

**HOUSE AMENDMENTS TO
A-ENGROSSED SENATE BILL 675
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT EFFECTIVENESS

May 29

1 On page 1 of the printed A-engrossed bill, line 3, after “279B.110” insert “and sections 7 and 8,
2 chapter ___, Oregon Laws 2015 (Enrolled Senate Bill 491); repealing section 3, chapter ___, Oregon
3 Laws 2015 (Enrolled Senate Bill 491)”.

4 On page 2, delete lines 10 through 20 and insert:

5 “(e) Complied with the tax laws of the state or a political subdivision of the state, including ORS
6 305.620 and ORS chapters 316, 317 and 318. The bidder or proposer shall demonstrate compliance
7 by attesting to the bidder’s or proposer’s compliance in any way the contracting agency deems
8 credible and convenient.”.

9 Delete lines 32 through 42 and insert:

10 **“SECTION 3. Every public contract that is subject to this chapter must include a repre-**
11 **sentation and warranty from the contractor that the contractor has complied with the tax**
12 **laws of this state or a political subdivision of this state, including but not limited to ORS**
13 **305.620 and ORS chapters 316, 317 and 318. The public contract must also require a covenant**
14 **from the contractor to continue to comply with the tax laws of this state or a political sub-**
15 **division of this state during the term of the public contract and provide that a contractor’s**
16 **failure to comply with the tax laws of this state or a political subdivision of this state before**
17 **the contractor executed the public contract or during the term of the public contract is a**
18 **default for which a contracting agency may terminate the public contract and seek damages**
19 **and other relief available under the terms of the public contract or under applicable law.”.**

20 On page 3, after line 12, insert:

21 **“SECTION 5a. If Senate Bill 491 becomes law, section 3, chapter ___, Oregon Laws 2015**
22 **(Enrolled Senate Bill 491) (amending ORS 279B.110), is repealed and ORS 279B.110, as**
23 **amended by section 3, chapter 77, Oregon Laws 2014, and section 1 of this 2015 Act, is**
24 **amended to read:**

25 “279B.110. (1) As part of a contracting agency’s evaluation of a bid or proposal, the contracting
26 agency shall determine whether the bidder or proposer is responsible in accordance with the stan-
27 dards of responsibility set forth in subsection (2) of this section. If the contracting agency deter-
28 mines that a bidder or proposer is not responsible, the contracting agency shall provide the bidder
29 or proposer with written notice of the contracting agency’s determination.

30 “(2) In order for a contracting agency to determine that a bidder or proposer is responsible, the
31 bidder or proposer must demonstrate to the contracting agency that the bidder or proposer:

32 “(a) Has available the appropriate financial, material, equipment, facility and personnel re-
33 sources and expertise, or has the ability to obtain the resources and expertise, necessary to meet
34 all contractual responsibilities.

1 “(b) Completed previous contracts of a similar nature with a satisfactory record of performance.
2 For purposes of this paragraph, a satisfactory record of performance means that to the extent that
3 the costs associated with and time available to perform a previous contract remained within the
4 bidder’s or proposer’s control, the bidder or proposer stayed within the time and budget allotted for
5 the procurement and otherwise performed the contract in a satisfactory manner. The contracting
6 agency shall document the bidder’s or proposer’s record of performance if the contracting agency
7 finds under this paragraph that the bidder or proposer is not responsible.

8 “(c) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder’s or
9 proposer’s record of integrity may consider, among other things, whether the bidder or proposer has
10 previous criminal convictions for offenses related to obtaining or attempting to obtain a contract
11 or subcontract or in connection with the bidder’s or proposer’s performance of a contract or sub-
12 contract. The contracting agency shall document the bidder’s or proposer’s record of integrity if the
13 contracting agency finds under this paragraph that the bidder or proposer is not responsible.

14 “(d) Is legally qualified to contract with the contracting agency.

15 “(e) Complied with the tax laws of the state or a political subdivision of the state, including ORS
16 305.620 and ORS chapters 316, 317 and 318. The bidder or proposer shall demonstrate compliance
17 by attesting to the bidder’s or proposer’s compliance in any way the contracting agency deems
18 credible and convenient.

19 “(f) **Possesses an unexpired certificate that the Oregon Department of Administrative**
20 **Services issued under section 2, chapter __, Oregon Laws 2015 (Enrolled Senate Bill 491), if**
21 **the bidder or proposer employs 50 or more full-time workers and submitted a bid or proposal**
22 **for a procurement with an estimated contract price that exceeds \$500,000 in response to an**
23 **advertisement or solicitation from a state contracting agency.**

24 “[f] (g) Supplied all necessary information in connection with the inquiry concerning respon-
25 sibility. If a bidder or proposer fails to promptly supply information concerning responsibility that
26 the contracting agency requests, the contracting agency shall determine the bidder’s or proposer’s
27 responsibility based on available information or may find that the bidder or proposer is not respon-
28 sible.

29 “[g] (h) Was not debarred by the contracting agency under ORS 279B.130.

30 “(3) A contracting agency may refuse to disclose outside of the contracting agency confidential
31 information furnished by a bidder or proposer under this section when the bidder or proposer has
32 clearly identified in writing the information the bidder or proposer seeks to have treated as confi-
33 dential and the contracting agency has authority under ORS 192.410 to 192.505 to withhold the
34 identified information from disclosure.

35 “**SECTION 5b.** If Senate Bill 491 becomes law, section 7, chapter __, Oregon Laws 2015 (En-
36 rolled Senate Bill 491), is amended to read:

37 “**Sec. 7.** The amendments to ORS 279B.110, 279B.235, 279C.375 and 279C.520 by **section 5a of**
38 **this 2015 Act and** sections [3 to 6 of this 2015 Act] **4 to 6, chapter __, Oregon Laws 2015 (En-**
39 **rolled Senate Bill 491),** apply to procurements that a contracting agency advertised or otherwise
40 solicited or, if the contracting agency did not advertise or solicit the procurement, to contracts into
41 which the contracting agency entered on or after the operative date specified in section 8 [of this
42 2015 Act], **chapter __, Oregon Laws 2015 (Enrolled Senate Bill 491).**

43 “**SECTION 5c.** If Senate Bill 491 becomes law, section 8, chapter __, Oregon Laws 2015 (En-
44 rolled Senate Bill 491), is amended to read:

45 “**Sec. 8.** (1) The amendments to ORS 279B.110, 279B.235, 279C.375 and 279C.520 by **section 5a**

1 **of this 2015 Act and** sections [3 to 6 of this 2015 Act] **4 to 6, chapter __, Oregon Laws 2015**
2 **(Enrolled Senate Bill 491)**, become operative January 1, 2016.

3 “(2) The Director of the Oregon Department of Administrative Services, the Director of Trans-
4 portation, the Attorney General or a contracting agency that adopts rules under ORS 279A.065 may
5 take any action before the operative date specified in subsection (1) of this section that is necessary
6 to enable the director, the Attorney General or the contracting agency to exercise, on and after the
7 operative date specified in subsection (1) of this section, all of the duties, functions and powers
8 conferred on the director, the Attorney General or the contracting agency by the amendments to
9 ORS 279B.110, 279B.235, 279C.375 and 279C.520 by **section 5a of this 2015 Act and** sections [3 to
10 **6 of this 2015 Act] 4 to 6, chapter __, Oregon Laws 2015 (Enrolled Senate Bill 491).”.**

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