

# House Bill 3303

Sponsored by Representative GOMBERG

## 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 **as introduced**.

Permits Oregon Business Development Department to certify business that service-disabled veteran owns as disadvantaged business enterprise that is eligible for certain preferences in public contracting. Changes name of Advocate for Minority, Women and Emerging Small Business to Governor's Policy Advisor for Economic and Business Equity. Changes name of Office for Minority, Women and Emerging Small Business to Office for Economic and Business Equity.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to certain disadvantaged businesses; creating new provisions; amending ORS 184.404,  
3 200.005, 200.025, 200.035, 200.045, 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105,  
4 279A.110, 279A.142, 279C.110, 279C.836, 285B.740, 286A.615, 293.796, 351.070, 353.130 and 470.560  
5 and section 18, chapter 4, Oregon Laws 2013; repealing ORS 200.100; and declaring an emer-  
6 gency.

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

8 **SECTION 1.** ORS 200.005 is amended to read:

9 200.005. As used in ORS 200.005 to 200.075, **200.110, 200.120**, 200.160 to 200.200 and 279A.105:

10 (1) **"Contracting agency" has the meaning given that term in ORS 279A.010.**

11 (2) **"Contractor" means a person that contracts on predetermined terms to perform all**  
12 **or part of a job of preparation or construction in accordance with established specifications**  
13 **or plans, that retains control of the means, methods and manner of accomplishing the de-**  
14 **sired result and that provides:**

15 (a) **Labor at a project site; or**

16 (b) **Materials or supplies at a project site.**

17 [(1)] (3) "Disadvantaged business enterprise" means a small business concern:

18 (a) [*That is*] At least 51 percent [*owned by*] **of which** one or more socially and economically  
19 disadvantaged individuals **owns**; or

20 (b) [*For which, in the case of a corporation,*] At least 51 percent of the stock **of which** [*is owned*  
21 *by*] one or more socially and economically disadvantaged individuals[, *and of which the management*  
22 *and daily business operations are controlled by*] **owns and for which** one or more of the socially and  
23 economically disadvantaged individuals [*who own it*] **controls management and daily business**  
24 **operations, if the small business concern is a corporation.**

25 [(2)] (4) "Economically disadvantaged individual" means a socially disadvantaged individual  
26 [*whose ability to compete in the free enterprise system has been impaired due to*] **for whom** diminished  
27 capital and credit opportunities **have impaired the individual's ability to compete in the free**  
28 **enterprise system** as compared to other individuals in the same business area who are not socially

**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 disadvantaged individuals.

2 [(3)] (5) “Emerging small business” means an independent business **concern that:**

3 (a) [With its] **Has a** principal place of business located in this state;

4 (b) [That] Qualifies as a tier one firm or a tier two firm;

5 (c) [That] Is properly licensed and legally registered in this state; and

6 (d) [That] Is not a subsidiary or parent company [belonging] **that belongs** to a group of firms  
7 that [are owned or controlled by] the same individuals **own or control** if, in the aggregate, the group  
8 of firms does not qualify as a tier one firm or a tier two firm.

9 [(4)] (6) “Minority individual” means [a person] **an individual** who is a citizen or lawful perma-  
10 nent resident of the United States[, who] **and is:**

11 (a) [Black] **African American**, having origins in any of the [black racial groups of] **original**  
12 **peoples of Africa;**

13 (b) Hispanic, having Mexican, Puerto Rican, Cuban, Central or South American or other Spanish  
14 culture or origin, regardless of race;

15 (c) Asian American, having origins in any of the original peoples of [the Far] East **Asia**, South-  
16 east Asia, the Indian subcontinent or the Pacific Islands;

17 (d) Portuguese, having Portuguese, Brazilian or other Portuguese culture or origin, regardless  
18 of race;

19 (e) American Indian or Alaskan Native, having origins in any of the original peoples of North  
20 America; or

21 (f) [A] **Any other individual or** member of another group[, or another individual who] **that the**  
22 **Governor’s Policy Advisor for Economic and Business Equity determines** is socially and eco-  
23 nomically disadvantaged [as determined by the Advocate for Minority, Women and Emerging Small  
24 Business].

25 [(5)] (7) [“Minority or women business enterprise”] **“Minority-owned or woman-owned**  
26 **business”** means a small business concern:

27 (a) [That is] At least 51 percent [owned by] **of which** one or more minority individuals or women  
28 **own;** or

29 (b) [For which, in the case of a corporation,] At least 51 percent of the stock **of which** [is owned  
30 by] one or more [individuals who are] minority individuals or women[, and of which the management  
31 and daily business operations are controlled by one or more of] **own and for which** the minority in-  
32 dividuals or women [who own it] **control management and daily business operations, if the**  
33 **small business concern is a corporation.**

34 [(6)] (8) “Responsible bidder **or proposer**” means a bidder [who, as determined by the Advocate  
35 for Minority, Women and Emerging Small Business,] **or proposer that the Governor’s Policy Ad-**  
36 **visor for Economic and Business Equity determines** has undertaken both a policy and practice  
37 of actively pursuing participation by [minority or women business enterprises] **minority-owned or**  
38 **woman-owned businesses** in all **of the bidder’s or proposer’s bids or proposals**, both public and  
39 private[, submitted by the bidder].

40 (9) **“Service-disabled veteran”** means a veteran who has a United States Department of  
41 **Veterans Affairs disability rating of at least zero percent as a result of an injury or illness**  
42 **that the veteran incurred, or that was aggravated, during active military service and who**  
43 **received a discharge or release under other than dishonorable conditions.**

44 [(7)] (10) “Small business concern” means a small business, as defined by the United States  
45 Small Business Administration in 13 C.F.R. part 121 [and in effect on January 1, 2006.], **as in effect**

1 **on the operative date specified in section 28 of this 2015 Act.**

2 [(8)] (11) “Socially disadvantaged individual” means an individual who has been subjected to  
 3 racial or ethnic prejudice or cultural bias, without regard to individual qualities, because of the  
 4 individual’s identity as a member of a group.

5 (12) “Subcontractor” means a contractor that does not have a direct contractual re-  
 6 lationship with a contracting agency or an owner of a project site.

7 [(9)] (13) “Tier one firm” means a business that employs fewer than 20 full-time equivalent em-  
 8 ployees and has average annual gross receipts for the last three years that do not exceed [*\$1.5*  
 9 *million for a business performing construction, as defined in ORS 446.310, or \$600,000 for a business*  
 10 *not performing construction*] **an amount that the Oregon Business Development Department**  
 11 **specifies by rule.**

12 [(10)] (14) “Tier two firm” means a business that employs fewer than 30 full-time equivalent  
 13 employees and has average annual gross receipts for the last three years that do not exceed [*\$3*  
 14 *million for a business performing construction, as defined in ORS 446.310, or \$1 million for a business*  
 15 *not performing construction*] **an amount that the Oregon Business Development Department**  
 16 **specifies by rule.**

17 [(11)] (15) “Woman” means a person of the female sex who is a citizen or lawful permanent  
 18 resident of the United States.

19 **SECTION 2.** ORS 200.025 is amended to read:

20 200.025. (1) [*There is created, in the Office of the Governor, the Advocate for Minority, Women and*  
 21 *Emerging Small Business who shall be appointed by the Governor.*] **The Governor shall appoint a**  
 22 **Governor’s Policy Advisor for Economic and Business Equity within the office of the Gov-**  
 23 **ernor.**

24 (2) [*There is created in the Oregon Business Development Department the Office for Minority,*  
 25 *Women and Emerging Small Business, the employees of which shall be appointed by*] **The Office for**  
 26 **Economic and Business Equity is created within the Oregon Business Development Depart-**  
 27 **ment, and the Director of the Oregon Business Development Department shall appoint the em-**  
 28 **ployees of the office.**

29 (3)(a) The director may prescribe the duties and assignments of all officers and employees of the  
 30 Office for [*Minority, Women and Emerging Small Business*] **Economic and Business Equity.** The  
 31 director shall establish the compensation of all officers and employees of the office.

32 (b) The officers and employees of the office [*shall be allowed reimbursement*] **must be reim-**  
 33 **bursed** for reasonable and necessary travel and other expenses [*incurred in the performance of their*  
 34 *duties*] **that the officers and employees incur in performing duties for the office.**

35 (4) The [*Advocate for Minority, Women and Emerging Small Business*] **Governor’s Policy Ad-**  
 36 **visor for Economic and Business Equity** shall:

37 (a) Advise the Governor and the director on activities and initiatives that may promote the  
 38 economic integration of minorities, women, **service-disabled veterans** and emerging small busi-  
 39 nesses into the business sector;

40 (b) Prepare an annual report to the Governor, director and Legislative Assembly on the status  
 41 of minorities, [*and*] women, **service-disabled veterans and emerging small businesses** in the  
 42 marketplace[,] **and on** accomplishments and resolutions [*of issues of concern to minority and women’s*  
 43 *enterprises and*] **that have occurred with respect to issues that concern minority-owned busi-**  
 44 **nesses, woman-owned businesses, businesses that service-disabled veterans own and emerg-**  
 45 **ing small businesses, along with** recommendations for **further** executive and legislative actions;

1 and

2 (c) Carry out other duties that [*may be assigned by*] the Governor **may assign**.

3 (5) The Office for [*Minority, Women and Emerging Small Business*] **Economic and Business**  
4 **Equity** shall:

5 (a) Provide information to [*minority, women and*] **minority-owned businesses, woman-owned**  
6 **businesses, businesses that service-disabled veterans own and** emerging small businesses;

7 (b) Assist in [*the development and implementation of*] **developing and implementing** an aggres-  
8 sive strategy for this state, based on research and monitoring, that encourages [*participation of*]  
9 minorities, women, **service-disabled veterans** and emerging small businesses **to participate** in the  
10 state's economy;

11 (c) [*Make recommendations to the director on the research, development and implementation of the*  
12 *plan for the involvement of disadvantaged and minority groups and emerging small businesses in all*  
13 *state programs*] **Recommend to the director methods for researching, developing and imple-**  
14 **menting a plan to involve minority-owned businesses, woman-owned businesses, businesses**  
15 **that service-disabled veterans own and emerging small businesses in all state programs;**

16 (d) Maintain, **in consultation with the State Board of Higher Education, the Department**  
17 **of Transportation and other entities**, an Oregon Opportunity Register and Clearinghouse for in-  
18 formation [*on public agency and other contract solicitations for professional services, supplies and*  
19 *services and other bid opportunities, in consultation with the State Board of Higher Education, the*  
20 *Department of Transportation and other entities*] **about contracting agency solicitations and other**  
21 **opportunities to submit bids or proposals to contracting agencies to provide goods, supplies**  
22 **and services, including professional services;**

23 (e) Monitor the certification and compliance program **under ORS 200.055** for disadvantaged[,  
24 *minority, women*] **business enterprises, minority-owned businesses, woman-owned businesses,**  
25 **businesses that service-disabled veterans own** and emerging small businesses [*under ORS*  
26 *200.055*];

27 (f) Investigate complaints and possible abuses of the certification program; and

28 (g) Assist in [*the promotion and coordination of*] **promoting and coordinating** plans, programs  
29 and operations of state government that [*strengthen minority and women participation*] **help**  
30 **minority-owned businesses, woman-owned businesses, businesses that service-disabled vet-**  
31 **erans own and emerging small businesses to participate** in the economic life of this state.

32 **SECTION 3.** ORS 200.035 is amended to read:

33 200.035. [(1) *For a public contract with a value of \$5,000 or more, a state agency shall provide*  
34 *timely notice and information to the Advocate for Minority, Women and Emerging Small Business re-*  
35 *garding:*]

36 [(a) *Bid or proposal solicitations; and*]

37 [(b) *Contract awards.*]

38 (1) **A contracting agency shall give timely notice and information to the Governor's Pol-**  
39 **icy Advisor for Economic and Business Equity if the contracting agency intends to advertise**  
40 **or solicit bids or proposals for a public contract with a contract price of \$5,000 or more and**  
41 **shall notify the policy advisor when the contracting agency has awarded the contract.**

42 (2) Each [*state*] **contracting** agency shall, in consultation with the [*advocate*] **policy advisor**,  
43 establish a process and timeline for providing **the policy advisor with** the notice and information  
44 required by subsection (1) of this section [*to the advocate*].

45 **SECTION 4.** ORS 200.045 is amended to read:

1 200.045. (1) *[To determine whether a bidder that has failed to meet emerging small business en-*  
 2 *terprise contract requirements may be awarded the contract, the public contracting agency must decide*  
 3 *whether the bidder's efforts to obtain participation by emerging small business enterprises were good*  
 4 *faith efforts to meet the requirements.]* **If a public contract requires participation from disadvan-**  
 5 **tagged business enterprises, minority-owned businesses, woman-owned businesses, businesses**  
 6 **that service-disabled veterans own or emerging small businesses and a bidder or proposer is**  
 7 **not a disadvantaged business enterprise, a minority-owned business, a woman-owned busi-**  
 8 **ness, a business that a service-disabled veteran owns or an emerging small business, a con-**  
 9 **tracting agency may award the public contract to the bidder or proposer only if the bidder**  
 10 **or proposer demonstrates that the bidder or proposer is responsible and has made good faith**  
 11 **efforts to encourage disadvantaged business enterprises, minority-owned businesses,**  
 12 **woman-owned businesses, businesses that service-disabled veterans own and emerging small**  
 13 **businesses to participate in the public contract.**

14 *[(2) Performing all of the following actions by a bidder constitutes a rebuttable presumption that*  
 15 *the bidder has made a good faith effort to satisfy the subcontracting requirement for emerging small*  
 16 *businesses. It shall be a rebuttable presumption that the bidder has not made a good faith effort if the*  
 17 *bidder has not acted consistently with such actions. Efforts that are merely superficial are not good*  
 18 *faith efforts:]*

19 **(2) A contracting agency may rebuttably presume that for the purposes of this section**  
 20 **a bidder or proposer is responsible and has made good faith efforts to encourage disadvan-**  
 21 **tagged business enterprises, minority-owned businesses, woman-owned businesses, businesses**  
 22 **that service-disabled veterans own and emerging small businesses to participate in the public**  
 23 **contract if the bidder or proposer takes all of these actions:**

24 (a) *[The bidder attended any]* **Attends** presolicitation or prebid meetings that *[were scheduled*  
 25 *by]* the contracting agency **scheduled** to inform **disadvantaged business enterprises, minority-**  
 26 **owned businesses, woman-owned businesses, businesses that service-disabled veterans own**  
 27 **and** emerging small *[business enterprises]* **businesses** of contracting and subcontracting or material  
 28 supply opportunities available *[on the project]* **in connection with a public contract;**

29 (b) *[The bidder identified and selected]* **Identifies and selects** specific economically feasible units  
 30 of the *[project to be performed by]* **public contract that disadvantaged business enterprises,**  
 31 **minority-owned businesses, woman-owned businesses, businesses that service-disabled vet-**  
 32 **erans own and** emerging small *[business enterprises]* **businesses may perform** in order to increase  
 33 the likelihood *[of participation by such enterprises]* **that the enterprises and businesses will par-**  
 34 **ticipate in the public contract;**

35 (c) *[The bidder advertised in general circulation, trade association, minority and trade oriented,*  
 36 *women-focus publications, if any, concerning the subcontracting or material supply opportunities]* **Ad-**  
 37 **vertises the opportunities described in paragraphs (a) and (b) of this subsection in general**  
 38 **circulation publications, trade association publications and publications that serve an audi-**  
 39 **ence or readership that consists primarily of minorities, women and service-disabled veter-**  
 40 **ans;**

41 (d) *[The bidder provided]* **Provides** written notice **of the opportunities described in para-**  
 42 **graphs (a) and (b) of this subsection** to a reasonable number of specific **disadvantaged business**  
 43 **enterprises, minority-owned businesses, woman-owned businesses, businesses that service-**  
 44 **disabled veterans own and** emerging small *[business enterprises,]* **businesses that the bidder or**  
 45 **proposer** identified from a list of *[certified emerging small business enterprises provided or main-*

1 *tained by* **enterprises or businesses that** the Oregon Business Development Department **certified**  
 2 **under ORS 200.055** [*for the selected subcontracting or material supply work*], in sufficient time to  
 3 allow the enterprises **or businesses** to participate effectively;

4 (e) [*The bidder followed up*] **Follows up on the bidder's or proposer's** initial solicitations of  
 5 interest by contacting the enterprises **or businesses to which the bidder or proposer provided**  
 6 **notice under paragraph (d) of this subsection** to determine with certainty whether the enter-  
 7 prises **or businesses** [*were*] **are interested in the opportunities described in paragraphs (a) and**  
 8 **(b) of this subsection;**

9 (f) [*The bidder provided*] **Provides** interested **disadvantaged business enterprises, minority-**  
 10 **owned businesses, woman-owned businesses, businesses that service-disabled veterans own**  
 11 **and** emerging small [*business enterprises*] **businesses** with adequate information about [*the*] plans,  
 12 specifications and requirements for [*the selected*] subcontracting or material supply work **in con-**  
 13 **nection with the public contract;**

14 (g) [*The bidder negotiated*] **Negotiates** in good faith with [*the enterprises*] **interested disadvan-**  
 15 **tagged business enterprises, minority-owned businesses, woman-owned businesses, businesses**  
 16 **that service-disabled veterans own and emerging small businesses,** and did not without justifi-  
 17 able reason reject as unsatisfactory bids [*prepared by any emerging small business enterprises*] **or**  
 18 **proposals that the enterprises or businesses prepared;**

19 (h) [*Where applicable, the bidder advised and made efforts to assist*] **Advises and assists** inter-  
 20 ested **disadvantaged business enterprises, minority-owned businesses, woman-owned busi-**  
 21 **nesses, businesses that service-disabled veterans own and** emerging small [*business enterprises*  
 22 *in obtaining*] **businesses to obtain, when necessary,** bonding, lines of credit or insurance [*required*  
 23 *by*] **that** the contracting agency or contractor **requires;**

24 [*i*] *The bidder's efforts to obtain emerging small business enterprise participation were reasonably*  
 25 *expected to produce a level of participation sufficient to meet the goals or requirement of the public*  
 26 *contracting agency; and]*

27 (i) **Makes efforts to encourage disadvantaged business enterprises, minority-owned busi-**  
 28 **nesses, woman-owned businesses, businesses that service-disabled veterans own and emerg-**  
 29 **ing small businesses to participate in the public contract that the contracting agency may**  
 30 **reasonably expect will produce a level of participation that meets the contracting agency's**  
 31 **goals or requirements; and**

32 (j) [*The bidder used*] **Uses** the services of minority community organizations, minority contractor  
 33 groups, local, state and federal minority business assistance offices and other organizations [*identi-*  
 34 *fied by the Advocate for Minority, Women and Emerging Small Business that provide assistance in the*  
 35 *recruitment and placement of emerging small business enterprises*] **that the Governor's Policy Ad-**  
 36 **visor for Economic and Business Equity identifies as providing assistance in recruiting dis-**  
 37 **advantaged business enterprises, minority-owned businesses, woman-owned businesses,**  
 38 **businesses that service-disabled veterans own and emerging small businesses for partic-**  
 39 **ipation in public contracts.**

40 [(3) *To determine whether a bidder is a responsible bidder, the performance of all the following*  
 41 *actions constitutes a rebuttable presumption that the bidder is responsible. It shall be a rebuttable*  
 42 *presumption that the bidder is not responsible if the bidder has not acted consistently with the actions*  
 43 *described in this subsection. Efforts that are merely superficial are not good faith efforts.]*

44 [(a) *The bidder attended any presolicitation or prebid meetings that were scheduled by the con-*  
 45 *tracting agency to inform minority or women business enterprises of contracting and subcontracting or*

1 *material supply opportunities available on the project;]*

2 *[(b) The bidder identified and selected specific economically feasible units of the project to be per-*  
 3 *formed by minority or women business enterprises in order to increase the likelihood of participation*  
 4 *by such enterprises;]*

5 *[(c) The bidder advertised in general circulation, trade association, minority and trade oriented,*  
 6 *women-focus publications, if any, concerning the subcontracting or material supply opportunities;]*

7 *[(d) The bidder provided written notice to a reasonable number of specific minority or women*  
 8 *business enterprises, identified from a list of certified minority or women business enterprises provided*  
 9 *or maintained by the Oregon Business Development Department for the selected subcontracting or ma-*  
 10 *terial supply work, in sufficient time to allow the enterprises to participate effectively;]*

11 *[(e) The bidder followed up initial solicitations of interest by contacting the enterprises to determine*  
 12 *with certainty whether the enterprises were interested;]*

13 *[(f) The bidder provided interested minority or women business enterprises with adequate infor-*  
 14 *mation about the plans, specifications and requirements for the selected subcontracting or material*  
 15 *supply work;]*

16 *[(g) The bidder negotiated in good faith with interested, capable and competitive minority or women*  
 17 *business enterprises submitting bids;]*

18 *[(h) Where applicable, the bidder advised and made efforts to assist interested minority or women*  
 19 *business enterprises in obtaining bonding, lines of credit or insurance required by the contracting*  
 20 *agency or contractor;]*

21 *[(i) The bidder's efforts to obtain minority or women business enterprise participation were rea-*  
 22 *sonably expected to produce a level of participation sufficient to meet the goals of the public contracting*  
 23 *agency; and]*

24 *[(j) The bidder used the services of minority community organizations, minority contractor groups,*  
 25 *local, state and federal minority business assistance offices and other organizations identified by the*  
 26 *Advocate for Minority, Women and Emerging Small Business that provide assistance in the recruitment*  
 27 *and placement of disadvantaged, minority or women business enterprises.]*

28 **(3) A contracting agency may rebuttably presume that for the purposes of this section**  
 29 **a bidder or proposer is not responsible and has not made good faith efforts to encourage**  
 30 **disadvantaged business enterprises, minority-owned businesses, woman-owned businesses,**  
 31 **businesses that service-disabled veterans own and emerging small businesses to participate**  
 32 **in a public contract if the bidder or proposer does not take all of the actions required under**  
 33 **subsection (2) of this section. Superficial or pro forma efforts do not demonstrate responsi-**  
 34 **bility or constitute adequate good faith efforts under this section.**

35 **SECTION 5.** ORS 200.055 is amended to read:

36 200.055. (1) *[Any disadvantaged, minority, women or emerging small business enterprise is entitled*  
 37 *to be certified as such upon application to the Oregon Business Development Department. If the appli-*  
 38 *cation is approved by the department, the department shall certify the applicant as a disadvantaged,*  
 39 *minority, women or emerging small business enterprise. The enterprise shall be considered so certified*  
 40 *by any public contracting agency.]* **An enterprise or a business may apply to the Oregon Busi-**  
 41 **ness Development Department for certification as a disadvantaged business enterprise, a**  
 42 **minority-owned business, a woman-owned business, a business that a service-disabled vet-**  
 43 **eran owns or an emerging small business. If the enterprise or business qualifies under ORS**  
 44 **200.005 to 200.075 and if the department approves the application, the department shall certify**  
 45 **the enterprise or business as a disadvantaged business enterprise, a minority-owned busi-**

1 **ness, a woman-owned business, a business that a service-disabled veteran owns or an**  
 2 **emerging small business. For purposes of awarding public contracts, all contracting agencies**  
 3 **shall recognize an enterprise or business that the department certifies under this section as**  
 4 **a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a**  
 5 **business that a service-disabled veteran owns or an emerging small business.**

6 (2) In consultation with the State Board of Higher Education and the Department of Transpor-  
 7 tation, and with the approval of the [*Advocate for Minority, Women and Emerging Small Business*]  
 8 **Governor's Policy Advisor for Economic and Business Equity**, the Oregon Business Develop-  
 9 ment Department by rule shall adopt a uniform standard form and procedure [*designed*] to provide  
 10 complete documentation [*that a business enterprise is certified as a disadvantaged, minority, women*  
 11 *or emerging small business enterprise. The department shall compile and make available upon request*  
 12 *a list of certified disadvantaged, minority, women or emerging small business enterprises.*] **of an**  
 13 **enterprise's or a business' status as a disadvantaged business enterprise, a minority-owned**  
 14 **business, a woman-owned business, a business that a service-disabled veteran owns or an**  
 15 **emerging small business. The department shall compile and make available a list of enter-**  
 16 **prises and businesses that the department certifies under this section.**

17 (3) [*Any business enterprise that is refused certification*] **If the department denies, revokes or**  
 18 **refuses to renew an enterprise's certification** as a disadvantaged business enterprise, [*or denied*  
 19 *recertification as such or whose certification is revoked*] **the enterprise** may appeal directly to the  
 20 United States Department of Transportation.

21 (4) [*Any business enterprise that is refused certification as a minority, women or emerging small*  
 22 *business enterprise or has its certification revoked*] **If the department denies, revokes or refuses**  
 23 **to renew a business's certification as a minority-owned business, a woman-owned business,**  
 24 **a business that a service-disabled veteran owns or an emerging small business, the business**  
 25 may request a contested case hearing as provided in ORS chapter 183.

26 (5) The Oregon Business Development Department [*shall be*] **is the sole agency** [*authorized to*]  
 27 **that may certify enterprises and businesses** as [*disadvantaged, minority, women or emerging small*  
 28 *business enterprises*] **disadvantaged business enterprises, minority-owned businesses, woman-**  
 29 **owned businesses, businesses that service-disabled veterans own and emerging small busi-**  
 30 **nesses that are** eligible to perform [*on*] public contracts in this state.

31 (6) The Oregon Business Development Department by rule may establish a fee not to exceed  
 32 \$100 for a copy of the list [*of certified disadvantaged, minority, women and emerging small business*  
 33 *enterprises*] **described in subsection (2) of this section** and may assess [*state*] **contracting** agen-  
 34 cies for services under ORS 200.005 to 200.075.

35 (7) The Department of Transportation may collect a fee, not to exceed \$200, from a bidder **or**  
 36 **proposer at the time the bidder or proposer prequalifies to perform public contracts** [*upon*  
 37 *bidder prequalifications*] to cover the costs of the Oregon Business Development Department in ad-  
 38 ministering ORS 200.005 to 200.075. The Department of Transportation shall transfer [*such*] fees  
 39 **that the Department of Transportation collects under this subsection** to the credit of the ac-  
 40 count established under subsection (8) of this section.

41 (8) The Oregon Business Development Department shall establish a special account in which to  
 42 deposit fees and assessments. The special account is continuously appropriated to the **Oregon**  
 43 **Business Development** Department to meet [*its*] **the Oregon Business Development**  
 44 **Department's** expenses in administering ORS 200.005 to 200.075.

45 **SECTION 6.** ORS 200.065 is amended to read:



1 200.065. (1) *[It shall be unlawful for any]* A person **may not** fraudulently *[to]* obtain or retain,  
 2 *[or]* attempt to **fraudulently** obtain or retain or *[to]* aid another person **in** fraudulently *[to obtain*  
 3 *or retain or attempt]* **obtaining or retaining or attempting to fraudulently** obtain or retain certi-  
 4 fication as a *[disadvantaged, minority, women or emerging small business enterprise]* **disadvantaged**  
 5 **business enterprise, a minority-owned business, a woman-owned business, a business that a**  
 6 **service-disabled veteran owns or an emerging small business.**

7 (2) *[It shall be unlawful knowingly to]* A **person may not knowingly** make a false claim that  
 8 any person is qualified for certification or is certified under ORS 200.055 for the purpose of gaining  
 9 a contract or subcontract or other benefit.

10 (3) *[The public]* A contracting agency may withhold payment, may suspend or terminate *[the]* a  
 11 **public** contract and may impose on any person a civil penalty not to exceed 10 percent of the con-  
 12 tract or subcontract price or \$5,000, whichever is less, for each violation of subsection (1) or (2) of  
 13 this section. The **person shall pay the** penalty *[shall be paid]* to the Office for *[Minority, Women*  
 14 *and Emerging Small Business]* **Economic and Business Equity.**

15 (4) The Oregon Business Development Department or an affected *[public]* contracting agency  
 16 shall investigate any complaint that a person has violated subsection (1) or (2) of this section. In  
 17 investigating *[such]* a complaint, the department or *[an]* **the** affected *[public]* contracting agency may  
 18 require *[any]* additional information, administer oaths, take depositions and issue subpoenas to  
 19 compel *[the attendance of]* witnesses **to attend** and the production of books, papers, records, memo-  
 20 randa or other information necessary to carry out *[its]* **the department's or the affected con-**  
 21 **tracting agency's** duties. If *[any]* a person fails to comply with any subpoena **that the department**  
 22 **or the affected contracting agency** issued under this subsection or refuses to testify on any matter  
 23 on which a person may lawfully be interrogated, **the department or the affected contracting**  
 24 **agency shall follow** the procedure provided in ORS 183.440 *[shall be followed]* to compel compliance.

25 (5) **The department or** an affected *[public]* contracting agency *[or the department]* may dis-  
 26 qualify **from submitting a bid or proposal or receiving an award of a public contract, for a**  
 27 **period of not more than three years,** any person *[found to have violated]* **that under oath during**  
 28 **the course of an investigation admits to violating** subsection (1) or (2) of this section *[or who*  
 29 *admits to such violation under oath during the course of an investigation from bidding or participating*  
 30 *in any public contract for a period of time specified by the agency or department, not to exceed three*  
 31 *years]* **or that the department or the affected contracting agency finds to have violated sub-**  
 32 **section (1) or (2) of this section.** Any contracting agency that has notice of the finding of the  
 33 fraudulent certification may also disqualify the person from bidding on or participating in any public  
 34 contract.

35 **SECTION 7.** ORS 200.075 is amended to read:

36 200.075. (1) **A contracting agency shall suspend** any *[bidder or contractor or subcontractor*  
 37 *on]* **bidder's, proposer's, contractor's or subcontractor's right to submit a bid or proposal for,**  
 38 **or receive an award of,** a public contract *[that]* **if the bidder, proposer, contractor or subcon-**  
 39 **tractor** knowingly commits any of the acts listed in *[paragraphs (a) to (c) of this subsection shall*  
 40 *have its right to bid on or participate in any public contract suspended. The suspension shall occur]*  
 41 **this subsection. The affected contracting agency shall suspend the right** only after **providing**  
 42 notice and opportunity for hearing in *[such manner as the affected public contracting agency, by rule,*  
 43 *shall provide. The suspension shall be for]* **a manner that the affected contracting agency pro-**  
 44 **vides by rule. The affected contracting agency shall specify a time for the suspension that**  
 45 **is up to 90 days for a first violation, up to one year for a second violation and up to five years for**

1 a third violation. Each violation [*shall*] **must** remain on record for five years. After five years the  
 2 [*violation shall no longer be considered*] **affected contracting agency may not consider the vio-**  
 3 **lation** in reviewing future violations. [*The following acts are prohibited*] **A bidder, proposer, con-**  
 4 **tractor or subcontractor may not:**

5 (a) [*Entering*] **Enter** into any agreement [*representing that a disadvantaged, minority, women or*  
 6 *emerging small business enterprise certified pursuant to*] **to represent that a disadvantaged busi-**  
 7 **ness enterprise, a minority-owned business, a woman-owned business, a business that a**  
 8 **service-disabled veteran owns or an emerging small business certified under ORS 200.055 will**  
 9 [*be performing*] **perform** work or [*supplying*] **supply** materials under [*the*] a public [*improvement*]  
 10 contract without the knowledge and consent of the [*disadvantaged, minority, women or emerging*  
 11 *small business enterprise*] **disadvantaged business enterprise, minority-owned business,**  
 12 **woman-owned business, business that a service-disabled veteran owns or emerging small**  
 13 **business.**

14 (b) [*Exercising*] **Exercise** management and decision making control over the internal operations  
 15 of [*any certified disadvantaged, minority, women or emerging small business enterprise*] **a disadvan-**  
 16 **tagged business enterprise, a minority-owned business, a woman-owned business, a business**  
 17 **that a service-disabled veteran owns or an emerging small business, other than the bidder's,**  
 18 **proposer's, contractor's or subcontractor's own enterprise or business.** As used in this para-  
 19 graph, "internal operations" does not include normal scheduling, coordination, execution or per-  
 20 formance as a subcontractor on a public contract.

21 (c) [*Using a disadvantaged, minority, women or emerging small business enterprise*] **Use a dis-**  
 22 **advantaged business enterprise, a minority-owned business, a woman-owned business, a**  
 23 **business that a service-disabled veteran owns or an emerging small business** to perform a  
 24 **public contract or subcontract or to supply material under a public [*improvement*] contract to meet**  
 25 an established goal or requirement [*when the disadvantaged, minority, women or emerging small*  
 26 *business enterprise*] **if the disadvantaged business enterprise, minority-owned business,**  
 27 **woman-owned business, business that a service-disabled veteran owns or emerging small**  
 28 **business** does not perform a commercially useful function in carrying out [*its*] responsibilities and  
 29 obligations under the **public** contract.

30 (2) [*Any disadvantaged, minority, women or emerging small business enterprise certified under*  
 31 *ORS 200.055 that*] **The Oregon Business Development Department shall suspend an**  
 32 **enterprise's or a business's certification under ORS 200.055 as a disadvantaged business en-**  
 33 **terprise, a minority-owned business, a woman-owned business, a business that a service-**  
 34 **disabled veteran owns or an emerging small business if, after conducting an investigation in**  
 35 **a manner similar to the manner provided in ORS 200.065 (4) for investigating a violation of**  
 36 **ORS 200.065 (1) or (2), the department finds that the enterprise or business allows or commits**  
 37 any of the acts listed in [*paragraphs (a) to (c) of this subsection shall have its certification*  
 38 *suspended*] **this subsection. The department shall suspend the certification** for up to 90 days for  
 39 the first violation, up to one year for a second violation and up to five years for a third violation.  
 40 Each violation [*shall*] **must** remain on record for five years. After five years **the department may**  
 41 **not consider** the violation [*shall no longer be considered*] in reviewing future violations. [*The fol-*  
 42 *lowing acts are prohibited:*] **A disadvantaged business enterprise, a minority-owned business, a**  
 43 **woman-owned business, a business that a service-disabled veteran owns or an emerging small**  
 44 **business may not:**

45 (a) [*Use of the firm's*] **Use the enterprise's or business's** name to meet a [*disadvantaged, mi-*

1 *nority, women or emerging small business enterprise]* goal or requirement **for disadvantaged busi-**  
 2 **ness enterprises, minority-owned businesses, woman-owned businesses, businesses that**  
 3 **service-disabled veterans own or emerging small businesses to participate in** *[on]* a public  
 4 contract *[when the firm]* **if the enterprise or business** does not in fact intend to or does not actu-  
 5 ally perform *[the]* work under the **public contract or** subcontract or **does not intend to** purchase  
 6 and supply material *[to the project]* under a **public contract or subcontract to supply** material  
 7 *[supply contract]*.

8 (b) Use *[of any]* personnel of an uncertified **enterprise or** business to operate, manage or oth-  
 9 erwise control the *[disadvantaged, minority, women or emerging small business enterprise]* **disad-**  
 10 **vantaged business enterprise, minority-owned business, woman-owned business, business**  
 11 **that a service-disabled veteran owns or emerging small business.**

12 (c) *[Failure]* **Fail** to perform a commercially useful function in *[carrying out its functions under*  
 13 *a subcontract or a material supply contract entered into with]* **performing a public contract or**  
 14 **subcontract or supplying material to** a contractor or subcontractor on a public contract *[when]*  
 15 **if the enterprise or business is** represented as a *[certified business to meet]* **disadvantaged busi-**  
 16 **ness enterprise, a minority-owned business, a woman-owned business, a business that a**  
 17 **service-disabled veteran owns or an emerging small business certified under ORS 200.055 for**  
 18 **the purpose of meeting** an established goal or requirement.

19 (3) *[For the purpose of this section “commercially useful function” means the actual performance*  
 20 *of a function or service by the business]* **As used in this section, “commercially useful**  
 21 **function”:**

22 (a) **Means a function or service:**

23 (A) **That the enterprise or business actually performs;**

24 (B) For which *[there is]* a demand **exists** in the marketplace[,]; and

25 (C) For which the **enterprise or** business receives payment *[not disproportionate]* **that is**  
 26 **proportionate** to the work *[performed or in conformance]* **the enterprise or business performs or**  
 27 **that conforms** with industry standards.

28 (b) **Does not include** acting as a broker to provide for *[the performance of work by others does*  
 29 *not constitute a “commercially useful function.”]* **others to perform work.**

30 **SECTION 8.** ORS 200.090 is amended to read:

31 200.090. *[Public]* **Contracting** agencies shall aggressively pursue a policy of providing opportu-  
 32 nities for *[available contracts to emerging small businesses]* **disadvantaged business enterprises,**  
 33 **minority-owned businesses, woman-owned businesses, businesses that service-disabled vet-**  
 34 **erans own and emerging small businesses** and shall cooperate with the *[Advocate for Minority,*  
 35 *Women and Emerging Small Business]* **Governor’s Policy Advisor for Economic and Business**  
 36 **Equity** to determine the best means by which to make such opportunities available.

37 **SECTION 9.** ORS 200.110 is amended to read:

38 200.110. (1) The Oregon Business Development Department may recognize *[the]* a mentor re-  
 39 lationship between contractors and *[minority business enterprises or women business enterprises cer-*  
 40 *tified under this chapter]* **disadvantaged business enterprises, minority-owned businesses,**  
 41 **woman-owned businesses, businesses that service-disabled veterans own and emerging small**  
 42 **businesses that are certified under ORS 200.055. In order to qualify for the department’s re-**  
 43 **cognition,** the mentor relationship *[shall]* **must** offer the opportunity **for the contractor** to foster  
 44 and encourage *[minority and women business enterprises,]* **disadvantaged business enterprises,**  
 45 **minority-owned businesses, woman-owned businesses, businesses that service-disabled vet-**

1 **erans own and emerging small businesses** to expand the capacity of [*presently existing minority*  
 2 *and women*] **existing enterprises and** businesses and to offer the opportunity for less experienced  
 3 [*minority and women*] **enterprises and** businesses to gain training and assistance.

4 (2) [*Guidelines for eligibility for*] **To have the department recognize** the mentor relationship  
 5 **described in subsection (1) of this section, a disadvantaged business enterprise, a minority-**  
 6 **owned business, a woman-owned business, a business that a service-disabled veteran owns**  
 7 **or an emerging small business must follow guidelines that** include, but are not limited to:

8 (a) [*Minority and women business enterprises that meet*] **Meeting** the certification requirements  
 9 of the U.S. Department of Transportation [*are eligible for participation in a mentor program. Other*  
 10 *minority and women business enterprises are also eligible if they meet the certification requirements*  
 11 *of this chapter. An agency may grant approval of an enterprise*] **or ORS 200.055. The department**  
 12 **may approve an** application for certification **under ORS 200.055 at the same time the depart-**  
 13 **ment approves** [*concurrent with approval of*] a mentor arrangement.

14 (b) [*The minority or women business enterprise must be an independent organization, and the*  
 15 *ownership by the individuals must be real.*] **Remaining independent from the contractor and**  
 16 **maintaining a minority individual's, woman's or service-disabled veteran's actual ownership**  
 17 **of the enterprise or business. A minority individual, woman or service-disabled veteran who**  
 18 **owns the enterprise or business may have** other employment and business interests [*by the indi-*  
 19 *viduals are not precluded, if such*] **if the** employment or business interests do not conflict with the  
 20 [*power of the minority or women owners*] **minority individual's, woman's or service-disabled**  
 21 **veteran's power** to direct the management and policies of the [*minority or women enterprise*] **dis-**  
 22 **advantaged business enterprise, minority-owned business, woman-owned business, business**  
 23 **that a service-disabled veteran owns or emerging small business and** to make day-to-day [*as*  
 24 *well as*] **and** major decisions on matters of management, policy and operations. **A contractor may**  
 25 **provide facilities to the enterprise or business if the contractor and the enterprise or busi-**  
 26 **ness maintain a separate lease agreement.**

27 [*(c) The mentor program is intended to provide minority and women business enterprises with ad-*  
 28 *vice, assistance and training. The enterprise shall be responsible for management and operations of*  
 29 *the business. The mentor shall not be responsible for the management of the firm. The mentor and the*  
 30 *enterprise shall remain separate and independent business entities with the exception that facilities may*  
 31 *be provided to the enterprise by the mentor if a separate lease agreement is maintained by the*  
 32 *parties.*]

33 [(d)] (c) **Complying with 49 C.F.R. 23 as to an individual's or entity's** part ownership in a  
 34 [*minority or women business enterprise by a nondisadvantaged party, including a mentor, is permitted*  
 35 *if in compliance with 49 C.F.R. 23*] **disadvantaged business enterprise, a minority-owned busi-**  
 36 **ness, a woman-owned business, a business that a service-disabled veteran owns or an**  
 37 **emerging small business if the individual or entity is not certified under ORS 200.055. The**  
 38 **enterprise or business shall report** any property, equipment, supplies or other services [*which are*  
 39 *sold, rented or donated to the enterprise*] **that the enterprise or business buys, rents or receives**  
 40 **as a donation** and any investment [*made by nondisadvantaged individuals must be reported to the*  
 41 *agency involved in the mentor program. Documentation shall be provided by*] **that an individual or**  
 42 **entity makes in the enterprise or business if the individual or entity is not certified under**  
 43 **ORS 200.055. The report must include** bills of sale, lease agreements or similar documents.

44 [(e)] (3) [*The*] **A** mentor relationship may include an arrangement with an independent third  
 45 party, such as a bank or accountant, to act as an agent. **A third** [*parties*] **party** may receive progress

1 payments for work [*accomplished by the minority or women business enterprise*] **that a disadvan-**  
 2 **tagged business enterprise, a minority-owned business, a woman-owned business, a business**  
 3 **that a service-disabled veteran owns or an emerging small business accomplishes**, made out  
 4 jointly to the [*agent*] **third party** and the enterprise **or business**, and **may** make payments[,] on  
 5 behalf of the enterprise[,] **or business** to material suppliers or for federal and state payroll taxes.

6 [(3) *Types of assistance a mentor may provide to the minority or women business enterprise in-*  
 7 *clude:*]

8 **(4) Types of assistance that a contractor may provide in a mentor relationship to a dis-**  
 9 **advantaged business enterprise, a minority-owned business, a woman-owned business, a**  
 10 **business that a service-disabled veteran owns or an emerging small business include:**

- 11 (a) Financial assistance;
- 12 (b) Technical and management assistance;
- 13 (c) Equipment rental and use of personnel; and
- 14 (d) Bonding assistance.

15 **SECTION 10.** ORS 200.120 is amended to read:

16 200.120. (1) [*Mentor relationships may be documented by a written development plan, approved*  
 17 *by*] The Oregon Business Development Department, in consultation with the Oregon Association of  
 18 Minority Entrepreneurs, **may approve a written development plan as part of a mentor re-**  
 19 **lationship.** The development plan [*shall*] **must:**

- 20 (a) Clearly set forth the objectives **and roles** of the parties [*and their respective roles*];
- 21 (b) Be for a specified length of time;
- 22 (c) Determine measurable goals [*to be reached by the minority or women business enterprise*] **that**  
 23 **the disadvantaged business enterprise, minority-owned business, woman-owned business,**  
 24 **business that a service-disabled veteran owns or emerging small business must reach;** and

25 (d) Provide that if [*resources of the mentor are utilized by the minority or women business enter-*  
 26 *prise in the performance of*] **a disadvantaged business enterprise, a minority-owned business, a**  
 27 **woman-owned business, a business that a service-disabled veteran owns or an emerging small**  
 28 **business uses a mentor's resources in performing** contracts or subcontracts for the mentor or  
 29 for another contractor, the **enterprise or business shall separately identify, account for and**  
 30 **directly compensate the mentor for the** resources [*shall be separately identified, accounted for and*  
 31 *compensated directly by the minority or women business enterprise to the mentor*]. **The department**  
 32 **may closely monitor a development plan that** [*If the plan*] provides [*for extensive use of*] **that the**  
 33 **enterprise or business will use** the mentor's resources [*by the minority or women business enter-*  
 34 *prise, the arrangement may be closely monitored*] **extensively.**

35 (2) The development plan may also [*include training to be provided by the mentor to the minority*  
 36 *or women business enterprise*] **provide for the mentor to train the disadvantaged business en-**  
 37 **terprise, minority-owned business, woman-owned business, business that a service-disabled**  
 38 **veteran owns, or emerging small business.** Training may include:

- 39 (a) Business planning;
- 40 (b) Record keeping;
- 41 (c) Technical training;
- 42 (d) Capital formation;
- 43 (e) Loan packaging;
- 44 (f) Financial counseling;
- 45 (g) Bonding; and

1 (h) Equipment utilization.

2 (3) The *[development plan may be reviewed annually by the]* Oregon Business Development De-  
 3 partment and the Oregon Association of Minority Entrepreneurs *[to review the progress of the mentor*  
 4 *program]* **may review the development plan annually to monitor progress.**

5 (4) The development plan *[shall contain a provision]* **must provide** that the mentor relationship  
 6 may be terminated by mutual consent or *[upon determination that]* **if:**

7 (a) *[The mentor firm no longer meets the eligibility standards]* **An enterprise or a business no**  
 8 **longer qualifies** for certification **under ORS 200.055** as a *[minority or women business enterprise]*  
 9 **disadvantaged business enterprise, a minority-owned business, a woman-owned business, a**  
 10 **business that a service-disabled veteran owns or an emerging small business;**

11 (b) Either party has failed or is unable to meet *[its]* **the party's** obligations under the develop-  
 12 ment plan;

13 (c) The *[minority or women business enterprise]* **disadvantaged business enterprise, minority-**  
 14 **owned business, woman-owned business, business that a service-disabled veteran owns or**  
 15 **emerging small business** is not progressing or is not likely to progress in accordance with the  
 16 development plan;

17 (d) The *[minority or women business enterprise]* **disadvantaged business enterprise, minority-**  
 18 **owned business, woman-owned business, business that a service-disabled veteran owns or**  
 19 **emerging small business** has reached a satisfactory level of self-sufficiency to compete without  
 20 resorting to special treatment provided in the development plan; or

21 (e) The plan or provisions *[thereof]* **of the plan** are contrary to the requirements of federal,  
 22 state, or local law or regulation, or otherwise contrary to public policy.

23 (5) *[Copies of the development plan shall be retained by all parties to it, and by]* **The parties to**  
 24 **the development plan,** the Oregon Business Development Department and the Oregon Association  
 25 of Minority Entrepreneurs **shall retain copies of the plan.**

26 (6) The development plan may *[include a provision]* **provide** that *[the arrangement shall be dis-*  
 27 *solved by]* either party **may dissolve the plan** for **any** reason by notifying the Oregon Business  
 28 Development Department and the Oregon Association of Minority Entrepreneurs.

29 **SECTION 11.** ORS 184.404 is amended to read:

30 184.404. (1) The Director of the Oregon Department of Administrative Services, with the ap-  
 31 proval of the State Treasurer, may enter into one or more agreements on behalf of the State of  
 32 Oregon to grant the incremental baseball tax revenues for a period of not more than 30 years. The  
 33 grant agreements must:

34 (a) Provide that the granted amounts may be used only to pay for the costs of financing, devel-  
 35 oping, constructing and furnishing a major league stadium;

36 (b) Provide that:

37 (A) The total payments to the grantees are limited so that the grantees do not receive, in the  
 38 aggregate, more than \$150 million for costs of developing, constructing and furnishing a major  
 39 league stadium, plus the actual, reasonable financing costs incurred by the grantees for that amount;  
 40 and

41 (B) If the incremental baseball tax revenues in a year substantially exceed the amount reason-  
 42 ably required to amortize a loan of \$150 million over a period of 30 years with interest, the excess  
 43 may be retained by the state;

44 (c) Terminate when:

45 (A) The State of Oregon has made all payments assigned to the state in the grant agreements

1 for the costs allowed under this subsection; and

2 (B) The grantees have returned any amounts required to be returned under paragraph (i) of this  
3 subsection;

4 (d) Require the Director of the Department of Revenue to estimate incremental baseball tax re-  
5 venues, specify the methodology for estimating incremental baseball tax revenues and notify the  
6 Director of the Oregon Department of Administrative Services of the estimated incremental baseball  
7 tax revenues;

8 (e) Specify the methodology for determining actual incremental baseball tax revenues;

9 (f) Require the Director of the Oregon Department of Administrative Services to request that  
10 the Legislative Assembly appropriate an amount equal to the estimated incremental baseball tax  
11 revenues from the General Fund to the Major League Stadium Grant Fund established in ORS  
12 184.408 so that those moneys may be disbursed under the grant agreements authorized by this sec-  
13 tion;

14 (g) Require the Director of the Department of Revenue to determine the actual incremental  
15 baseball tax revenues and, if the actual incremental baseball tax revenues exceed the estimated in-  
16 cremental baseball tax revenues, notify the Director of the Oregon Department of Administrative  
17 Services of the excess;

18 (h) Require the Director of the Oregon Department of Administrative Services, if notified of an  
19 excess under paragraph (g) of this subsection, to request that the Legislative Assembly appropriate  
20 an amount equal to the excess, adjusted for the limits and retentions described in paragraph (b) of  
21 this subsection, from the General Fund to the Major League Stadium Grant Fund so that those  
22 moneys may be disbursed under the grant agreements authorized by this section;

23 (i) Require the grantees to return to the Director of the Oregon Department of Administrative  
24 Services for deposit in the General Fund amounts transferred to the grantees from the Major League  
25 Stadium Grant Fund that exceed the actual incremental baseball tax revenues;

26 (j) Provide that the amounts requested for appropriations may not be reduced because of any  
27 reduction that may be enacted in Oregon personal income tax rates;

28 (k) Require the Director of the Oregon Department of Administrative Services to disburse  
29 amounts in the Major League Stadium Grant Fund to the grantees on particular dates;

30 (L) Provide assurances of full and fair participation in the construction, furnishing and operation  
31 of the major league stadium by *[women, minorities and]* **minority-owned businesses, woman-owned**  
32 **businesses, businesses that service-disabled veterans own and emerging** small businesses;

33 (m) Provide for the maximization of economic benefits for Oregon workers in the construction,  
34 furnishing and operation of the major league stadium to the greatest extent permitted by law; and

35 (n) Require the State of Oregon and the grantees to take any other action that the State  
36 Treasurer, the Director of the Oregon Department of Administrative Services or the Director of the  
37 Department of Revenue determines is desirable to ensure that:

38 (A) The granted funds are used for the purposes described in ORS 184.400 to 184.408;

39 (B) The grant agreements are administered efficiently and the interests of the State of Oregon  
40 are protected; and

41 (C) The requests for appropriation of amounts equal to the incremental baseball tax revenues  
42 are made as described in ORS 184.400 to 184.408.

43 (2) The obligation of the State of Oregon, under ORS 184.400 to 184.408 and the grant agree-  
44 ments authorized by this section, to transfer estimated or actual incremental baseball tax revenues  
45 to the Major League Stadium Grant Fund is subject to an appropriation being made for that purpose

1 by the Legislative Assembly. The State of Oregon is not liable to any party for any reason if the  
 2 Legislative Assembly fails to appropriate all or a portion of the amounts requested under subsection  
 3 (1)(f) and (h) of this section to the Major League Stadium Grant Fund. However, if the Legislative  
 4 Assembly does appropriate amounts for deposit in the Major League Stadium Grant Fund and those  
 5 amounts are deposited in the Major League Stadium Grant Fund pursuant to the grant agreements  
 6 authorized by this section, the obligation of the State of Oregon to disburse the amounts in the  
 7 Major League Stadium Grant Fund is unconditional. The grant agreements authorized by this sec-  
 8 tion are not a pledge of the full faith and credit or the taxing power of the State of Oregon, and the  
 9 State of Oregon does not pledge its full faith and credit or taxing power. The grant agreements do  
 10 not create an indebtedness of the State of Oregon in violation of [section 7,] Article XI, **section 7**,  
 11 of the Oregon Constitution. If a provision of a grant agreement is construed to have the effect of  
 12 creating a debt in violation of [section 7,] Article XI, **section 7**, of the Oregon Constitution, the  
 13 provision is void.

14 (3) The Legislative Assembly does not have a legal obligation to appropriate any amounts for  
 15 disbursement under the grant agreements authorized by this section. However, the Legislative As-  
 16 sembly declares its current intention to appropriate amounts equal to the estimated incremental  
 17 baseball tax revenues and amounts equal to the amount by which the actual incremental baseball  
 18 tax revenues exceed the estimated incremental baseball tax revenues from the General Fund to the  
 19 Major League Stadium Grant Fund, as provided in ORS 184.400 to 184.408, so that the amounts may  
 20 be disbursed pursuant to the grant agreements authorized by this section.

21 (4) Before commencing negotiations on a grant agreement authorized by this section, the Oregon  
 22 Department of Administrative Services shall obtain one or more agreements from benefited parties  
 23 to pay the state's costs associated with negotiating and executing the grant agreement.

24 **SECTION 12.** ORS 279A.105 is amended to read:

25 279A.105. (1) A contracting agency may require a contractor to subcontract some part of a  
 26 contract to, or to obtain materials [*to be used*] **for use** in performing the contract from, a business  
 27 [*enterprise*] that is certified under ORS 200.055 as an emerging small business or [*a business enter-*  
 28 *prise that is owned or controlled by a disabled veteran, as defined in ORS 408.225*] **as a business that**  
 29 **a service-disabled veteran owns.**

30 (2) A contracting agency may require a contractor to subcontract some part of a contract to,  
 31 or to obtain materials to be used in performing the contract from, a business [*enterprise*] that is  
 32 certified under ORS 200.055 as an emerging small business and that, as identified by the contracting  
 33 agency, is located in or draws the [*business enterprise's*] **business's** workforce from economically  
 34 distressed areas, as designated by the Oregon Business Development Department.

35 (3) A contracting agency may require that a public contract be awarded to a responsible bidder  
 36 **or proposer**, as defined in ORS 200.005, [*who*] **that** the contracting agency determines has made  
 37 good faith efforts as prescribed in ORS 200.045 [(3)]. [*For purposes of this subsection, "responsible*  
 38 *bidder" includes a responsible proposer that has made good faith efforts as prescribed in ORS 200.045*  
 39 *(3).*]

40 **SECTION 13.** ORS 279A.110 is amended to read:

41 279A.110. (1) A bidder or proposer [*who*] **that** competes for or [*is awarded*] **enters into** a public  
 42 contract may not discriminate against a subcontractor in awarding a subcontract because the sub-  
 43 contractor is a [*minority, women or emerging small business enterprise*] **disadvantaged business**  
 44 **enterprise, a minority-owned business, a woman-owned business, a business that a service-**  
 45 **disabled veteran owns or an emerging small business that is** certified under ORS 200.055 [*or a*



1 *business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in*  
2 *ORS 408.225*].

3 (2) A contracting agency may debar or disqualify, under ORS 279B.130 or 279C.440, as appro-  
4 priate, a bidder or proposer if the contracting agency finds that the bidder or proposer has violated  
5 subsection (1) of this section in awarding a subcontract in connection with a contract [*advertised*  
6 *by*] the contracting agency **advertised or otherwise solicited** or a contract between the contract-  
7 ing agency and the bidder or proposer. A debarred or disqualified bidder or proposer may appeal the  
8 debarment or disqualification under ORS 279B.425 or ORS 279C.445 and 279C.450, as appropriate.

9 (3) A contracting agency may not allege an occurrence of discrimination in subcontracting as  
10 a basis for debarring or disqualifying a bidder or proposer under subsection (2) of this section more  
11 than three years after the alleged discriminatory conduct occurred or more than three years after  
12 the contracting agency, in the exercise of reasonable diligence, should have discovered the conduct,  
13 whichever is later.

14 (4) A bidder or proposer shall certify in the [*documents accompanying the bidder's or proposer's*  
15 *offer to enter into a public contract*] **bid or proposal** that the bidder or proposer has not discrimi-  
16 nated and will not discriminate, in violation of subsection (1) of this section, against [*any minority,*  
17 *women or emerging small business enterprise or against a business enterprise that is owned or con-*  
18 *trolled by or that employs a disabled veteran in obtaining a required subcontract*] **a disadvantaged**  
19 **business enterprise, a minority-owned business, a woman-owned business, a business that a**  
20 **service-disabled veteran owns or an emerging small business in awarding a subcontract.**

21 (5) After a contractor [*is awarded*] **enters into** a public contract, if the contractor violates the  
22 certification made under subsection (4) of this section, the contracting agency may regard the vio-  
23 lation as a breach of contract that permits the contracting agency to:

24 (a) Terminate the contract; or

25 (b) Exercise any of the remedies for breach of contract that are reserved in the contract.

26 **SECTION 14.** ORS 279A.142 is amended to read:

27 279A.142. A contracting agency may, by appropriate ordinance, resolution or rule, limit compe-  
28 tition for a public contract to emerging small [*business enterprises*] **businesses** certified under ORS  
29 200.055 if the contract **price** is estimated [*to cost*] **at** \$100,000 or less and is funded by the Emerging  
30 Small Business Account established under ORS 200.180.

31 **SECTION 15.** ORS 279C.110 is amended to read:

32 279C.110. (1) A contracting agency shall select consultants to provide architectural, engineering,  
33 photogrammetric mapping, transportation planning or land surveying services on the basis of the  
34 consultant's qualifications for the type of professional service required. A contracting agency may  
35 solicit or use pricing policies and proposals or other pricing information, including the number of  
36 hours proposed for the service required, expenses, hourly rates and overhead, to determine consult-  
37 ant compensation only after the contracting agency has selected a candidate pursuant to subsection  
38 (2) of this section.

39 (2) Subject to the requirements of subsection (1) of this section, the procedures that a con-  
40 tracting agency creates to screen and select consultants and to select a candidate under this section  
41 are at the contracting agency's sole discretion. The contracting agency may adjust the procedures  
42 to accommodate the contracting agency's scope, schedule or objectives for a particular project if the  
43 estimated cost of the architectural, engineering, photogrammetric mapping, transportation planning  
44 or land surveying services for the project does not exceed \$250,000.

45 (3) A contracting agency's screening and selection procedures under this section, regardless of

1 the estimated cost of the architectural, engineering, photogrammetric mapping, transportation plan-  
 2 ning or land surveying services for a project, may include considering each candidate's:

3 (a) Specialized experience, capabilities and technical competence, which the candidate may  
 4 demonstrate with the candidate's proposed approach and methodology to meet the project require-  
 5 ments;

6 (b) Resources committed to perform the work and the proportion of the time that the candidate's  
 7 staff would spend on the project, including time for specialized services, within the applicable time  
 8 limits;

9 (c) Record of past performance, including but not limited to price and cost data from previous  
 10 projects, quality of work, ability to meet schedules, cost control and contract administration;

11 (d) Ownership status and employment practices regarding [*minority, women and*] **disadvantaged**  
 12 **business enterprises, minority-owned businesses, woman-owned businesses, businesses that**  
 13 **service-disabled veterans own**, emerging small businesses or historically underutilized businesses;

14 (e) Availability to the project locale;

15 (f) Familiarity with the project locale; and

16 (g) Proposed project management techniques.

17 (4) If the screening and selection procedures a contracting agency creates under subsection (2)  
 18 of this section result in the contracting agency's determination that two or more candidates are  
 19 equally qualified, the contracting agency may select a candidate through any process the contract-  
 20 ing agency adopts that is not based on the candidate's pricing policies, proposals or other pricing  
 21 information.

22 (5) The contracting agency and the selected candidate shall mutually discuss and refine the  
 23 scope of services for the project and shall negotiate conditions, including but not limited to com-  
 24 pensation level and performance schedule, based on the scope of services. The compensation level  
 25 paid must be reasonable and fair to the contracting agency as determined solely by the contracting  
 26 agency. Authority to negotiate a contract under this section does not supersede any provision of  
 27 ORS 279A.140 or 279C.520.

28 (6) If the contracting agency and the selected candidate are unable for any reason to negotiate  
 29 a contract at a compensation level that is reasonable and fair to the contracting agency, the con-  
 30 tracting agency shall, either orally or in writing, formally terminate negotiations with the selected  
 31 candidate. The contracting agency may then negotiate with the next most qualified candidate. The  
 32 negotiation process may continue in this manner through successive candidates until an agreement  
 33 is reached or the contracting agency terminates the consultant contracting process.

34 (7) It is the goal of this state to promote a sustainable economy in the rural areas of the state.  
 35 In order to monitor progress toward this goal, a state contracting agency shall keep a record of the  
 36 locations in which architectural, engineering, photogrammetric mapping, transportation planning or  
 37 land surveying services contracts and related services contracts are performed throughout the state,  
 38 the locations of the selected consultants and the direct expenses on each contract. This record must  
 39 include the total number of contracts awarded to each consultant firm over a 10-year period. The  
 40 record of direct expenses must include all personnel travel expenses as a separate and identifiable  
 41 expense on the contract. Upon request, the state contracting agency shall make these records  
 42 available to the public.

43 (8) Notwithstanding the provisions of subsection (1) of this section, a contracting agency may  
 44 directly appoint a consultant if the estimated cost of the architectural, engineering, photogrammet-  
 45 ric mapping, transportation planning or land surveying services for the project does not exceed

1 \$100,000.

2 (9) Notwithstanding the provisions of subsections (1) and (8) of this section, a contracting agency  
 3 may directly appoint a consultant for architectural, engineering, photogrammetric mapping, trans-  
 4 portation planning or land surveying services in an emergency.

5 **SECTION 16.** ORS 279C.836 is amended to read:

6 279C.836. (1) Except as provided in subsection (4), (7), (8) or (9) of this section, before starting  
 7 work on a contract or subcontract for a public works project, a contractor or subcontractor shall  
 8 file with the Construction Contractors Board a public works bond with a corporate surety author-  
 9 ized to do business in this state in the amount of \$30,000. The bond must provide that the contractor  
 10 or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers per-  
 11 forming labor upon public works projects. The bond must be a continuing obligation, and the  
 12 surety's liability for the aggregate of claims that may be payable from the bond may not exceed the  
 13 penal sum of the bond. The bond must remain in effect continuously until depleted by claims paid  
 14 under this section, unless the surety sooner cancels the bond. The surety may cancel the bond by  
 15 giving 30 days' written notice to the contractor or subcontractor, to the board and to the Bureau  
 16 of Labor and Industries. When the bond is canceled, the surety is relieved of further liability for  
 17 work performed on contracts entered into after the cancellation. The cancellation does not limit the  
 18 surety's liability for work performed on contracts entered into before the cancellation.

19 (2) Before permitting a subcontractor to start work on a public works project, the contractor  
 20 shall verify that the subcontractor has filed a public works bond as required under this section, has  
 21 elected not to file a public works bond under subsection (7) or (8) of this section or is exempt under  
 22 subsection (4) or (9) of this section.

23 (3) A contractor or subcontractor is not required under this section to file a separate public  
 24 works bond for each public works project for which the contractor or subcontractor has a contract.

25 (4) A person that is not required under ORS 279C.800 to 279C.870 to pay prevailing rates of  
 26 wage on a public works project is not required to file a public works bond under this section.

27 (5) A public works bond required by this section is in addition to any other bond the contractor  
 28 or subcontractor is required to obtain.

29 (6) The board may, by rule, require a contractor or subcontractor to obtain a new public works  
 30 bond if a surety pays a claim out of an existing public works bond. The new bond must be in the  
 31 amount of \$30,000. The board may allow a contractor or subcontractor to obtain, instead of a new  
 32 bond, a certification that the surety remains liable for the full penal sum of the existing bond,  
 33 notwithstanding payment by the surety on the claim.

34 (7)(a) A *[disadvantaged, minority, women or emerging small business enterprise]* **disadvantaged**  
 35 **business enterprise, a minority-owned business, a woman-owned business, a business that a**  
 36 **service-disabled veteran owns or an emerging small business** certified under ORS 200.055 may,  
 37 for up to four years after certification, elect not to file a public works bond as required under sub-  
 38 section (1) this section. If *[a]* **an enterprise or a** business *[enterprise]* elects not to file a public  
 39 works bond, the **enterprise or** business *[enterprise]* shall give the board written verification of the  
 40 certification and written notice that the **enterprise or** business *[enterprise]* elects not to file the  
 41 bond.

42 (b) *[A]* **An enterprise or a** business *[enterprise]* that elects not to file a public works bond under  
 43 this subsection shall notify the public agency for whose benefit the contract was awarded or, if the  
 44 **enterprise or** business *[enterprise]* is a subcontractor, the contractor of the election before starting  
 45 work on a public works project. When *[a business]* **an enterprise or a business** elects not to file a

1 public works bond under this subsection, a claim for unpaid wages may be made against the payment  
 2 bond of the **enterprise or** business [*enterprise*] or, if the [*business*] enterprise **or business** is a  
 3 subcontractor, the payment bond of the contractor.

4 (c) An election not to file a public works bond expires four years after the date the **enterprise**  
 5 **or** business [*enterprise*] is certified. After an election has expired and before starting or continuing  
 6 work on a contract or subcontract for a public works project, the [*business*] enterprise **or business**  
 7 shall file a public works bond with the board as required under subsection (1) of this section.

8 (8) A contractor or subcontractor may elect not to file a public works bond as required under  
 9 subsection (1) of this section for any public works project for which the contract price does not  
 10 exceed \$100,000.

11 (9) In cases of emergency, or when the interest or property of the public agency for whose  
 12 benefit the contract was awarded probably would suffer material injury by delay or other cause, the  
 13 requirement for filing a public works bond may be excused, if a declaration of the emergency is  
 14 made in accordance with rules adopted under ORS 279A.065.

15 (10) The board shall make available on a searchable public website information concerning  
 16 public works bonds filed with the board, claims made on those bonds, elections made by certified  
 17 business enterprises not to file those bonds and the expiration date of each election. The board may  
 18 adopt rules necessary to perform the duties required of the board by this section.

19 (11) The Commissioner of the Bureau of Labor and Industries, with approval of the board, shall  
 20 adopt rules that establish language for public works bonds.

21 **SECTION 17.** ORS 285B.740, as amended by section 2, chapter 3, Oregon Laws 2014, is amended  
 22 to read:

23 285B.740. It is the intent of the Legislative Assembly that in the administration of ORS 285B.740  
 24 to 285B.758, the Oregon Business Development Department work closely with regional economic  
 25 development organizations, community development corporations, small business development cen-  
 26 ters and organizations that promote and assist [*small businesses owned and operated by women and*  
 27 *minorities*] **minority-owned businesses, woman-owned businesses, businesses that service-**  
 28 **disabled veterans own and emerging small businesses, as those terms are defined in ORS**  
 29 **200.005**, and utilize policies, priorities and practices that further entrepreneurial and small business  
 30 development in rural communities. The department, to the maximum extent feasible and consistent  
 31 with prudent financial controls, may delegate the administration and operation of the loan program  
 32 created by ORS 285B.740 to 285B.758 to local and community-based entities. To carry out the policy  
 33 described in this section:

34 (1) The department may contract with any nonprofit corporation or agency with experience and  
 35 expertise in business finance to administer all or any part of the loan program created by ORS  
 36 285B.740 to 285B.758.

37 (2) When entering into an agreement for the administration of the loan program by any nonprofit  
 38 corporation or agency, the department may agree to waive any claims it may have against such  
 39 corporation or agency for losses arising out of the normal course of business, as long as the corpo-  
 40 ration or agency does not act negligently or fraudulently in providing loans under ORS 285B.740 to  
 41 285B.758.

42 (3) When entering into an agreement to have a nonprofit corporation or agency administer the  
 43 loan program created by ORS 285B.740 to 285B.758, the department may pay loan origination and  
 44 loan servicing fees to the corporation or agency. The amount of such fees may be determined in the  
 45 agreement between the department and the administering corporation or agency.

1        **SECTION 18.** ORS 286A.615 is amended to read:

2        286A.615. (1) The Private Activity Bond Committee is established. It shall consist of the State  
3 Treasurer or the designee of the State Treasurer, one representative from the Oregon Department  
4 of Administrative Services and one public representative appointed to serve at the pleasure of the  
5 Governor.

6        (2) The State Treasurer, or the State Treasurer's designee, shall serve as chair of the committee.

7        (3) The purpose of private activity bonding in this state is to maximize the economic benefits  
8 of private activity bonding to the citizens of this state. The committee shall adopt by rule standards  
9 for amounts allocated to the committee for further allocation for economic development, housing,  
10 education, redevelopment, public works, energy, waste management, waste and recycling collection,  
11 transportation and other activities that the committee determines will benefit the citizens of this  
12 state. In developing standards, the committee shall:

13        (a) Survey the expected need for private activity bond allocations at least once each year;

14        (b) Develop strategies for reserving and allocating the limit that are designed to maximize the  
15 availability of tax exempt financing among competing sectors of the Oregon economy; and

16        (c) Ensure that the standards include but are not limited to standards that:

17        (A) Support projects that increase the number of family wage jobs in this state.

18        (B) Promote economic recovery in small cities heavily dependent on a single industry.

19        (C) Emphasize development in underdeveloped rural areas of this state.

20        (D) Utilize educational resources available at public universities listed in ORS 352.002.

21        (E) Support development of the state's small businesses, especially [*businesses owned by women*  
22 *and members of minority groups*] **minority-owned businesses, woman-owned businesses, busi-**  
23 **nesses that service-disabled veterans own and emerging small businesses, as those terms are**  
24 **defined in ORS 200.005.**

25        (F) Encourage use of Oregon's human and natural resources in endeavors that harness Oregon's  
26 economic comparative advantages.

27        (4) The state private activity bond volume cap allocated to the Private Activity Bond Committee  
28 as provided in ORS 286A.620 shall be allocated and reallocated among issuers by the Private Ac-  
29 tivity Bond Committee as follows:

30        (a) Any amounts not reserved to an issuer or a class of issuers under the authorization adopted  
31 by the Legislative Assembly under ORS 286A.035 shall be allocated or reallocated by the committee  
32 under rules adopted under subsection (3) of this section.

33        (b) Any amounts provided for in the authorization adopted by the Legislative Assembly under  
34 ORS 286A.035 that are unused shall be carried forward for use as provided by rules adopted under  
35 subsection (3) of this section.

36        (c) The rules adopted by the committee shall limit the period of time for which an allocation of  
37 private activity bonding authority is effective. The rules shall ensure that allocations made during  
38 a calendar year are used during that calendar year or that the unused amount of the allocation is  
39 reallocated or carried forward.

40        (5) Unused allocations are not transferable among issuers but are available for reallocation.

41        **SECTION 19.** ORS 293.796 is amended to read:

42        293.796. (1) The Legislative Assembly finds that:

43        (a) The availability of venture capital for the start-up and subsequent expansion of new busi-  
44 nesses is critical to the continued growth and development of the economy of Oregon.

45        (b) There exists an estimated gap of between \$100 million and \$200 million between available

1 venture capital resources and the need of Oregon businesses for such resources.

2 (c) Investments in start-up and expanding businesses, in [*minority or women business*  
3 *enterprises*] **minority-owned or woman-owned businesses** and in emerging growth businesses can  
4 produce substantial positive returns for long-term investors.

5 (d) Pension funds managed by the Oregon Investment Council constitute a major financial re-  
6 source of the State of Oregon, and that such funds may be prudently invested in start-up and  
7 emerging growth businesses in this state under policies established by the Oregon Investment  
8 Council.

9 (2) As used in this section:

10 (a) "Emerging growth business" means an individual or group of individuals or a new or small  
11 company, including but not limited to any new or small partnership, limited liability company, cor-  
12 poration, firm, association or other business entity, that has the capacity, upon obtaining appropri-  
13 ate capital, to generate significant high-skill, high-wage employment.

14 (b) [*Minority or women business enterprise*] "**Minority-owned or woman-owned business**"  
15 has the meaning given that term in ORS 200.005.

16 **SECTION 20.** ORS 351.070 is amended to read:

17 351.070. (1) The State Board of Higher Education shall develop standards to implement a per-  
18 sonnel system for the Oregon University System and may engage in collective bargaining with the  
19 employees. All collective bargaining with any certified or recognized exclusive employee represen-  
20 tative shall be under the direction and supervision of the Chancellor of the Oregon University Sys-  
21 tem. The board and the Oregon University System shall have payroll authority.

22 (2)(a) The board shall establish competitive procedures for the purchasing, procurement and  
23 contracting of goods, services and information technology, for the benefit of the Oregon University  
24 System and all the public universities and offices, departments and activities under the control of  
25 the board. The board may also establish exemptions from the competitive procedures when appro-  
26 priate.

27 (b) The board shall ensure that the hourly rate of wage paid by any contractor upon all public  
28 improvements contracts undertaken for the board shall not be less than the same rate of wage as  
29 determined by the Bureau of Labor and Industries for an hour's work in the same trade or occupa-  
30 tion in the locality where such labor is performed. Claims or disputes arising under this subsection  
31 shall be decided by the Commissioner of the Bureau of Labor and Industries.

32 (c) The board shall adopt policies and procedures that achieve results equal to or better than  
33 the standards existing on July 17, 1995, regarding affirmative action, pay equity for comparable  
34 work, recycling, the provision of workers' compensation insurance to workers on contract and the  
35 participation of [*emerging small businesses and businesses owned by minorities and women*]  
36 **minority-owned businesses, woman-owned businesses, businesses that service-disabled vet-**  
37 **erans own and emerging small businesses, as those terms are defined in ORS 200.005.**

38 (3) The board may, for each public university listed in ORS 351.011:

39 (a) Appoint and employ a president and the requisite number of employees and prescribe their  
40 compensation and tenure of office or employment.

41 (b) Demand and receive all sums due and accruing for admission and tuition, and apply the same,  
42 or so much thereof as is necessary, to the payment of the compensation referred to in paragraph (a)  
43 of this subsection and the other current expenses.

44 (c) Confer, consistent with the mission and programs of each public university and on the rec-  
45 ommendation of the faculty of the public university, such degrees as usually are conferred by public

1 universities, or as the faculty deems appropriate.

2 (d) Prescribe the qualifications for admission.

3 (4) Subject to such delegation as the board may decide to make to the public universities and  
4 offices, departments and activities under its control, the board, for each public university, office,  
5 department or activity under its control:

6 (a) Shall supervise the general course of instruction therein, and the research, extension, edu-  
7 cational and other activities thereof.

8 (b) Shall develop and adopt standards and bylaws for the government thereof, including the  
9 faculty, teachers, students and employees therein.

10 (c) Shall maintain cultural and physical development services and facilities therefor and, in  
11 connection therewith, may cooperate and enter into agreements with any person or governmental  
12 agency.

13 (d) May contract to provide health services at student health centers.

14 (e) Shall provide health services at student health centers to students.

15 (f) May provide health services at student health centers to any of the following:

16 (A) Dependents of students.

17 (B) Staff.

18 (C) Faculty.

19 (g) Shall prescribe and collect charges.

20 (h) Shall adopt standards relating to the creation, use, custody and disclosure, including access,  
21 of student education records that are consistent with the requirements of applicable state and fed-  
22 eral law. Whenever a student has attained 18 years of age or is attending a public university listed  
23 in ORS 351.011, the permission or consent required of and the rights accorded to a parent of the  
24 student regarding education records shall thereafter be required of and accorded to only the student.

25 (5) For each public university listed in ORS 351.011, the board shall provide opportunities for  
26 part-time students to obtain complete undergraduate degrees at unconventional times, which include  
27 but are not limited to early morning and noon hours, evenings and weekends. In administering these  
28 degree programs, the public university may use any educational facility available for the use of the  
29 public university.

30 (6) For all public universities under the board's control, the board shall, to the extent feasible  
31 and cost beneficial, develop and implement a common admissions process that permits applicants to  
32 be considered for admission to more than one public university.

33 **SECTION 21.** ORS 353.130 is amended to read:

34 353.130. The Oregon Health and Science University subscribes to the policy set forth under ORS  
35 279A.015 regarding public contracting, and shall develop contract policies that support openness,  
36 impartiality and competition in the awarding of contracts in accordance with that provision. The  
37 university subscribes to the intent of the social policies of ORS 279.835 to 279.855 and ORS chapters  
38 279A, 279B and 279C and shall develop contract policies that are appropriate to the university and  
39 are designed to encourage affirmative action, recycling, inclusion of art in public buildings, the  
40 purchase of services and goods from individuals with disabilities, the protection of workers through  
41 the payment of prevailing wages as determined by the Bureau of Labor and Industries, the provision  
42 of workers' compensation insurance to workers on contracts and the participation of [*emerging small*  
43 *businesses and businesses owned by women and minorities*] **minority-owned businesses, woman-**  
44 **owned businesses, businesses that service-disabled veterans own and emerging small busi-**  
45 **nesses, as those terms are defined in ORS 200.005.**

1       **SECTION 22.** Section 18, chapter 4, Oregon Laws 2013, is amended to read:

2       **Sec. 18.** (1) As used in this section, “Interstate 5 bridge replacement project” means the project  
3 described in section 2 [*of this 2013 Act*], **chapter 4, Oregon Laws 2013.**

4       (2)(a) The Department of Transportation shall require, in accordance with 23 C.F.R. 635.410, that  
5 in each public contract that the department awards to a contractor in connection with the Interstate  
6 5 bridge replacement project that steel, iron, coatings for steel and iron and manufactured products  
7 that the contractor purchases for the Interstate 5 bridge replacement project and that become part  
8 of a permanent structure must be produced in the United States.

9       (b)(A) The requirement set forth in paragraph (a) of this subsection does not apply if the Sec-  
10 retary of the United States Department of Transportation, or the secretary’s designee, finds that:

11       (i) The requirement is inconsistent with the public interest;

12       (ii) Steel, iron, coatings for steel and iron and manufactured products required for the Interstate  
13 5 bridge replacement project are not produced in the United States in sufficient and reasonably  
14 available quantities and with satisfactory quality; or

15       (iii) The requirement set forth in paragraph (a) of this subsection will increase the construction  
16 and related costs of the Interstate 5 bridge replacement project, exclusive of labor costs involved  
17 in final assembly for manufactured products, by 25 percent or more.

18       (B) At the earliest practicable time, the department shall give notice of any waiver that the  
19 Secretary of the United States Department of Transportation grants. The department shall give the  
20 notice by means of the same methods the department used to advertise procurements for the Inter-  
21 state 5 bridge replacement project, or by other means reasonably suited to notifying contractors and  
22 subcontractors of the waiver.

23       (c)(A) Notwithstanding a finding from the Secretary of the United States Department of Trans-  
24 portation under paragraph (b)(A) of this subsection, a contractor shall spend at least 75 percent of  
25 the total amount the contractor spends in connection with the Interstate 5 bridge replacement  
26 project on steel, iron, coatings for steel and iron and manufactured products that become part of a  
27 permanent structure to purchase steel, iron, coatings for steel and iron and manufactured products  
28 that are produced in the United States.

29       (B) The Director of Transportation may waive the requirement set forth in subparagraph (A) of  
30 this paragraph if the director finds that the requirement will increase the cost of a contract the  
31 department awards in connection with the Interstate 5 bridge replacement project by 25 percent or  
32 more, that steel, iron, coatings for steel and iron or manufactured products are not produced in the  
33 United States in sufficient and reasonable quantities and with satisfactory quality to meet the re-  
34 quirement or that the requirement violates regulations promulgated by the Federal Highway Ad-  
35 ministration of the United States Department of Transportation.

36       (d) The requirements set forth in this subsection are subject to applicable state and federal trade  
37 agreements.

38       (3)(a) The department, in awarding public contracts in connection with the Interstate 5 bridge  
39 replacement project, shall seek to the extent permissible under law, and in compliance with the  
40 provisions of 49 C.F.R. part 26, as in effect on [*the effective date of this 2013 Act*] **March 12, 2013**,  
41 to:

42       (A) Ensure nondiscrimination in awarding public contracts;

43       (B) Remove barriers that prevent disadvantaged business enterprises from obtaining public con-  
44 tracts;

45       (C) Create conditions under which disadvantaged business enterprises may compete fairly for



1 public contracts; and

2 (D) Otherwise seek to implement the policies set forth in ORS 279A.100, 279A.105 and 279A.110.

3 (b)(A) The Director of Transportation, in consultation with the *[Advocate for Minority, Women*  
4 *and Emerging Small Business, with disadvantaged, minority, women or emerging small business en-*  
5 *terprises]* **Governor's Policy Advisor for Economic and Business Equity, with disadvantaged**  
6 **business enterprises, minority-owned businesses, woman-owned businesses or emerging**  
7 **small businesses** certified under ORS 200.055, with contractors and with other knowledgeable per-  
8 sons, shall prepare a plan for complying with the requirements described in paragraph (a) of this  
9 subsection and shall deliver the plan not later than January 1, 2014, to an interim committee of the  
10 Legislative Assembly with oversight over transportation issues. The plan must include a process for:

11 (i) Identifying opportunities for *[disadvantaged, minority, women or emerging small business en-*  
12 *terprises]* **disadvantaged business enterprises, minority-owned businesses, woman-owned**  
13 **businesses and emerging small businesses** certified under ORS 200.055 to competitively bid for  
14 subcontracts and for *[disadvantaged, minority, women or emerging small business enterprises]* **disad-**  
15 **vantaged business enterprises, minority-owned businesses, woman-owned businesses or**  
16 **emerging small businesses** to build the capacity necessary to bid for larger contracts; and

17 (ii) Identifying opportunities to create and foster mentoring relationships between contractors  
18 and subcontractors with extensive experience in performing public contracts and *[disadvantaged,*  
19 *minority, women]* **disadvantaged business enterprises, minority-owned businesses, woman-**  
20 **owned businesses** or emerging small businesses that are certified under ORS 200.055.

21 (B) The director, in accordance with ORS chapter 183, shall adopt rules that incorporate the  
22 plan and that have an effective date that is not earlier than July 1, 2014.

23 (4)(a) As used in this subsection:

24 (A) "Apprentice" has the meaning given that term in ORS 660.010.

25 (B) "Local joint committee" has the meaning given that term in ORS 660.010.

26 (C) "Program" has the meaning given that term in ORS 660.010.

27 (b) The department shall provide in each public contract that the department awards to a con-  
28 tractor in connection with the Interstate 5 bridge replacement project that apprentices employed in  
29 a program that a local joint committee has approved under ORS 660.002 to 660.210 and that has  
30 existed for at least two years must perform at least 10 percent of all work hours performed under  
31 the public contract. The department shall also require contractors to provide in each of the  
32 contractor's subcontracts that apprentices with the qualifications specified in this paragraph must  
33 perform at least 10 percent of the work hours performed under the subcontract.

34 (c) Paragraph (b) of this subsection does not apply to a contract or subcontract with a contract  
35 price that is less than \$250,000.

36 (5) The department shall provide in public contracts that the department awards to a contractor  
37 in connection with the Interstate 5 bridge replacement project that:

38 (a) Each contractor is subject to the same standards and restrictions set forth in federal law  
39 or the laws of this state that apply to the entire Interstate 5 bridge replacement project; and

40 (b) Each contractor's own contracts with subcontractors must provide that each subcontractor  
41 is subject to the same standards and restrictions set forth in federal law or the laws of this state  
42 that apply to the entire Interstate 5 bridge replacement project.

43 (6) The department shall develop goals for specifying types of work and contract prices for  
44 contracts that are awarded in connection with the Interstate 5 bridge replacement project so as to  
45 maximize economic development opportunities for small businesses. The department shall deliver a

1 plan to achieve the goals not later than January 1, 2014, to an interim committee of the Legislative  
2 Assembly with oversight over transportation issues.

3 (7) The department by rule shall establish a procedure that the department will follow to resolve  
4 disputes between the States of Oregon and Washington with respect to the Interstate 5 bridge re-  
5 placement project.

6 **SECTION 23.** ORS 470.560 is amended to read:

7 470.560. (1) The State Department of Energy shall adopt rules establishing certification stan-  
8 dards for primary contractors participating in the construction of small scale local energy projects  
9 financed through the energy efficiency and sustainable technology loan program. The department  
10 shall design the standards to ensure that the project work performed by a primary contractor  
11 holding the certification and all the primary contractor's subcontractors is of high quality and will  
12 result in a high degree of customer satisfaction.

13 (2) The certification standards established by the department must, at a minimum, require that  
14 the primary contractor:

15 (a) Prove that the primary contractor and the primary contractor's subcontractors have suffi-  
16 cient skill to successfully install energy efficiency, renewable energy or weatherization projects.

17 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under  
18 ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

19 (c) Be an equal opportunity employer or small business or be a [*minority or women business en-*  
20 *terprise or*] disadvantaged business enterprise, **a minority-owned business, a woman-owned**  
21 **business, a business that a service-disabled veteran owns or an emerging small business**, as  
22 those terms are defined in ORS 200.005.

23 (d) Demonstrate a history of compliance with the rules and other requirements of the Con-  
24 struction Contractors Board and of the Workers' Compensation Division and the Occupational  
25 Safety and Health Division of the Department of Consumer and Business Services.

26 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-  
27 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is  
28 available locally.

29 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

30 (g) Pay wages to employees used for energy efficiency and sustainable technology loan program  
31 projects at a rate equal to at least 180 percent of the state minimum wage.

32 (3) The State Department of Energy shall consult with the Public Purpose Fund Administrator  
33 and utilities when developing certification standards for primary contractors.

34 (4) The Construction Contractors Board may issue a qualifying primary contractor a certifica-  
35 tion authorizing the primary contractor to participate in the construction of small scale local energy  
36 projects financed through the energy efficiency and sustainable technology loan program. A primary  
37 contractor seeking certification shall apply to the board as provided under ORS 701.119.

38 (5) The State Department of Energy shall identify certified primary contractors that provide  
39 employees with health insurance benefits as preferred service providers and may take other actions  
40 as practicable to encourage certified primary contractors to provide employees with health insur-  
41 ance benefits.

42 **SECTION 24.** ORS 200.100 is repealed.

43 **SECTION 25.** (1) The amendments to ORS 200.025 by section 2 of this 2015 Act are in-  
44 tended to change the name of the "Advocate for Minority, Women and Emerging Small  
45 Business" to the "Governor's Policy Advisor for Economic and Business Equity."

1 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel  
 2 may substitute for words designating the “Advocate for Minority, Women and Emerging  
 3 Small Business,” wherever they occur in statutory law, other words designating the  
 4 “Governor’s Policy Advisor for Economic and Business Equity.”

5 **SECTION 26.** (1) The amendments to ORS 200.025 by section 2 of this 2015 Act are in-  
 6 tended to change the name of the “Office for Minority, Women and Emerging Small  
 7 Business” to the “Office for Economic and Business Equity.”

8 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel  
 9 may substitute for words designating the “Office for Minority, Women and Emerging Small  
 10 Business,” wherever they occur in statutory law, other words designating the “Office for  
 11 Economic and Business Equity.”

12 **SECTION 27.** The amendments to ORS 184.404, 200.005, 200.025, 200.035, 200.045, 200.055,  
 13 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.110, 279A.142, 279C.110, 279C.836,  
 14 285B.740, 286A.615, 293.796, 351.070, 353.130 and 470.560 and section 18, chapter 4, Oregon Laws  
 15 2013, by sections 1 to 23 of this 2015 Act and the repeal of ORS 200.100 by section 24 of this  
 16 2015 Act apply to public contracts that a contracting agency advertises or otherwise solicits  
 17 or, if the contracting agency does not advertise or solicit the public contract, to public con-  
 18 tracts into which the contracting agency enters on or after the operative date specified in  
 19 section 28 of this 2015 Act.

20 **SECTION 28.** (1) The amendments to ORS 184.404, 200.005, 200.025, 200.035, 200.045,  
 21 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.110, 279A.142, 279C.110,  
 22 279C.836, 285B.740, 286A.615, 293.796, 351.070, 353.130 and 470.560 and section 18, chapter 4,  
 23 Oregon Laws 2013, by sections 1 to 23 of this 2015 Act and the repeal of ORS 200.100 by sec-  
 24 tion 24 of this 2015 Act becomes operative on January 1, 2016.

25 (2) The Attorney General, the Director of the Oregon Department of Administrative  
 26 Services, the Director of Transportation, the Director of the Oregon Business Development  
 27 Department and a contracting agency that adopts rules under ORS 279A.065 may adopt rules  
 28 and take any other action before the operative date specified in subsection (1) of this section  
 29 that is necessary to enable the Attorney General, the director or the contracting agency to  
 30 exercise, on or after the operative date specified in subsection (1) of this section, all of the  
 31 duties, functions and powers conferred on the Attorney General, the director or the con-  
 32 tracting agency by the amendments to ORS 184.404, 200.005, 200.025, 200.035, 200.045, 200.055,  
 33 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.110, 279A.142, 279C.110, 279C.836,  
 34 285B.740, 286A.615, 293.796, 351.070, 353.130 and 470.560 and section 18, chapter 4, Oregon Laws  
 35 2013, by sections 1 to 23 of this 2015 Act.

36 **SECTION 29.** This 2015 Act being necessary for the immediate preservation of the public  
 37 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
 38 on its passage.