

**PROPOSED AMENDMENTS TO  
SENATE BILL 809**

1 On page 1 of the printed bill, line 16, delete “\$1” and insert “\$5”.

2 On page 2, line 5, delete “\$1” and insert “\$5”.

3 After line 10, insert:

4 **“SECTION 2a.** Section 2 of this 2015 Act is amended to read:

5 **“Sec. 2.** (1) The Commissioner of the Bureau of Labor and Industries, by  
6 rule and in consultation with affected crafts, trades and other worker asso-  
7 ciations and with contractors and subcontractors that perform contracts for  
8 public works for public agencies, may determine:

9 “(a) The percentage of the total hours that a bidder’s employees worked  
10 on contracts during the previous calendar year for which the bidder was re-  
11 quired to employ apprentices participating in programs of apprenticeship or  
12 training under ORS 660.002 to 660.210 in order for a public agency to deter-  
13 mine that the bidder is responsible under ORS 279C.375 (4), if the bidder  
14 submits a bid for a contract for public works with an estimated contract  
15 price of [~~\$5~~] **\$3** million or more; or

16 “(b) The percentage of the total hours that employees of training agents  
17 approved by a local joint committee worked on contracts during the previous  
18 calendar year for which the training agents were required to employ ap-  
19 prentices participating in programs of apprenticeship or training under ORS  
20 660.002 to 660.210 in order for a public agency to determine that a bidder  
21 associated with the local joint committee is responsible under ORS 279C.375  
22 (4), if the bidder submits a bid for a contract for public works with an esti-

1 mated contract price of [~~\$5~~] **\$3** million or more.

2 “(2) The commissioner may not set a percentage under subsection (1) of  
3 this section that is less than the percentage set forth in ORS 279C.375 (4).

4 “(3)(a) The commissioner shall review the percentages described in sub-  
5 section (1) of this section at least once every other year to determine  
6 whether the commissioner should set a different percentage.

7 “(b) **The commissioner shall recommend to the Legislative Assem-**  
8 **bly, not later than December 31, 2022, any reduction the commissioner**  
9 **deems necessary in the estimated contract price at which bids or pro-**  
10 **posals for a contract for public works become subject to the require-**  
11 **ments of ORS 279C.375 (4).”.**

12 On page 4, line 40, delete “\$1” and insert “\$5”.

13 On page 5, after line 31, insert:

14 “**SECTION 3a.** ORS 279C.375, as amended by section 3 of this 2015 Act,  
15 is amended to read:

16 “279C.375. (1) After a contracting agency has opened bids and determined  
17 that the contracting agency will award a public improvement contract, the  
18 contracting agency shall award the contract to the lowest responsible bidder.

19 “(2) At least seven days before awarding a public improvement contract,  
20 unless the contracting agency determines that seven days is impractical un-  
21 der rules adopted under ORS 279A.065, the contracting agency shall issue to  
22 each bidder or post, electronically or otherwise, a notice of the contracting  
23 agency’s intent to award a contract. This subsection does not apply to a  
24 contract to which competitive bidding does not apply under ORS 279C.335  
25 (1)(c) or (d). The notice and the manner in which the contracting agency is-  
26 sues or posts the notice must conform to rules adopted under ORS 279A.065.

27 “(3) In determining the lowest responsible bidder, a contracting agency  
28 shall do all of the following:

29 “(a) Check the list created by the Construction Contractors Board under  
30 ORS 701.227 for bidders who are not qualified to hold a public improvement

1 contract.

2 “(b) Determine whether the bidder is responsible. A responsible bidder  
3 must demonstrate to the contracting agency that the bidder:

4 “(A) Has available the appropriate financial, material, equipment, facility  
5 and personnel resources and expertise, or has the ability to obtain the re-  
6 sources and expertise, necessary to meet all contractual responsibilities.

7 “(B) Holds current licenses that businesses or service professionals oper-  
8 ating in this state must hold in order to undertake or perform the work  
9 specified in the contract.

10 “(C) Is covered by liability insurance and other insurance in amounts the  
11 contracting agency requires in the solicitation documents.

12 “(D) Qualifies as a carrier-insured employer or a self-insured employer  
13 under ORS 656.407 or has elected coverage under ORS 656.128.

14 “(E) Has made the disclosure required under ORS 279C.370.

15 “(F) Completed previous contracts of a similar nature with a satisfactory  
16 record of performance. For purposes of this subparagraph, a satisfactory re-  
17 cord of performance means that to the extent that the costs associated with  
18 and time available to perform a previous contract remained within the  
19 bidder’s control, the bidder stayed within the time and budget allotted for  
20 the procurement and otherwise performed the contract in a satisfactory  
21 manner. The contracting agency shall document the bidder’s record of per-  
22 formance if the contracting agency finds under this subparagraph that the  
23 bidder is not responsible.

24 “(G) Has a satisfactory record of integrity. The contracting agency in  
25 evaluating the bidder’s record of integrity may consider, among other things,  
26 whether the bidder has previous criminal convictions for offenses related to  
27 obtaining or attempting to obtain a contract or subcontract or in connection  
28 with the bidder’s performance of a contract or subcontract. The contracting  
29 agency shall document the bidder’s record of integrity if the contracting  
30 agency finds under this subparagraph that the bidder is not responsible.

1 “(H) Is legally qualified to contract with the contracting agency.

2 “(I) Supplied all necessary information in connection with the inquiry  
3 concerning responsibility. If a bidder fails to promptly supply information  
4 concerning responsibility that the contracting agency requests, the con-  
5 tracting agency shall determine the bidder’s responsibility based on available  
6 information, or may find that the bidder is not responsible.

7 “(c) Document the contracting agency’s compliance with the requirements  
8 of paragraphs (a) and (b) of this subsection in substantially the following  
9 form:

10 “ \_\_\_\_\_

11 RESPONSIBILITY DETERMINATION FORM

12  
13 Project Name: \_\_\_\_\_

14 Bid Number: \_\_\_\_\_

15 Business Entity Name: \_\_\_\_\_

16 CCB License Number: \_\_\_\_\_

17 Form Submitted By (Contracting Agency):

18 \_\_\_\_\_

19 Form Submitted By (Contracting Agency Representative’s Name):

20 \_\_\_\_\_

21 Title: \_\_\_\_\_

22 Date: \_\_\_\_\_

23 (The contracting agency must submit this form with attachments, if any,  
24 to the Construction Contractors Board within 30 days after the date of con-  
25 tract award.)

26 The contracting agency has (check all of the following):

27 [ ] Checked the list created by the  
28 Construction Contractors Board  
29 under ORS 701.227 for bidders who  
30 are not qualified to hold a public

1 improvement contract.

2 [ ] Determined whether the bidder has

3 met the standards of responsibility.

4 In so doing, the contracting agency

5 has found that the bidder

6 demonstrated that the bidder:

7 [ ] Has available the appropriate

8 financial, material, equipment,

9 facility and personnel resources

10 and expertise, or the ability to

11 obtain the resources and

12 expertise, necessary to meet

13 all contractual responsibilities.

14 [ ] Holds current licenses that

15 businesses or service professionals

16 operating in this state must hold

17 in order to undertake or perform

18 the work specified in the contract.

19 [ ] Is covered by liability insurance

20 and other insurance in amounts

21 required in the solicitation

22 documents.

23 [ ] Qualifies as a carrier-insured

24 employer or a self-insured

25 employer under ORS 656.407 or has

26 elected coverage under ORS 656.128.

27 [ ] Has disclosed the bidder's first-

28 tier subcontractors in accordance

29 with ORS 279C.370.

30 [ ] Has a satisfactory record of

1 performance.

2 [ ] Has a satisfactory record of  
3 integrity.

4 [ ] Is legally qualified to contract  
5 with the contracting agency.

6 [ ] Has supplied all necessary  
7 information in connection with  
8 the inquiry concerning  
9 responsibility.

10 [ ] Determined the bidder to be  
11 (check one of the following):

12 [ ] Responsible under ORS 279C.375  
13 (3)(a) and (b).

14 [ ] Not responsible under  
15 ORS 279C.375 (3)(a) and (b).

16 (Attach documentation if the contracting agency finds the bidder not to  
17 be responsible.)

18 “ \_\_\_\_\_  
19 “(d) Submit the form described in paragraph (c) of this subsection, with  
20 any attachments, to the Construction Contractors Board within 30 days after  
21 the date the contracting agency awards the contract.

22 “(4)(a) If a bidder submits a bid for a contract for public works with an  
23 estimated contract price of [~~\$5~~] **\$3** million or more, a contracting agency  
24 shall require the bidder, in addition to demonstrating that the bidder is re-  
25 sponsible as provided in subsection (3)(b) of this section, to show that the  
26 bidder is an approved training agent under ORS 660.137 and:

27 “(A) Belongs to a local joint committee whose approved training agents,  
28 in the aggregate, employed apprentices for 10 percent or more of all hours  
29 that the employees of the approved training agents worked in the previous  
30 calendar year; or

1 “(B) Employed apprentices for 10 percent or more of all hours that the  
2 bidder’s employees worked on contracts in the previous calendar year.

3 “(b) In the circumstances described in paragraph (a) of this subsection, a  
4 contracting agency shall include in the form set forth in subsection (3)(c) of  
5 this section an additional criterion for determining responsibility that reads  
6 substantially as follows:

7 [ ] Belongs to a local joint  
8 committee with training agents  
9 that, in the aggregate, employed  
10 apprentices for 10 percent or  
11 more of the hours that the  
12 training agents’ employees  
13 worked in the previous calendar  
14 year or is an approved training  
15 agent and has employed apprentices  
16 for 10 percent or more of the total  
17 number of hours the bidder’s  
18 employees worked in the previous  
19 calendar year.

20 “(c) This subsection does not apply to the Department of Transportation.

21 “(5) A successful bidder shall:

22 “(a) Promptly execute a formal contract; and

23 “(b) Execute and deliver to the contracting agency a performance bond  
24 and a payment bond when required under ORS 279C.380.

25 “(6) A contracting agency may award a public improvement contract or  
26 may award multiple public improvement contracts based on competitive bids  
27 if the contracting agency specifies that the contracting agency will do so in  
28 the invitation to bid.

29 “(7) A contracting agency may not exclude a commercial contractor from  
30 competing for a public contract on the basis that a license that the Con-

1 instruction Contractors Board issued is endorsed as a level 1 or level 2 license.  
2 As used in this section, ‘commercial contractor’ has the meaning given that  
3 term in ORS 701.005.”.

4 On page 13, line 33, after “Industries” insert “on forms and in a format  
5 that the bureau specifies by rule”.

6 In line 36, after “agent” insert “and must identify apprentices and  
7 journeyworkers by craft, by race or ethnicity, by gender and by the ge-  
8 ographic location in which the apprentices reside and work in accordance  
9 with standards and categories that the bureau specifies by rule.”.

10 On page 14, after line 6, insert:

11 “(4) The bureau, not later than March 1 of each year, shall submit to a  
12 committee or interim committee of the Legislative Assembly that deals with  
13 workforce issues a report that includes:

14 “(a) The information that the bureau publishes under subsection (3) of  
15 this section;

16 “(b) Information about the number of apprentices who become  
17 journeyworkers during the reporting period, identifying the number of ap-  
18 prentices by craft, by race or ethnicity, by gender and by the geographic lo-  
19 cation in which the apprentices reside and work; and

20 “(c) The bureau’s evaluation of the impact that the apprenticeship re-  
21 quirements set forth in ORS 279C.375 (4) and section 2 of this 2015 Act have  
22 on rural areas within this state.”.

23 In line 7, after the period insert “(1)”.

24 In line 8, after “3” insert “and 4”.

25 In line 11, after “13” insert “(1)”.

26 After line 12, insert:

27 “(2) The amendments to section 2 of this 2015 Act by section 2a of this  
28 2015 Act and the amendments to ORS 279C.375 by section 3a of this 2015 Act  
29 apply to contracts for public works that a public agency advertises or solicits  
30 or, if the public agency does not advertise or solicit the contract for public



1 works, that the public agency enters into on or after the operative date  
2 specified in section 13 (2) of this 2015 Act.”.

3 In line 14, after “3” insert “and 4”.

4 After line 15, insert:

5 “(2) The amendments to section 2 of this 2015 Act by section 2a of this  
6 2015 Act and the amendments to ORS 279C.375 by section 3a of this 2015 Act  
7 become operative January 1, 2021.”.

8 In line 16, delete “(2)” and insert “(3)”.

9 In line 25, after “3” insert “and 4”.

10 \_\_\_\_\_