

A-Engrossed
House Bill 2664

Ordered by the House April 13
Including House Amendments dated April 13

Sponsored by Representative HOYLE (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Subjects university with governing board, or not-for-profit organization or other entity that university with governing board controls, to certain provisions of Public Contracting Code. Applies certain provisions of Public Contracting Code to agreements between private entity and university with governing board to construct, reconstruct, renovate or paint improvements on real property that university with governing board owns and to similar agreements between private entity and not-for-profit organization or other entity owned or controlled by university with governing board.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Public Contracting Code compliance as to improvements on real property controlled by
3 universities with governing boards; creating new provisions; amending ORS 352.138; and de-
4 claring an emergency.

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

6 **SECTION 1.** ORS 352.138, as amended by section 6, chapter 113, Oregon Laws 2014, and section
7 17, chapter 121, Oregon Laws 2014, is amended to read:

8 352.138. (1) The following entities are not subject to any provision of law enacted after January
9 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

10 (a) A university with a governing board; and

11 (b) Any not-for-profit organization or other entity if the equity of the entity is owned or con-
12 trolled exclusively by a university with a governing board and if the organization or entity is cre-
13 ated by the university to advance any of the university's statutory missions.

14 (2) Notwithstanding subsection (1) of this section, the provisions of ORS 30.260 to 30.460, 33.710,
15 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
16 and ORS chapters 35, 190, 192 and 244 apply to a university with a governing board under the same
17 terms as they apply to public bodies other than the state.

18 (3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210
19 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)
20 and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295
21 and 297 do not apply to a university with a governing board.

22 (4)(a) Notwithstanding subsections (1) and (3) of this section, ORS 240.167, 279C.600 to 279C.625,
23 279C.800, 279C.810, 279C.825, **279C.827**, 279C.830, 279C.835, **279C.836**, **279C.838**, 279C.840, 279C.845,
24 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and 292.043 apply to a university with a governing
25 board under the same terms as they apply to public bodies other than the state.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

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

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

9 (6) Except as set forth in subsection (3) of this section, ORS 243.650 to 243.782 and 276.073 to
10 276.090 and ORS chapters 238 and 238A apply to a university with a governing board under the
11 same terms as they apply to the state.

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

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

20 (9) ORS 351.692, 351.695 and 351.697 apply to a governing board, except that the board has the
21 responsibilities and authorities with respect to the university it governs that the State Board of
22 Higher Education and the Oregon University System have with respect to the public universities
23 identified in ORS 351.011. A university with a governing board may not issue a tax credit certificate
24 under ORS 351.692, 351.695 and 351.697 that will cause the public universities listed in ORS 352.002
25 to owe the General Fund more than \$6 million at any one time under ORS 351.692, 351.695 and
26 351.697.

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

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

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

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

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

44 **(2) A university with a governing board or a not-for-profit organization or other entity**
45 **that a university with a governing board owns or controls exclusively may take any action**

1 **before the operative date specified in subsection (1) of this section that is necessary to enable**
2 **the university, the organization or the entity to exercise, on and after the operative date**
3 **specified in subsection (1) of this section, all of the duties, functions and powers conferred**
4 **on the university, the organization or the entity by the amendments to ORS 352.138 by sec-**
5 **tion 1 of this 2015 Act.**

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

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