

**SENATE AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2716  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON WORKFORCE

May 26

1 On page 1 of the printed A-engrossed bill, line 3, after “200.065” insert “and sections 4 and 5,  
2 chapter \_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)”.

3 On page 3, line 16, before “contracting” insert “public”.

4 In line 18, before “contracting” insert “public”.

5 In line 20, before “contracting” insert “public”.

6 After line 21, insert:

7 **“SECTION 6. If Senate Bill 584 becomes law, section 3 of this 2015 Act (amending ORS**  
8 **200.065) is repealed and ORS 200.065, as amended by section 2, chapter \_\_\_\_, Oregon Laws 2015**  
9 **(Enrolled Senate Bill 584), is amended to read:**

10 “200.065. (1) A person may not fraudulently obtain or retain, attempt to obtain or retain or aid  
11 another person to fraudulently obtain or retain or attempt to obtain or retain certification as a  
12 disadvantaged, minority, women or emerging small business enterprise.

13 “(2) A person may not knowingly make a false claim that any person is qualified for certification  
14 or is certified under ORS 200.055 for the purpose of [*gaining*] **obtaining a public** contract or sub-  
15 contract or other benefit.

16 “(3) An affected public contracting agency may withhold payment, may suspend or terminate a  
17 public contract and may impose on any person a civil penalty **that does** not [*to*] exceed 10 percent  
18 of the contract or subcontract price or \$5,000, whichever is less, for each violation of subsection (1)  
19 or (2) of this section. **The person shall pay the penalty to the affected public contracting**  
20 **agency. If the affected public contracting agency does not impose a civil penalty on the per-**  
21 **son under this subsection, the Oregon Business Development Department may independently**  
22 **impose a civil penalty that does not exceed \$5,000 for each violation of subsection (1) or (2)**  
23 **of this section. The person shall pay a penalty that the department imposes to the Office for**  
24 **Minority, Women and Emerging Small Business.**

25 “(4) The [*Oregon Business Development*] department or an affected public contracting agency  
26 shall investigate [*any complaint that a person has violated*] **violations of** subsection (1) or (2) of this  
27 section. In investigating a [*complaint*] **violation**, the department or [*an*] **the** affected public con-  
28 tracting agency may require any additional information, administer oaths, take depositions and issue  
29 subpoenas to compel witnesses to attend and [*to produce*] **compel the production of** books, papers,  
30 records, memoranda or other information necessary to carry out the department’s or the affected  
31 public contracting agency’s duties. If a person fails to comply with any subpoena the department  
32 or the affected public contracting agency issues under this subsection or refuses to testify on any  
33 matter on which a person may lawfully be interrogated, the department or the affected public con-  
34 tracting agency shall follow the procedure provided in ORS 183.440 to compel compliance.

1 “(5) The department or an affected public contracting agency may disqualify any person that  
2 under oath during the course of an investigation admits to violating subsection (1) or (2) of this  
3 section, or that the department or the affected public contracting agency finds to have violated  
4 subsection (1) or (2) of this section, from submitting a bid or proposal for, or receiving an award of,  
5 a public contract for a period of not more than three years. Any public contracting agency that has  
6 notice of the finding of the fraudulent certification may also disqualify the person from bidding on  
7 or participating in any public contract.

8 “**SECTION 7.** If Senate Bill 584 becomes law, section 4 of this 2015 Act is amended to read:

9 “**Sec. 4.** Section 2 of this 2015 Act and the amendments to ORS 200.065 by section [3] **6** of this  
10 2015 Act apply to public contracts that a contracting agency advertises or otherwise solicits or, if  
11 the contracting agency does not advertise or otherwise solicit the public contract, to public con-  
12 tracts into which the public contracting agency enters on or after the operative date specified in  
13 section 5 of this 2015 Act.

14 “**SECTION 8.** If Senate Bill 584 becomes law, section 5 of this 2015 Act is amended to read:

15 “**Sec. 5.** (1) Section 2 of this 2015 Act and the amendments to ORS 200.065 by section [3] **6** of  
16 this 2015 Act become operative on January 1, 2016.

17 “(2) The Director of the Oregon Business Development Department, the Director of the Oregon  
18 Department of Administrative Services, the Director of Transportation, the Attorney General and  
19 a public contracting agency that adopts rules under ORS 279A.065 may take any action before the  
20 operative date specified in subsection (1) of this section that is necessary to enable the director, the  
21 Attorney General or the public contracting agency to exercise, on and after the operative date  
22 specified in subsection (1) of this section, all of the duties, functions and powers conferred on the  
23 director, the Attorney General or the public contracting agency by section 2 of this 2015 Act and  
24 the amendments to ORS 200.065 by section [3] **6** of this 2015 Act.

25 “**SECTION 9.** If Senate Bill 584 becomes law, section 4, chapter \_\_\_\_, Oregon Laws 2015 (En-  
26 rolled Senate Bill 584), is amended to read:

27 “**Sec. 4.** The amendments to ORS 200.055[, 200.065] and 200.075 by sections 1 [to] **and 3** [of this  
28 2015 Act], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**, apply to:

29 “(1) Public contracts that a public contracting agency advertises or solicits or, if the public  
30 contracting agency does not advertise or otherwise solicit the public contract, a public contract into  
31 which the public contracting agency enters on or after the operative date specified in section 5 [of  
32 this 2015 Act], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**;

33 “(2) Decisions that the Oregon Business Development Department makes on and after the oper-  
34 ative date specified in section 5 [of this 2015 Act], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled**  
35 **Senate Bill 584)**, to approve, deny, revoke, suspend or refuse to renew a certification as a disad-  
36 vantaged, minority, women or emerging small business enterprise;

37 “(3) Investigations that the department or a public contracting agency conducts on or after the  
38 operative date specified in section 5 [of this 2015 Act], **chapter \_\_\_\_\_, Oregon Laws 2015 (En-**  
39 **rolled Senate Bill 584)**; and

40 “(4) A public contracting agency’s decision on or after the operative date specified in section 5  
41 [of this 2015 Act], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**, to suspend a  
42 business enterprise’s right to submit a bid or proposal for a public contract.

43 “**SECTION 10.** If Senate Bill 584 becomes law, section 5, chapter \_\_\_\_, Oregon Laws 2015 (En-  
44 rolled Senate Bill 584), is amended to read:

45 “**Sec. 5.** (1) The amendments to ORS 200.055[, 200.065] and 200.075 by sections 1 [to] **and 3** [of

1 *this 2015 Act*], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**, become operative  
2 on January 1, 2016.

3 “(2) The Director of the Oregon Business Development Department and a public contracting  
4 agency that adopts rules under ORS 279A.065 may take any action before the operative date speci-  
5 fied in subsection (1) of this section that is necessary to enable the director or the public contract-  
6 ing agency to exercise, on and after the operative date specified in subsection (1) of this section,  
7 all of the duties, functions and powers conferred on the director or the public contracting agency  
8 by the amendments to ORS 200.055[ *200.065*] and 200.075 by sections 1 [*to*] **and** 3 [*of this 2015*  
9 *Act*], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**.”

10 In line 22, delete “6” and insert “11”.

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