



Oregon

Kate Brown, Governor

Department of Transportation

Director's Office

355 Capitol St. NE, MS 11

Salem, OR 97301

DATE: February 3, 2016

TO: House Committee on Transportation and Economic Development

FROM: Melissa Canfield
ODOT Chief Procurement Officer

SUBJECT: House Bill 4089

INTRODUCTION

House Bill 4089 directs ODOT, as a state contracting agency, to require that contractors and suppliers on all of the department's public contracts for goods use corrugated cardboard pallets to transport, distribute, store or otherwise transfer goods. If the contractor or supplier uses a common carrier, such as UPS, FedEx or the U.S. postal service, or a third party, the common carrier or third party must also meet the requirements. In addition, if ODOT transfers goods to or for another state contracting agency ODOT must also meet the same requirements.

The bill includes two exemptions to these requirements. The first exemption is if, in an analysis, ODOT determines corrugated cardboard pallets cost more than alternatives. The bill requires specific factors be included in the analysis such as safety, rates of freight handling injuries, operational efficiencies, savings from acquiring, recycling or disposing of pallets, environmental benefits, reduction of fossil fuel use, reduction of carbon emissions, and reduced damage to product. The second exemption is if goods are transported, distributed, stored or transferred under conditions subject to prolonged inclement weather or circumstances where use of a corrugated cardboard pallet is inconsistent with the pallet manufacturer's recommendations and might cause injury or damage to the goods or to property.

DISCUSSION

The department has a number of questions about the potential impacts of House Bill 4089 to the cost of goods, the department's ability to procure needed goods and the department's ability to ensure vendor compliance with contract language around corrugated cardboard pallets.

ODOT's Maintenance and Operations Branch receives a variety of goods on pallets. Many of these items are very heavy or are irregular shapes, such as vehicle parts. The department stores many of these goods on pallets outside. It is unclear if, based on prolonged exposure to inclement weather or the manufacturers' recommendations, corrugated cardboard pallets could be used for these goods. For these types of goods, ODOT would have to determine what goods were appropriate for use of corrugated cardboard pallets and what goods would be exempt.

In the case of other goods the department purchases, such as office supplies, office equipment and information technology equipment, the impact of the bill on the contractor and supplier community could increase costs to ODOT. If a contractor or supplier cannot comply with the requirements, this reduces the pool of available vendors, which could increase costs. If a contractor or supplier must change processes, facilities and operations to comply with the requirements this initial investment could increase cost of goods to ODOT.

Ensuring compliance with the contract language throughout the supply chain for purchased goods would be difficult and no mechanism for ensuring compliance currently exists. While the department would be able to check for compliance upon delivery of goods, the department does not currently have insight into its vendors' practices around distribution and storage of goods.

Additionally it is unclear how to apply the analysis required to seek an exemption based on the cost of corrugated cardboard pallets compared to alternatives. It is unclear if the analysis can be applied at an agency level, for a specific vendor, for a specific type of goods or if it must be applied on a contract by contract basis. The analysis uses both cost and sustainability factors in the evaluation and completing the analysis could be complex and could delay our contracting processes. ODOT may not have the expertise to complete this type of analysis. For continuity, ODOT may need to rely on others, such as the Department of Administrative Services for expertise.

SUMMARY

House Bill 4089 raises a number of questions around implementation of the requirements. The department's cost to purchase goods may increase and the pool of available vendors to purchase from may be compromised. It is unclear how to complete the analysis to apply the exemption around the cost of corrugated cardboard pallets compared to alternatives. In addition, if the requirements of the bill must be applied, ensuring compliance with use of corrugated cardboard pallets throughout the vendors' supply chain for goods the department purchases would be difficult.