

Senate Bill 154

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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 Oregon Health Authority to exercise procurement authority under Public Contracting Code and under supervision of Oregon Department of Administrative Services, for specified purposes.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to procurement authority for the Oregon Health Authority; creating new provisions;
3 amending ORS 279A.050, 413.033, 413.450, 413.520 and 475.225; and declaring an emergency.

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

5 **SECTION 1.** ORS 279A.050 is amended to read:

6 279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting
7 agency shall exercise all procurement authority in accordance with the provisions of the Public
8 Contracting Code.

9 (b) *[When]* **If** a contracting agency has authority under this section to carry out functions de-
10 scribed in this section, or has authority to make procurements under a provision of law other than
11 the Public Contracting Code, the contracting agency *[is not required to]* **need not** exercise *[that]* **the**
12 **contracting agency's** authority in accordance with the provisions of the code if, under ORS
13 279A.025, the code does not apply to the contract or contracting *[authority]* **agency**.

14 (2) Except as otherwise provided in the Public Contracting Code, for state agencies the Director
15 of the Oregon Department of Administrative Services has all the authority to carry out the pro-
16 visions of the Public Contracting Code.

17 (3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation
18 has all the authority to:

19 (a) Procure or supervise the procurement of all services and personal services to construct, ac-
20 quire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking
21 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

22 (b) Procure or supervise the procurement of all goods, services, public improvements and per-
23 sonal services *[relating to the operation, maintenance or construction of]* **that relate to operating,**
24 **maintaining or constructing** highways, bridges and other transportation facilities that are subject
25 to the authority of the Department of Transportation; and

26 (c) Establish standards for, prescribe forms for and conduct the prequalification of prospective
27 bidders on public improvement contracts *[related to the operation, maintenance or construction of]*
28 **that relate to operating, maintaining or constructing** highways, bridges and other transportation

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 facilities that are subject to the authority of the Department of Transportation.

2 (4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has all
3 the authority to procure or supervise the procurement of goods, services and personal services re-
4 lated to programs under the authority of the Secretary of State.

5 (5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all the
6 authority to procure or supervise the procurement of goods, services and personal services related
7 to programs under the authority of the State Treasurer.

8 (6) The state agencies listed in this subsection have all the authority to do the following in ac-
9 cordance with the Public Contracting Code:

10 (a) The Department of Human Services to procure or supervise the procurement of goods, ser-
11 vices and personal services under ORS 179.040 for the department's institutions and the procurement
12 of goods, services and personal services for [*the construction, demolition, exchange, maintenance, op-*
13 *eration*] **constructing, demolishing, exchanging, maintaining, operating** and equipping [*of*] hous-
14 ing for the purpose of providing care to individuals with intellectual disabilities or other
15 developmental disabilities, subject to applicable provisions of ORS 427.335;

16 (b) The Oregon Health Authority to procure or supervise the procurement of goods, services and
17 personal services under ORS 179.040 and construction materials, equipment and supplies for the
18 authority's institutions and the procurement of goods, services, personal services, construction ma-
19 terials, equipment and supplies for [*the construction, demolition, exchange, maintenance, operation*]
20 **constructing, demolishing, exchanging, maintaining, operating** and equipping [*of*] housing for
21 [*persons*] **individuals** with chronic mental illness, subject to applicable provisions of ORS 426.504;

22 (c) The State Department of Fish and Wildlife to procure or supervise the procurement of con-
23 struction materials, equipment, supplies, services and personal services for public improvements,
24 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
25 of the State Department of Fish and Wildlife;

26 (d) The State Parks and Recreation Department to procure or supervise the procurement of all
27 goods, services, public improvements and personal services [*relating*] **related** to state parks;

28 (e) The Oregon Department of Aviation to procure or supervise the procurement of construction
29 materials, equipment, supplies, services and personal services for public improvements, public works
30 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
31 Department of Aviation;

32 (f) The Oregon Business Development Department to procure or supervise the procurement of
33 all goods, services, personal services and public improvements related to its foreign trade offices
34 operating outside the state;

35 (g) The Housing and Community Services Department to procure or supervise the procurement
36 of goods, services and personal services as provided in ORS 279A.025 (2)(n);

37 (h) The Department of Corrections to procure or supervise the procurement of construction
38 materials, equipment, supplies, services and personal services for public improvements, public works
39 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-
40 ment of Corrections;

41 (i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,
42 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, ser-
43 vices and personal services under ORS 179.040 for its institutions;

44 (j) The Department of Veterans' Affairs to procure or supervise the procurement of real estate
45 broker and principal real estate broker services related to programs under the department's au-

1 thority;

2 (k) The Oregon Military Department to procure or supervise the procurement of construction
3 materials, equipment, supplies, services and personal services for public improvements, public works
4 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
5 Military Department;

6 (L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085
7 and 329.485 and the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425), to pro-
8 cure or supervise the procurement of goods, services, personal services and information technology
9 [*relating*] **related** to student assessment; and

10 (m) Any state agency to conduct a procurement when the agency is specifically authorized by
11 any provision of law other than the Public Contracting Code to enter into a contract.

12 (7)(a) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Depart-
13 ment of Administrative Services has exclusive authority, unless the director delegates this authority,
14 to procure or supervise the procurement of:

15 (A) All price agreements on behalf of the state agencies identified in subsection (6)(a) to (k) of
16 this section under which more than one state agency may order goods, services, [*or*] personal ser-
17 vices, **construction materials, equipment or supplies**; and[, *except for contracts procured by the*
18 *Oregon Health Authority,*]

19 (B) All state agency information technology contracts.

20 (b) This subsection does not apply to contracts under which the contractor delivers to the state
21 agency information technology products or services incidental to the performance of personal ser-
22 vices contracts described in ORS chapter 279C or construction contracts described in ORS chapter
23 279C.

24 (c) A state agency identified in subsection (3) or (6)(a) to (k) of this section may not establish
25 a price agreement or enter into a contract for goods, services, personal services, construction ma-
26 terials, equipment or supplies without the approval of the director if the director has established a
27 price agreement for the goods, services, [*or*] personal services, **construction materials, equipment**
28 **or supplies**.

29 **SECTION 2.** ORS 413.033 is amended to read:

30 413.033. (1) The Oregon Health Authority is under the supervision and control of a director, who
31 is responsible for [*the performance of*] **performing** the duties, functions and powers of the authority.

32 (2) The Governor shall appoint the Director of the Oregon Health Authority, who holds office
33 at the pleasure of the Governor. The appointment of the director [*shall be*] **is** subject to confirmation
34 by the Senate in the manner provided by ORS 171.562 and 171.565.

35 [(3)(a) *In addition to the procurement authority granted by ORS 179.040 and 279A.050, the director*
36 *shall have all powers necessary to effectively and expeditiously carry out the duties, functions and*
37 *powers vested in the authority by ORS 413.032, and the duties, functions and powers that are shared*
38 *by or delegated to the authority with respect to the following agencies:]*

39 [(A) *The Oregon Department of Administrative Services;*]

40 [(B) *The Department of Consumer and Business Services; and*]

41 [(C) *The Department of Human Services.*]

42 [(b) *With respect to procurements and contracts that the authority is authorized to conduct or*
43 *manage, the director may make procurements on behalf of, and supervise the procurement, establish-*
44 *ment and administration of contracts entered into by, the departments described in paragraph (a) of this*
45 *subsection.*]

1 *[(c) Notwithstanding ORS 279B.085, the director may approve a special procurement under para-*
 2 *graph (b) of this subsection that:]*

3 *[(A) Describes the proposed contracting procedure and the goods or services, or the class of goods*
 4 *or services, to be acquired through the special procurement;]*

5 *[(B) Is unlikely to encourage favoritism in the awarding of public contracts or to substantially di-*
 6 *minish competition for public contracts; and]*

7 *[(C) Is reasonably expected to result in substantial cost savings to the authority or to the public.]*

8 *[(d) The director shall give public notice of the approval of a proposed special procurement as*
 9 *provided by the authority by rule. The requirements applicable to the Director of the Oregon Depart-*
 10 *ment of Administrative Services under ORS 279B.400 apply to the Director of the Oregon Health Au-*
 11 *thority with respect to special procurements under this subsection.]*

12 *[(e) Notwithstanding ORS 279C.335, the director may exempt a public improvement contract or a*
 13 *class of public improvement contracts that the authority is authorized to conduct or manage from the*
 14 *competitive bidding requirements of ORS 279C.335 (1) if the director makes the findings described in*
 15 *ORS 279C.335 (2). The provisions in ORS 279C.335 (3) to (8) with respect to the Director of the Oregon*
 16 *Department of Administrative Services apply to the Director of the Oregon Health Authority for ex-*
 17 *emptions granted by the director under this subsection.]*

18 [(4)] (3) The director *[shall have the power to obtain such other services as]* **may at the**
 19 **director's discretion obtain services that** the director considers necessary or desirable, **other**
 20 **than services that would require the director to conduct a procurement or enter into a**
 21 **contract under ORS chapter 279A, 279B or 279C. The services may include** *[including]* partic-
 22 ipation in organizations of state insurance supervisory officials and appointment of advisory com-
 23 mittees. A member of an advisory committee so appointed *[shall]* **may not** receive *[no]* compensation
 24 for services as a member, but, subject to any other applicable law regulating travel and other ex-
 25 penses of state officers, shall receive actual and necessary travel and other expenses incurred in
 26 *[the performance of]* **performing** official duties.

27 [(5)] (4) The director may apply for, receive and accept grants, gifts or other payments, including
 28 property or services from any governmental or other public or private person, and may make ar-
 29 rangement *[for the]* **to** use *[of]* the receipts, including *[the]* **for** undertaking *[of]* special studies and
 30 other projects *[relating]* **that relate** to the costs of health care, access to health care, public health
 31 and health care reform.

32 **SECTION 3.** ORS 413.450 is amended to read:

33 413.450. (1) The Oregon Health Authority shall approve continuing education opportunities re-
 34 lating to cultural competency.

35 (2) The authority shall develop a list of continuing education opportunities relating to cultural
 36 competency and make the list available to each board, as defined in ORS 676.850.

37 (3) The continuing education opportunities may include, but need not be limited to:

- 38 (a) Courses delivered either in person or electronically;
- 39 (b) Experiential learning such as cultural or linguistic immersion;
- 40 (c) Service learning; or
- 41 (d) Specially designed cultural experiences.

42 (4) The continuing education opportunities must teach attitudes, knowledge and skills that ena-
 43 ble a health care professional to care effectively for patients from diverse cultures, groups and
 44 communities, including but not limited to:

- 45 (a) Applying linguistic skills to communicate effectively with patients from diverse cultures,

1 groups and communities;

2 (b) Using cultural information to establish therapeutic relationships; and

3 (c) Eliciting, understanding and applying cultural and ethnic data in the process of clinical care.

4 (5) The authority may accept gifts, grants or contributions from any public or private source for
5 the purpose of carrying out this section. Moneys received by the authority under this subsection
6 shall be deposited into the Oregon Health Authority Fund established by ORS 413.101.

7 (6) The authority may contract with or award grant funding to a public or private entity to
8 develop the list of or offer approved continuing education opportunities relating to cultural compe-
9 tency. *[The authority is not subject to the requirements of ORS chapters 279A, 279B and 279C with
10 respect to contracts entered into under this subsection.]*

11 **SECTION 4.** ORS 413.520 is amended to read:

12 413.520. (1) The Oregon Health Authority, in collaboration with county representatives, shall
13 develop a plan for the administration of the statewide gambling addiction programs and delivery of
14 program services.

15 (2) The authority may appoint an advisory committee or designate an existing advisory com-
16 mittee to make recommendations to the authority concerning:

17 (a) Performance standards and evaluation methodology;

18 (b) Fiscal reporting and accountability;

19 (c) Delivery of services; and

20 (d) A distribution plan for use of available funds.

21 (3) The distribution plan for the moneys available in the Problem Gambling Treatment Fund
22 shall be based on performance standards.

23 (4) The authority may enter into an intergovernmental agreement or other contract, **subject to**
24 **ORS chapters 279A, 279B and 279C**, for the delivery of services related to programs for the pre-
25 vention and treatment of gambling addiction and other emotional and behavioral problems related
26 to gambling.

27 (5) Before entering into an agreement or contract under subsection (4) of this section, the au-
28 thority must consider the experience, performance and program capacity of those organizations
29 currently providing services.

30 **SECTION 5.** ORS 475.225 is amended to read:

31 475.225. (1) The Oregon Health Authority shall carry out educational programs designed to
32 prevent and deter misuse and abuse of controlled substances. In connection with these programs it
33 may:

34 (a) Promote better recognition of the problems of misuse and abuse of controlled substances
35 within the regulated industry and among interested groups and organizations;

36 (b) Assist the regulated industry and interested groups and organizations in contributing to the
37 reduction of misuse and abuse of controlled substances;

38 (c) Consult with interested groups and organizations to aid them in solving administrative and
39 organizational problems;

40 (d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of ed-
41 ucational programs on misuse or abuse of controlled substances;

42 (e) Disseminate the results of research on misuse and abuse of controlled substances to promote
43 a better public understanding of what problems exist and what can be done to combat them; and

44 (f) Assist in the education and training of state and local law enforcement officials in their ef-
45 forts to control misuse and abuse of controlled substances.

1 (2) The authority shall encourage research on the medical use, misuse and abuse of controlled
 2 substances. In connection with the research, and in furtherance of the enforcement of ORS 475.005
 3 to 475.285 and 475.752 to 475.980, it may:

4 (a) Establish methods to assess accurately the physiological, psychological and social effects of
 5 controlled substances and identify their medical uses, relative hazard potential, and potential for
 6 abuse;

7 (b) Make studies and undertake programs of research to:

8 (A) Develop new or improved approaches, techniques, systems, equipment and devices to
 9 strengthen the enforcement of ORS 475.005 to 475.285 and 475.752 to 475.980;

10 (B) Determine patterns of use, misuse and abuse of controlled substances and the social effects
 11 thereof; and

12 (C) Improve methods for preventing, predicting, understanding and dealing with the misuse and
 13 abuse of controlled substances; or

14 (c) Enter into contracts with public agencies, institutions of higher education, and private or-
 15 ganizations or individuals for the purpose of conducting research, demonstrations or special projects
 16 which bear directly on misuse and abuse of controlled substances.

17 (3) The authority may enter into contracts for educational and research activities without per-
 18 formance bonds and without regard to ORS [279A.125, 279A.140, 279B.025, 279B.240, 279B.270,
 19 279B.275, 279B.280,] 459A.475, 459A.480, 459A.485 and 459A.490.

20 **SECTION 6. The amendments to ORS 279A.050, 413.033, 413.450, 413.520 and 475.225 by**
 21 **sections 1 to 5 of this 2015 Act apply to procurements that the Oregon Health Authority**
 22 **advertises or otherwise solicits on or after the operative date specified in section 7 of this**
 23 **2015 Act.**

24 **SECTION 7. (1) The amendments to ORS 279A.050, 413.033, 413.450, 413.520 and 475.225 by**
 25 **sections 1 to 5 of this 2015 Act become operative January 1, 2016.**

26 (2) The Director of the Oregon Health Authority and the Director of the Oregon De-
 27 partment of Administrative Services may take any action before the operative date specified
 28 in subsection (1) of this section that is necessary to enable the director to exercise, on and
 29 after the operative date specified in subsection (1) of this section, all of the duties, functions
 30 and powers conferred on the director by the amendments to ORS 279A.050, 413.033, 413.450,
 31 413.520 and 475.225 by sections 1 to 5 of this 2015 Act.

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