

# Enrolled House Bill 2664

Sponsored by Representative HOYLE (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to Public Contracting Code compliance as to improvements on real property controlled by universities with governing boards; creating new provisions; amending ORS 352.138; and declaring an emergency.

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

**SECTION 1.** ORS 352.138, as amended by section 6, chapter 113, Oregon Laws 2014, and section 17, chapter 121, Oregon Laws 2014, is amended to read:

352.138. (1) The following entities are not subject to any provision of law enacted after January 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

(a) A university with a governing board; and

(b) Any not-for-profit organization or other entity if the equity of the entity is owned or controlled exclusively by a university with a governing board and if the organization or entity is created by the university to advance any of the university's statutory missions.

(2) Notwithstanding subsection (1) of this section, the provisions of ORS 30.260 to 30.460, 33.710, 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 279.835, 279.840, 279.850 and 297.040 and ORS chapters 35, 190, 192 and 244 apply to a university with a governing board under the same terms as they apply to public bodies other than the state.

(3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035, 243.696, 357.805 to 357.895 and 656.017 (2) and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295 and 297 do not apply to a university with a governing board.

(4)(a) Notwithstanding subsections (1) and (3) of this section, ORS 240.167, 279C.600 to 279C.625, 279C.800, 279C.810, 279C.825, **279C.827**, 279C.830, 279C.835, **279C.836**, **279C.838**, 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and 292.043 apply to a university with a governing board under the same terms as they apply to public bodies other than the state.

**(b) Notwithstanding subsections (1) and (3) of this section, ORS 279C.800 to 279C.870 apply to an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints an improvement on real property owned by a university with a governing board or by a not-for-profit organization or other entity that a university with a governing board owns or controls exclusively.**

(5) Notwithstanding subsection (2) of this section, ORS 190.430 and 192.105 do not apply to a university with a governing board or any organization or other entity described in subsection (1) of this section.

(6) Except as set forth in subsection (3) of this section, ORS 243.650 to 243.782 and 276.073 to 276.090 and ORS chapters 238 and 238A apply to a university with a governing board under the same terms as they apply to the state.

(7) ORS 351.065, 351.067, 351.642, 351.643, 351.644, 351.646, 351.656, 351.658, 352.012 and 352.375 apply to a university with a governing board, except that the board or university shall exercise the responsibilities and authorities of the State Board of Higher Education, the Higher Education Coordinating Commission or the Oregon University System.

(8) A university with a governing board and its agents and employees remain subject to all statutes and administrative rules of this state that create rights, benefits or protections in favor of military veterans, service members and families of service members to the same extent as an agency of this state would be subject to such statutes and administrative rules.

(9) ORS 351.692, 351.695 and 351.697 apply to a governing board, except that the board has the responsibilities and authorities with respect to the university it governs that the State Board of Higher Education and the Oregon University System have with respect to the public universities identified in ORS 351.011. A university with a governing board may not issue a tax credit certificate under ORS 351.692, 351.695 and 351.697 that will cause the public universities listed in ORS 352.002 to owe the General Fund more than \$6 million at any one time under ORS 351.692, 351.695 and 351.697.

(10) If state bonds are issued for the benefit of a university with a governing board, the university shall have the powers and duties of a related agency, as defined in ORS 286A.001, to the extent necessary for the issuance of the state bonds and the administration of the proceeds of the state bonds.

(11) If state bonds are issued for the benefit of a university with a governing board under Article XI-Q of the Oregon Constitution, the university shall have the powers and duties of a project agency, as defined in ORS 286A.816, to the extent necessary for the issuance of the state bonds and the administration of the proceeds of the state bonds.

(12) Nothing in this section may be construed so that statutory provisions that are not set forth in this section apply to a university with a governing board.

**SECTION 2. The amendments to ORS 352.138 by section 1 of this 2015 Act apply to agreements entered into on and after the operative date specified in section 3 of this 2015 Act between a private entity and a university with a governing board or between a private entity and a not-for-profit organization or other entity that a university with a governing board owns or controls exclusively.**

**SECTION 3. (1) The amendments to ORS 352.138 by section 1 of this 2015 Act become operative January 1, 2016.**

**(2) A university with a governing board or a not-for-profit organization or other entity that a university with a governing board owns or controls exclusively may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the university, the organization or the entity to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the university, the organization or the entity by the amendments to ORS 352.138 by section 1 of this 2015 Act.**

**SECTION 4. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.**

**Passed by House April 15, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 20, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2015

**Approved:**

.....M,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State