chapter 279C. A state agency identified in subsection (3)
15 or (6)(a) to (k) of this section may not establish a price agreement or enter into a contract for goods,
16 services, personal services, construction materials, equipment or supplies without the approval of
17 the director if the director has established a price agreement for the goods, services or personal
18 services.

19 “**SECTION 8.** Section 1, chapter 77, Oregon Laws 2014, is amended to read:

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

21 “(a)(A) ‘Information technology initiative’ means a project to develop or provide, with the state
22 contracting agency’s or public corporation’s own personnel and resources, or to obtain by means of
23 a procurement or set of related procurements:

24 “(i) New hardware, software or services for data processing, office automation or telecommuni-
25 cations;

26 “(ii) An overhaul, upgrade or replacement of a substantial portion of the hardware or software
27 in an existing data processing, office automation or telecommunications system; or

28 “(iii) A substantial expansion of existing data processing, office automation or telecommuni-
29 cations services.

30 “(B) ‘Information technology initiative’ does not include:

31 “(i) A procurement for preliminary quality assurance services or quality management services;

32 “(ii) A routine update to or purchase of hardware or software within an existing data process-
33 ing, office automation or telecommunications system;

34 “(iii) A renewal of an existing contract for data processing, office automation or telecommuni-
35 cations services under terms and conditions that are substantially the same as in the existing con-
36 tract; or

37 “(iv) A replacement of a component of an existing data processing, office automation or tele-
38 communications system that is not essential for the system to function as designed or that occurs
39 at the end of the component’s anticipated life cycle.

40 “(b) ‘Preliminary quality assurance services’ means a set of services in which a contractor pro-
41 vides an independent and objective review of a state contracting agency’s or a public corporation’s
42 plans, specifications, estimates, documentation, available resources and overall purpose for an in-
43 formation technology initiative, including services in which the contractor evaluates a proposed in-
44 formation technology initiative against applicable quality standards and best practices from private
45 industry and other sources.

1 “(c) ‘Procurement’ has the meaning given that term in ORS 279A.010.

2 “(d)(A) ‘Public corporation’ means a corporation:

3 “(i) The operations of which are subject to control by this state or by an agency or
4 instrumentality of this state, or by officers of this state or of an agency or instrumentality of this
5 state;

6 “(ii) That is organized, at least in part, to serve a public purpose; and

7 “(iii) That receives public funds or other support from an entity described in sub-subparagraph
8 (i) of this subparagraph.

9 “(B) ‘Public corporation’ does not include:

10 “(i) A person or entity described in ORS 174.108 (3);

11 “(ii) A city, county, local service district, school district, education service district, community
12 college district or community college service district or a university with a governing board listed
13 in ORS 352.054; or

14 “(iii) An administrative subdivision of an entity described in sub-subparagraph (ii) of this sub-
15 paragraph.

16 “(e) ‘Quality management services’ means a set of services in which a contractor provides an
17 independent and objective review and evaluation of a state contracting agency’s, a public
18 corporation’s or another contractor’s performance with respect to an information technology initi-
19 ative, such as services in which the contractor:

20 “(A) Identifies quality standards that apply or should apply to the information technology initi-
21 ative;

22 “(B) Suggests methods and means by which the state contracting agency, the public corporation
23 or the other contractor may meet quality standards identified in subparagraph (A) of this paragraph;

24 “(C) Reviews and evaluates the state contracting agency’s, the public corporation’s or the other
25 contractor’s performance regularly as the information technology initiative progresses from start to
26 finish;

27 “(D) Identifies omissions or gaps in the state contracting agency’s, the public corporation’s or
28 the other contractor’s planning, execution, control, methodology, communication or reporting as the
29 information technology initiative progresses from start to finish;

30 “(E) Identifies risks in the state contracting agency’s, the public corporation’s or the other
31 contractor’s plans or approach to designing, developing or implementing the information technology
32 initiative and suggests methods to reduce, mitigate or eliminate the risks;

33 “(F) Assists the state contracting agency or the public corporation in testing or otherwise
34 evaluating the hardware, software or services that are developed, provided or obtained as part of
35 an information technology initiative to determine whether the hardware, software or services con-
36 form with the quality standards identified in subparagraph (A) of this paragraph;

37 “(G) Advises the state contracting agency or the public corporation as to whether the hardware,
38 software or services that are developed, provided or obtained as part of an information technology
39 initiative meet the contracting agency’s or the public corporation’s needs, specifications or expec-
40 tations and otherwise enable the state contracting agency or the public corporation to achieve the
41 objectives for the information technology initiative; or

42 “(H) Identifies unsatisfactory performance and suggests methods the state contracting agency,
43 the public corporation or the other contractor might use to eliminate the causes of unsatisfactory
44 performance.

45 “(f) ‘State contracting agency’ has the meaning given that term in ORS 279A.010.

1 “(2)(a) A state contracting agency or a public corporation that implements an information
2 technology initiative shall obtain quality management services from a qualified contractor if the
3 value of the information technology initiative exceeds \$5 million or if the information technology
4 initiative meets criteria or standards that the State Chief Information Officer or the Director of the
5 Oregon Department of Administrative Services specifies by rule or policy.

6 “(b) A state contracting agency or public corporation may, subject to ORS 279B.040, procure
7 preliminary quality assurance services from a contractor if the information technology initiative
8 meets the standards set forth in paragraph (a) of this subsection or if the state contracting agency
9 or public corporation otherwise believes that the preliminary quality assurance services will enable
10 the contracting agency or public corporation to implement an information technology initiative
11 successfully.

12 “(3) A state contracting agency or public corporation may not artificially divide or fragment an
13 information technology initiative so as to avoid the application of this section.

14 “(4)(a) Notwithstanding any procurement authority that a state contracting agency or a public
15 corporation has that is not subject to the authority of the Director of the Oregon Department of
16 Administrative Services under ORS 279A.050 (2) or (7), the state contracting agency or public cor-
17 poration is subject to the provisions of subsection (2) of this section and shall consult with and fol-
18 low the rules, policies and procedures of the State Chief Information Officer and the Oregon
19 Department of Administrative Services in determining the extent of preliminary quality assurance
20 services or quality management services that the state contracting agency or public corporation will
21 require for an information technology initiative.

22 “(b) [*Notwithstanding the Oregon Health Authority’s exemption in ORS 279A.050 (7) from the au-*
23 *thority that the Oregon Department of Administrative Services has over all state agency information*
24 *technology procurements,*] The Oregon Health Authority shall consult with and follow the rules,
25 policies and procedures of the State Chief Information Officer and the Oregon Department of Ad-
26 ministrative Services in determining the extent of preliminary quality assurance services or quality
27 management services that the state contracting agency or public corporation will require for an
28 information technology initiative.

29 “(5)(a) If a state contracting agency or a public corporation awards a contract for preliminary
30 quality assurance services or quality management services, the contract must provide that at the
31 same time a contractor provides a preliminary or final report to the contract administrator, the
32 contractor shall also provide a copy of the report to:

33 “(A) The State Chief Information Officer;

34 “(B) The Director of the Oregon Department of Administrative Services; and

35 “(C) As appropriate for the specific information technology initiative, to:

36 “(i) The director of the state contracting agency or, if a board or commission sets policy for the
37 state contracting agency, to the board or commission; or

38 “(ii) The governing body of the public corporation.

39 “(b) The state contracting agency or public corporation shall provide the contractor with names,
40 addresses and other contact information the contractor needs to comply with paragraph (a) of this
41 subsection.

42 “(6) This section does not apply to the Secretary of State or the State Treasurer.”.

43 On page 7, line 1, delete “7” and insert “9”.

44 Delete lines 2 through 9 and insert:

45 “**SECTION 10.** (1) **Section 1 of this 2015 Act, the amendments to ORS 279A.050, 413.011,**

1 413.300, 413.301, 413.303 and 413.308 and section 1, chapter 77, Oregon Laws 2014, by sections
2 2 to 8 of this 2015 Act and the repeal of ORS 413.302 and 413.306 by section 9 of this 2015 Act
3 become operative on July 1, 2015.

4 “(2) The Oregon Health Authority may take any action before the operative date specified
5 in subsection (1) of this section that is necessary to enable the authority to carry out the
6 provisions of section 1 of this 2015 Act, the amendments to ORS 279A.050, 413.011, 413.300,
7 413.301, 413.303 and 413.308 and section 1, chapter 77, Oregon Laws 2014, by sections 2 to 8
8 of this 2015 Act and the repeal of ORS 413.302 and 413.306 by section 9 of this 2015 Act.”.

9 In line 10, delete “9” and insert “11”.

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