

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

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

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

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

11 Delete lines 32 through 42 and insert:

12 **“SECTION 3. Every public contract that is subject to this chapter**  
13 **must include a representation and warranty from the contractor that**  
14 **the contractor has complied with the tax laws of this state or a poli-**  
15 **tical subdivision of this state, including but not limited to ORS 305.620**  
16 **and ORS chapters 316, 317 and 318. The public contract must also re-**  
17 **quire a covenant from the contractor to continue to comply with the**  
18 **tax laws of this state or a political subdivision of this state during the**  
19 **term of the public contract and provide that a contractor’s failure to**  
20 **comply with the tax laws of this state or a political subdivision of this**  
21 **state before the contractor executed the public contract or during the**

1 **term of the public contract is a default for which a contracting agency**  
2 **may terminate the public contract and seek damages and other relief**  
3 **available under the terms of the public contract or under applicable**  
4 **law.”.**

5 On page 3, after line 12, insert:

6 **“SECTION 5a. If Senate Bill 491 becomes law, section 3, chapter \_\_,**  
7 **Oregon Laws 2015 (Enrolled Senate Bill 491) (amending ORS 279B.110),**  
8 **is repealed and ORS 279B.110, as amended by section 3, chapter 77,**  
9 **Oregon Laws 2014, and section 1 of this 2015 Act, is amended to read:**

10 “279B.110. (1) As part of a contracting agency’s evaluation of a bid or  
11 proposal, the contracting agency shall determine whether the bidder or  
12 proposer is responsible in accordance with the standards of responsibility set  
13 forth in subsection (2) of this section. If the contracting agency determines  
14 that a bidder or proposer is not responsible, the contracting agency shall  
15 provide the bidder or proposer with written notice of the contracting  
16 agency’s determination.

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

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

23 “(b) Completed previous contracts of a similar nature with a satisfactory  
24 record of performance. For purposes of this paragraph, a satisfactory record  
25 of performance means that to the extent that the costs associated with and  
26 time available to perform a previous contract remained within the bidder’s  
27 or proposer’s control, the bidder or proposer stayed within the time and  
28 budget allotted for the procurement and otherwise performed the contract in  
29 a satisfactory manner. The contracting agency shall document the bidder’s  
30 or proposer’s record of performance if the contracting agency finds under

1 this paragraph that the bidder or proposer is not responsible.

2 “(c) Has a satisfactory record of integrity. The contracting agency in  
3 evaluating the bidder’s or proposer’s record of integrity may consider, among  
4 other things, whether the bidder or proposer has previous criminal con-  
5 victions for offenses related to obtaining or attempting to obtain a contract  
6 or subcontract or in connection with the bidder’s or proposer’s performance  
7 of a contract or subcontract. The contracting agency shall document the  
8 bidder’s or proposer’s record of integrity if the contracting agency finds un-  
9 der this paragraph that the bidder or proposer is not responsible.

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

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

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

23 “[*f*] (g) Supplied all necessary information in connection with the in-  
24 quiry concerning responsibility. If a bidder or proposer fails to promptly  
25 supply information concerning responsibility that the contracting agency  
26 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  
28 proposer is not responsible.

29 “[*g*] (h) Was not debarred by the contracting agency under ORS  
30 279B.130.

1 “(3) A contracting agency may refuse to disclose outside of the contract-  
2 ing agency confidential information furnished by a bidder or proposer under  
3 this section when the bidder or proposer has clearly identified in writing the  
4 information the bidder or proposer seeks to have treated as confidential and  
5 the contracting agency has authority under ORS 192.410 to 192.505 to with-  
6 hold the identified information from disclosure.

7 **“SECTION 5b.** If Senate Bill 491 becomes law, section 7, chapter \_\_\_\_,  
8 Oregon Laws 2015 (Enrolled Senate Bill 491), is amended to read:

9 **“Sec. 7.** The amendments to ORS 279B.110, 279B.235, 279C.375 and  
10 279C.520 by **section 5a of this 2015 Act and** sections [*3 to 6 of this 2015*  
11 *Act*] **4 to 6, chapter \_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 491),**  
12 apply to procurements that a contracting agency advertised or otherwise  
13 solicited or, if the contracting agency did not advertise or solicit the pro-  
14 curement, to contracts into which the contracting agency entered on or after  
15 the operative date specified in section 8 [*of this 2015 Act*], **chapter \_\_\_\_,**  
16 **Oregon Laws 2015 (Enrolled Senate Bill 491).**

17 **“SECTION 5c.** If Senate Bill 491 becomes law, section 8, chapter \_\_\_\_,  
18 Oregon Laws 2015 (Enrolled Senate Bill 491), is amended to read:

19 **“Sec. 8.** (1) The amendments to ORS 279B.110, 279B.235, 279C.375 and  
20 279C.520 by **section 5a of this 2015 Act and** sections [*3 to 6 of this 2015*  
21 *Act*] **4 to 6, chapter \_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 491),**  
22 become operative January 1, 2016.

23 **“(2)** The Director of the Oregon Department of Administrative Services,  
24 the Director of Transportation, the Attorney General or a contracting agency  
25 that adopts rules under ORS 279A.065 may take any action before the oper-  
26 ative date specified in subsection (1) of this section that is necessary to en-  
27 able the director, the Attorney General or the contracting agency to exercise,  
28 on and after the operative date specified in subsection (1) of this section, all  
29 of the duties, functions and powers conferred on the director, the Attorney  
30 General or the contracting agency by the amendments to ORS 279B.110,

1 279B.235, 279C.375 and 279C.520 by **section 5a of this 2015 Act** and sections  
2 [*3 to 6 of this 2015 Act*] **4 to 6, chapter \_\_, Oregon Laws 2015 (Enrolled**  
3 **Senate Bill 491).**”.

4

---