

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2716  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

1 On page 1 of the printed A-engrossed bill, line 3, after “200.065” insert  
2 “and sections 4 and 5, chapter \_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill  
3 584)”.

4 On page 3, line 16, before “contracting” insert “public”.

5 In line 18, before “contracting” insert “public”.

6 In line 20, before “contracting” insert “public”.

7 After line 21, insert:

8 **“SECTION 6. If Senate Bill 584 becomes law, section 3 of this 2015**  
9 **Act (amending ORS 200.065) is repealed and ORS 200.065, as amended**  
10 **by section 2, chapter \_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584),**  
11 **is amended to read:**

12 “200.065. (1) A person may not fraudulently obtain or retain, attempt to  
13 obtain or retain or aid another person to fraudulently obtain or retain or  
14 attempt to obtain or retain certification as a disadvantaged, minority, women  
15 or emerging small business enterprise.

16 “(2) A person may not knowingly make a false claim that any person is  
17 qualified for certification or is certified under ORS 200.055 for the purpose  
18 of [*gaining*] **obtaining a public** contract or subcontract or other benefit.

19 “(3) An affected public contracting agency may withhold payment, may  
20 suspend or terminate a public contract and may impose on any person a civil  
21 penalty **that does** not [*to*] exceed 10 percent of the contract or subcontract

1 price or \$5,000, whichever is less, for each violation of subsection (1) or (2)  
2 of this section. **The person shall pay the penalty to the affected public**  
3 **contracting agency. If the affected public contracting agency does not**  
4 **impose a civil penalty on the person under this subsection, the Oregon**  
5 **Business Development Department may independently impose a civil**  
6 **penalty that does not exceed \$5,000 for each violation of subsection (1)**  
7 **or (2) of this section. The person shall pay a penalty that the depart-**  
8 **ment imposes to the Office for Minority, Women and Emerging Small**  
9 **Business.**

10 “(4) The [*Oregon Business Development*] department or an affected public  
11 contracting agency shall investigate [*any complaint that a person has*  
12 *violated*] **violations of** subsection (1) or (2) of this section. In investigating  
13 a [*complaint*] **violation**, the department or [*an*] **the** affected public con-  
14 tracting agency may require any additional information, administer oaths,  
15 take depositions and issue subpoenas to compel witnesses to attend and [*to*  
16 *produce*] **compel the production of** books, papers, records, memoranda or  
17 other information necessary to carry out the department’s or the affected  
18 public contracting agency’s duties. If a person fails to comply with any  
19 subpoena the department or the affected public contracting agency issues  
20 under this subsection or refuses to testify on any matter on which a person  
21 may lawfully be interrogated, the department or the affected public con-  
22 tracting agency shall follow the procedure provided in ORS 183.440 to compel  
23 compliance.

24 “(5) The department or an affected public contracting agency may dis-  
25 qualify any person that under oath during the course of an investigation  
26 admits to violating subsection (1) or (2) of this section, or that the depart-  
27 ment or the affected public contracting agency finds to have violated sub-  
28 section (1) or (2) of this section, from submitting a bid or proposal for, or  
29 receiving an award of, a public contract for a period of not more than three  
30 years. Any public contracting agency that has notice of the finding of the

1 fraudulent certification may also disqualify the person from bidding on or  
2 participating in any public contract.

3 **“SECTION 7.** If Senate Bill 584 becomes law, section 4 of this 2015 Act  
4 is amended to read:

5 **“Sec. 4.** Section 2 of this 2015 Act and the amendments to ORS 200.065  
6 by section [3] **6** of this 2015 Act apply to public contracts that a contracting  
7 agency advertises or otherwise solicits or, if the contracting agency does not  
8 advertise or otherwise solicit the public contract, to public contracts into  
9 which the public contracting agency enters on or after the operative date  
10 specified in section 5 of this 2015 Act.

11 **“SECTION 8.** If Senate Bill 584 becomes law, section 5 of this 2015 Act  
12 is amended to read:

13 **“Sec. 5.** (1) Section 2 of this 2015 Act and the amendments to ORS 200.065  
14 by section [3] **6** of this 2015 Act become operative on January 1, 2016.

15 **“(2)** The Director of the Oregon Business Development Department, the  
16 Director of the Oregon Department of Administrative Services, the Director  
17 of Transportation, the Attorney General and a public contracting agency  
18 that adopts rules under ORS 279A.065 may take any action before the oper-  
19 ative date specified in subsection (1) of this section that is necessary to en-  
20 able the director, the Attorney General or the public contracting agency to  
21 exercise, on and after the operative date specified in subsection (1) of this  
22 section, all of the duties, functions and powers conferred on the director, the  
23 Attorney General or the public contracting agency by section 2 of this 2015  
24 Act and the amendments to ORS 200.065 by section [3] **6** of this 2015 Act.

25 **“SECTION 9.** If Senate Bill 584 becomes law, section 4, chapter \_\_\_\_,  
26 Oregon Laws 2015 (Enrolled Senate Bill 584), is amended to read:

27 **“Sec. 4.** The amendments to ORS 200.055[, 200.065] and 200.075 by sections  
28 1 [to] **and** 3 [of this 2015 Act], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled**  
29 **Senate Bill 584)**, apply to:

30 **“(1)** Public contracts that a public contracting agency advertises or so-

1 licits or, if the public contracting agency does not advertise or otherwise  
2 solicit the public contract, a public contract into which the public contract-  
3 ing agency enters on or after the operative date specified in section 5 [*of this*  
4 *2015 Act*], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**;

5 “(2) Decisions that the Oregon Business Development Department makes  
6 on and after the operative date specified in section 5 [*of this 2015 Act*],  
7 **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**, to approve,  
8 deny, revoke, suspend or refuse to renew a certification as a disadvantaged,  
9 minority, women or emerging small business enterprise;

10 “(3) Investigations that the department or a public contracting agency  
11 conducts on or after the operative date specified in section 5 [*of this 2015*  
12 *Act*], **chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 584)**; and

13 “(4) A public contracting agency’s decision on or after the operative date  
14 specified in section 5 [*of this 2015 Act*], **chapter \_\_\_\_\_, Oregon Laws 2015**  
15 **(Enrolled Senate Bill 584)**, to suspend a business enterprise’s right to sub-  
16 mit a bid or proposal for a public contract.

17 “**SECTION 10.** If Senate Bill 584 becomes law, section 5, chapter \_\_\_\_,  
18 Oregon Laws 2015 (Enrolled Senate Bill 584), is amended to read:

19 “**Sec. 5.** (1) The amendments to ORS 200.055[, 200.065] and 200.075 by  
20 sections 1 [*to*] **and 3 [*of this 2015 Act*], chapter \_\_\_\_\_, Oregon Laws 2015**  
21 **(Enrolled Senate Bill 584)**, become operative on January 1, 2016.

22 “(2) The Director of the Oregon Business Development Department and  
23 a public contracting agency that adopts rules under ORS 279A.065 may take  
24 any action before the operative date specified in subsection (1) of this section  
25 that is necessary to enable the director or the public contracting agency to  
26 exercise, on and after the operative date specified in subsection (1) of this  
27 section, all of the duties, functions and powers conferred on the director or  
28 the public contracting agency by the amendments to ORS 200.055[, 200.065]  
29 and 200.075 by sections 1 [*to*] **and 3 [*of this 2015 Act*], chapter \_\_\_\_\_,**  
30 **Oregon Laws 2015 (Enrolled Senate Bill 584).”.**

1 In line 22, delete "6" and insert "11".

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