

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2294**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert
2 “279A.050,”.

3 In line 3, after “413.308” insert “and section 1, chapter 77, Oregon Laws
4 2014”.

5 In line 16, after “(3)” insert “Subject to ORS 279A.050 (7),”.

6 On page 2, line 11, after “agreements” insert “, subject to ORS 279A.050
7 (7),”.

8 Delete lines 17 through 20.

9 In line 21, delete “(9)” and insert “(8)”.

10 On page 6, after line 45, insert:

11 **“SECTION 7.** ORS 279A.050 is amended to read:

12 “279A.050. (1)(a) Except as otherwise provided in the Public Contracting
13 Code, a contracting agency shall exercise all procurement authority in ac-
14 cordance with the provisions of the Public Contracting Code.

15 “(b) When a contracting agency has authority under this section to carry
16 out functions described in this section, or has authority to make procure-
17 ments under a provision of law other than the Public Contracting Code, the
18 contracting agency is not required to exercise that authority in accordance
19 with the provisions of the code if, under ORS 279A.025, the code does not
20 apply to the contract or contracting authority.

21 “(2) Except as otherwise provided in the Public Contracting Code, for
22 state agencies the Director of the Oregon Department of Administrative

1 Services has all the authority to carry out the provisions of the Public
2 Contracting Code.

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

5 “(a) Procure or supervise the procurement of all services and personal
6 services to construct, acquire, plan, design, maintain and operate passenger
7 terminal facilities and motor vehicle parking facilities in connection with
8 any public transportation system in accordance with ORS 184.689 (5);

9 “(b) Procure or supervise the procurement of all goods, services, public
10 improvements and personal services relating to the operation, maintenance
11 or construction of highways, bridges and other transportation facilities that
12 are subject to the authority of the Department of Transportation; and

13 “(c) Establish standards for, prescribe forms for and conduct the pre-
14 qualification of prospective bidders on public improvement contracts related
15 to the operation, maintenance or construction of highways, bridges and other
16 transportation facilities that are subject to the authority of the Department
17 of Transportation.

18 “(4) Except as otherwise provided in the Public Contracting Code, the
19 Secretary of State has all the authority to procure or supervise the pro-
20 curement of goods, services and personal services related to programs under
21 the authority of the Secretary of State.

22 “(5) Except as otherwise provided in the Public Contracting Code, the
23 State Treasurer has all the authority to procure or supervise the procure-
24 ment of goods, services and personal services related to programs under the
25 authority of the State Treasurer.

26 “(6) The state agencies listed in this subsection have all the authority to
27 do the following in accordance with the Public Contracting Code:

28 “(a) The Department of Human Services to procure or supervise the pro-
29 curement of goods, services and personal services under ORS 179.040 for the
30 department’s institutions and the procurement of goods, services and per-

1 sonal services for the construction, demolition, exchange, maintenance, op-
2 eration and equipping of housing for the purpose of providing care to
3 individuals with intellectual disabilities or other developmental disabilities,
4 subject to applicable provisions of ORS 427.335;

5 “(b) The Oregon Health Authority to procure or supervise the procure-
6 ment of goods, services and personal services under ORS 179.040 and con-
7 struction materials, equipment and supplies for the authority’s institutions
8 and the procurement of goods, services, personal services, construction ma-
9 terials, equipment and supplies for the construction, demolition, exchange,
10 maintenance, operation and equipping of housing for persons with chronic
11 mental illness, subject to applicable provisions of ORS 426.504;

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

17 “(d) The State Parks and Recreation Department to procure or supervise
18 the procurement of all goods, services, public improvements and personal
19 services relating to state parks;

20 “(e) The Oregon Department of Aviation to procure or supervise the pro-
21 curement of construction materials, equipment, supplies, services and per-
22 sonal services for public improvements, public works or ordinary
23 construction described in ORS 279C.320 that is subject to the authority of
24 the Oregon Department of Aviation;

25 “(f) The Oregon Business Development Department to procure or super-
26 vise the procurement of all goods, services, personal services and public im-
27 provements related to its foreign trade offices operating outside the state;

28 “(g) The Housing and Community Services Department to procure or su-
29 pervise the procurement of goods, services and personal services as provided
30 in ORS 279A.025 (2)(n);

1 “(h) The Department of Corrections to procure or supervise the procure-
2 ment of construction materials, equipment, supplies, services and personal
3 services for public improvements, public works or ordinary construction de-
4 scribed in ORS 279C.320 that is subject to the authority of the Department
5 of Corrections;

6 “(i) The Department of Corrections, subject to any applicable provisions
7 of ORS 279A.120, 279A.125, 279A.145 and 283.110 to 283.395, to procure or
8 supervise the procurement of goods, services and personal services under
9 ORS 179.040 for its institutions;

10 “(j) The Department of Veterans’ Affairs to procure or supervise the pro-
11 curement of real estate broker and principal real estate broker services re-
12 lated to programs under the department’s authority;

13 “(k) The Oregon Military Department to procure or supervise the pro-
14 curement of construction materials, equipment, supplies, services and per-
15 sonal services for public improvements, public works or ordinary
16 construction described in ORS 279C.320 that is subject to the authority of
17 the Oregon Military Department;

18 “(L) The Department of Education, subject to any applicable provisions
19 of ORS 329.075, 329.085 and 329.485 and the federal No Child Left Behind
20 Act of 2001 (P.L. 107-110, 115 Stat. 1425), to procure or supervise the pro-
21 curement of goods, services, personal services and information technology
22 relating to student assessment; and

23 “(m) Any state agency to conduct a procurement when the agency is
24 specifically authorized by any provision of law other than the Public Con-
25 tracting Code to enter into a contract.

26 “(7) Notwithstanding this section and ORS 279A.140 (1), the Director of
27 the Oregon Department of Administrative Services has exclusive authority,
28 unless the director delegates this authority, to procure or supervise the
29 procurement of all price agreements on behalf of the state agencies identified
30 in subsection (6)(a) to (k) of this section under which more than one state

1 agency may order goods, services or personal services and[, *except for con-*
2 *tracts procured by the Oregon Health Authority,*] all state agency information
3 technology contracts. This subsection does not apply to contracts under
4 which the contractor delivers to the state agency information technology
5 products or services incidental to the performance of personal services con-
6 tracts described in ORS chapter 279C or construction contracts described in
7 ORS chapter 279C. A state agency identified in subsection (3) or (6)(a) to (k)
8 of this section may not establish a price agreement or enter into a contract
9 for goods, services, personal services, construction materials, equipment or
10 supplies without the approval of the director if the director has established
11 a price agreement for the goods, services or personal services.

12 **SECTION 8.** Section 1, chapter 77, Oregon Laws 2014, is amended to
13 read:

14 **“Sec. 1.** (1) As used in this section:

15 “(a)(A) ‘Information technology initiative’ means a project to develop or
16 provide, with the state contracting agency’s or public corporation’s own
17 personnel and resources, or to obtain by means of a procurement or set of
18 related procurements:

19 “(i) New hardware, software or services for data processing, office auto-
20 mation or telecommunications;

21 “(ii) An overhaul, upgrade or replacement of a substantial portion of the
22 hardware or software in an existing data processing, office automation or
23 telecommunications system; or

24 “(iii) A substantial expansion of existing data processing, office auto-
25 mation or telecommunications services.

26 “(B) ‘Information technology initiative’ does not include:

27 “(i) A procurement for preliminary quality assurance services or quality
28 management services;

29 “(ii) A routine update to or purchase of hardware or software within an
30 existing data processing, office automation or telecommunications system;

1 “(iii) A renewal of an existing contract for data processing, office auto-
2 mation or telecommunications services under terms and conditions that are
3 substantially the same as in the existing contract; or

4 “(iv) A replacement of a component of an existing data processing, office
5 automation or telecommunications system that is not essential for the system
6 to function as designed or that occurs at the end of the component’s antic-
7 ipated life cycle.

8 “(b) ‘Preliminary quality assurance services’ means a set of services in
9 which a contractor provides an independent and objective review of a state
10 contracting agency’s or a public corporation’s plans, specifications, esti-
11 mates, documentation, available resources and overall purpose for an infor-
12 mation technology initiative, including services in which the contractor
13 evaluates a proposed information technology initiative against applicable
14 quality standards and best practices from private industry and other sources.

15 “(c) ‘Procurement’ has the meaning given that term in ORS 279A.010.

16 “(d)(A) ‘Public corporation’ means a corporation:

17 “(i) The operations of which are subject to control by this state or by an
18 agency or instrumentality of this state, or by officers of this state or of an
19 agency or instrumentality of this state;

20 “(ii) That is organized, at least in part, to serve a public purpose; and

21 “(iii) That receives public funds or other support from an entity described
22 in sub-subparagraph (i) of this subparagraph.

23 “(B) ‘Public corporation’ does not include:

24 “(i) A person or entity described in ORS 174.108 (3);

25 “(ii) A city, county, local service district, school district, education ser-
26 vice district, community college district or community college service district
27 or a university with a governing board listed in ORS 352.054; or

28 “(iii) An administrative subdivision of an entity described in sub-
29 subparagraph (ii) of this subparagraph.

30 “(e) ‘Quality management services’ means a set of services in which a

1 contractor provides an independent and objective review and evaluation of
2 a state contracting agency's, a public corporation's or another contractor's
3 performance with respect to an information technology initiative, such as
4 services in which the contractor:

5 “(A) Identifies quality standards that apply or should apply to the infor-
6 mation technology initiative;

7 “(B) Suggests methods and means by which the state contracting agency,
8 the public corporation or the other contractor may meet quality standards
9 identified in subparagraph (A) of this paragraph;

10 “(C) Reviews and evaluates the state contracting agency's, the public
11 corporation's or the other contractor's performance regularly as the infor-
12 mation technology initiative progresses from start to finish;

13 “(D) Identifies omissions or gaps in the state contracting agency's, the
14 public corporation's or the other contractor's planning, execution, control,
15 methodology, communication or reporting as the information technology in-
16 itiative progresses from start to finish;

17 “(E) Identifies risks in the state contracting agency's, the public
18 corporation's or the other contractor's plans or approach to designing, de-
19 veloping or implementing the information technology initiative and suggests
20 methods to reduce, mitigate or eliminate the risks;

21 “(F) Assists the state contracting agency or the public corporation in
22 testing or otherwise evaluating the hardware, software or services that are
23 developed, provided or obtained as part of an information technology initi-
24 ative to determine whether the hardware, software or services conform with
25 the quality standards identified in subparagraph (A) of this paragraph;

26 “(G) Advises the state contracting agency or the public corporation as to
27 whether the hardware, software or services that are developed, provided or
28 obtained as part of an information technology initiative meet the contracting
29 agency's or the public corporation's needs, specifications or expectations and
30 otherwise enable the state contracting agency or the public corporation to

1 achieve the objectives for the information technology initiative; or

2 “(H) Identifies unsatisfactory performance and suggests methods the state
3 contracting agency, the public corporation or the other contractor might use
4 to eliminate the causes of unsatisfactory performance.

5 “(f) ‘State contracting agency’ has the meaning given that term in ORS
6 279A.010.

7 “(2)(a) A state contracting agency or a public corporation that implements
8 an information technology initiative shall obtain quality management ser-
9 vices from a qualified contractor if the value of the information technology
10 initiative exceeds \$5 million or if the information technology initiative meets
11 criteria or standards that the State Chief Information Officer or the Director
12 of the Oregon Department of Administrative Services specifies by rule or
13 policy.

14 “(b) A state contracting agency or public corporation may, subject to ORS
15 279B.040, procure preliminary quality assurance services from a contractor
16 if the information technology initiative meets the standards set forth in
17 paragraph (a) of this subsection or if the state contracting agency or public
18 corporation otherwise believes that the preliminary quality assurance ser-
19 vices will enable the contracting agency or public corporation to implement
20 an information technology initiative successfully.

21 “(3) A state contracting agency or public corporation may not artificially
22 divide or fragment an information technology initiative so as to avoid the
23 application of this section.

24 “(4)(a) Notwithstanding any procurement authority that a state contract-
25 ing agency or a public corporation has that is not subject to the authority
26 of the Director of the Oregon Department of Administrative Services under
27 ORS 279A.050 (2) or (7), the state contracting agency or public corporation
28 is subject to the provisions of subsection (2) of this section and shall consult
29 with and follow the rules, policies and procedures of the State Chief Infor-
30 mation Officer and the Oregon Department of Administrative Services in

1 determining the extent of preliminary quality assurance services or quality
2 management services that the state contracting agency or public corporation
3 will require for an information technology initiative.

4 “(b) [*Notwithstanding the Oregon Health Authority’s exemption in ORS*
5 *279A.050 (7) from the authority that the Oregon Department of Administrative*
6 *Services has over all state agency information technology procurements,*] The
7 Oregon Health Authority shall consult with and follow the rules, policies
8 and procedures of the State Chief Information Officer and the Oregon De-
9 partment of Administrative Services in determining the extent of preliminary
10 quality assurance services or quality management services that the state
11 contracting agency or public corporation will require for an information
12 technology initiative.

13 “(5)(a) If a state contracting agency or a public corporation awards a
14 contract for preliminary quality assurance services or quality management
15 services, the contract must provide that at the same time a contractor pro-
16 vides a preliminary or final report to the contract administrator, the con-
17 tractor shall also provide a copy of the report to:

18 “(A) The State Chief Information Officer;

19 “(B) The Director of the Oregon Department of Administrative Services;
20 and

21 “(C) As appropriate for the specific information technology initiative, to:

22 “(i) The director of the state contracting agency or, if a board or com-
23 mission sets policy for the state contracting agency, to the board or com-
24 mission; or

25 “(ii) The governing body of the public corporation.

26 “(b) The state contracting agency or public corporation shall provide the
27 contractor with names, addresses and other contact information the con-
28 tractor needs to comply with paragraph (a) of this subsection.

29 “(6) This section does not apply to the Secretary of State or the State
30 Treasurer.”.

1 On page 7, line 1, delete “7” and insert “9”.

2 Delete lines 2 through 9 and insert:

3 **“SECTION 10. (1) Section 1 of this 2015 Act, the amendments to ORS**
4 **279A.050, 413.011, 413.300, 413.301, 413.303 and 413.308 and section 1,**
5 **chapter 77, Oregon Laws 2014, by sections 2 to 8 of this 2015 Act and**
6 **the repeal of ORS 413.302 and 413.306 by section 9 of this 2015 Act be-**
7 **come operative on July 1, 2015.**

8 **“(2) The Oregon Health Authority may take any action before the**
9 **operative date specified in subsection (1) of this section that is neces-**
10 **sary to enable the authority to carry out the provisions of section 1**
11 **of this 2015 Act, the amendments to ORS 279A.050, 413.011, 413.300,**
12 **413.301, 413.303 and 413.308 and section 1, chapter 77, Oregon Laws 2014,**
13 **by sections 2 to 8 of this 2015 Act and the repeal of ORS 413.302 and**
14 **413.306 by section 9 of this 2015 Act.”.**

15 In line 10, delete “9” and insert “11”.

16
