

House Bill 3309

Sponsored by Representative GREENLICK

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**.

Requires contracting agency, before advertising or soliciting procurement, to request Oregon Health Authority to conduct public health impact assessment on proposed procurement. Permits authority to charge contracting agency actual costs that authority incurs in conducting assessment. Permits contracting agency to exempt procurement or class of procurements from assessment requirement after consulting and conducting screening with authority.

Specifies steps and methods that authority must use at a minimum in conducting public health impact assessment.

Permits contracting agency to request authority to monitor implementation of public contract for public health impacts, and permits authority to charge contracting agency for actual costs that authority incurs in conducting monitoring.

Requires contracting agency to consider report from authority concerning public health impacts from proposed procurement in contracting agency's decisions concerning proposed procurement.

Provides that documentation concerning contracting agency's decision to exempt procurement or class of procurements from requirement to conduct public health impact assessment, contracting agency's consideration of authority's recommendations, and authority's report to contracting agency, are all public records.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public health impacts from public procurements; and declaring an emergency.

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

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 279A.

SECTION 2. (1) A state contracting agency, before advertising or soliciting a procurement, shall request the Oregon Health Authority to conduct an assessment of how the state contracting agency's procurement will affect public health. The authority shall conduct the assessment in accordance with the provisions of subsection (2) of this section and may charge to the contracting agency the actual costs that the authority incurs in conducting the assessment.

(2) In response to a request from a contracting agency under subsection (1) of this section, the authority shall conduct a public health impact assessment that employs well-recognized procedures, methods and tools to evaluate the contracting agency's proposed procurement for potential effects on the health of a population or set of populations in the geographic vicinity in which the contracting agency proposes to have a contractor perform a public contract and in geographic areas that are hydrologically connected to, that are downwind from or that are otherwise environmentally linked to the vicinity. The assessment must include, at a minimum, these steps:

(a) A screening process in which the contracting agency and the authority select the procurements for which the authority will conduct an public health impact assessment. The contracting agency and the authority may consider whether adequate time and resources exist for the authority to complete the assessment and to make recommendations to the

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 contracting agency. The contracting agency, in consultation with the authority and after
 2 conducting an adequate screening, may exempt a procurement or a class of procurements
 3 from the requirement to conduct a complete public health impact assessment if the con-
 4 tracting agency and the authority determine that the proposed procurement or class of
 5 procurements will have a negligible impact on public health. The contracting agency shall
 6 document in writing the decision to exempt the procurement or class of procurements, to-
 7 gether with the contracting agency's and the authority's reasons for the exemption, and
 8 shall make the document available as a public record.

9 (b) A scoping process in which the authority determines which public health impacts to
 10 assess, which components of the proposed procurement likely have the largest impact on
 11 public health, which populations the proposed procurement would likely affect, and what time
 12 and resources are available in which to conduct the public health impact assessment and still
 13 meet the contracting agency's schedule for the procurement.

14 (c) An assessment in which the authority may collect and analyze quantitative and
 15 qualitative data concerning the populations that the proposed procurement will likely affect,
 16 review relevant medical studies, medical literature and previous public health impact as-
 17 sessments, evaluate the proposed procurement and alternatives to the proposed procure-
 18 ment, model possible impacts from the proposed procurement, and consider other relevant
 19 sources of information.

20 (d)(A) A report to the contracting agency in which the authority describes the likely
 21 public health impacts from the proposed procurement and recommends steps, procedures,
 22 actions or policies by means of which the contracting agency may reduce, minimize or
 23 eliminate any negative public health impacts or maximize positive public health impacts. The
 24 authority may make a range of recommendations, including recommendations that:

25 (i) Identify particular components, phases, segments or portions of a procurement that
 26 have the largest public health impact, and suggest restructuring the procurement to change
 27 or remove the particular component, phase, segment or portion from the procurement;

28 (ii) Identify particular public health impacts that the proposed procurement can feasibly
 29 reduce, minimize or eliminate; or

30 (iii) Advise the contracting agency not to proceed with the procurement.

31 (B) A contracting agency that receives a report under subparagraph (A) of this para-
 32 graph shall make the report available as a public record.

33 (3)(a) A contracting agency may request the authority to monitor the public health im-
 34 pacts from a contractor's performance of a public contract. The authority may charge to the
 35 contracting agency the actual costs that the authority incurs in conducting the monitoring.

36 (b) In conducting the monitoring, the authority may evaluate the extent to which the
 37 contracting agency and contractor accepted and implemented the authority's recommen-
 38 dations under subsection (2)(d)(A) of this section and whether unforeseen or unanticipated
 39 public health impacts occurred during the term of the public contract and may recommend
 40 methods by which the authority and the contracting agency can improve the assessment
 41 process for the future, along with related evaluations and recommendations.

42 (4) A contracting agency shall consider the report and recommendations that the au-
 43 thority provides to the contracting agency under subsection (2)(d)(A) of this section in the
 44 contracting agency's decisions with respect to the proposed procurement. The contracting
 45 agency may change specifications for a proposed procurement, add or drop components,

1 phases, segments or portions of a procurement, change the location in which the contracting
2 agency proposes to have a contractor perform a public contract, decide not to proceed with
3 the procurement or make other decisions that would reduce, minimize or eliminate negative
4 public health impacts from a proposed procurement or maximize positive public health ben-
5 efits from a proposed procurement. The contracting agency shall document the manner in
6 which the contracting agency considers the report and how the contracting agency changes
7 the procurement in response to the report, if at all. The contracting agency shall make
8 documents under this subsection available as public records.

9 **SECTION 3.** Section 2 of this 2015 Act applies to procurements that a contracting agency
10 advertises or otherwise solicits or, if the contracting agency does not advertise or solicit the
11 procurement, to public contracts into which a contracting agency enters on or after the op-
12 erative date specified in section 4 of this 2015 Act.

13 **SECTION 4.** (1) Section 2 of this 2015 Act becomes operative January 1, 2016.

14 (2) The Attorney General, the Director of the Oregon Department of Administrative
15 Services, the Director of the Oregon Health Authority, the Director of Transportation and
16 a contracting agency that adopts rules under ORS 279A.065 before the operative date speci-
17 fied in subsection (1) of this section may adopt rules and take any other action that is nec-
18 cessary to enable the Attorney General, the director or the contracting agency to exercise,
19 on and after the operative date specified in subsection (1) of this section, all of the duties,
20 functions and powers conferred on the Attorney General, the director or the contracting
21 agency by section 2 of this 2015 Act.

22 **SECTION 5.** This 2015 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
24 on its passage.

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