

## **HB 2670 STAFF MEASURE SUMMARY**

### **House Committee On Business and Labor**

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**Prepared By:** Jan Nordlund, LPRO Analyst

**Meeting Dates:** 3/22

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#### **WHAT THE MEASURE DOES:**

Requires bidder or proposer for public procurement exceeding \$100,000 to disclose violations of certain laws over past three years. Allows bidder or proposer to describe circumstances of violation and steps taken to remedy violations and improve future compliance. Requires contractor to require prospective subcontractors to make similar disclosure of violations. Requires contracting agency to consult with Attorney General or local contracting review board to determine if violations, remedies and assurances of improved compliance warrant determining bidder or propose is responsible. Requires contractor and subcontractor to update disclosure every 180 days throughout term of public contract. Allows contracting agency to consider certain actions, including termination of contract, disbarment, or disqualification. Provides rulemaking authority to Attorney General, Director of Department of Administrative Services and Director of Transportation. Becomes effective January 1, 2018. Takes effect 91st day following adjournment sine die.

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

No amendment.

#### **BACKGROUND:**

The Public Contracting Code includes three chapters: ORS 279A generally applies to all contracts, ORS 279B applies to procurements for goods and services, and ORS 279C applies to procurements for public improvements (i.e., construction projects) and architectural, engineering and related services. Some provisions of the Public Contracting Code apply to all public contracting agencies (e.g., state agencies, counties, cities, special districts, and school districts), while others apply to only state contracting agencies.

Bidders and proposers for public procurements must be determined to be responsible by the contracting agency. There are eight criteria for determining a responsible bidder or proposer for a goods and services procurement, and there are 10 for bidders on procurements for public improvement contracts. In both instances, the bidder or proposer must have a satisfactory record of integrity. To determine integrity, the contracting agency may consider, among other things, whether the bidder or proposer has previous criminal convictions for offenses related to obtaining or attempting to obtain a contract or in connection with their performance on a contract.

House Bill 2670 requires bidders and contractors on public procurements that exceed \$100,000 to disclose certain violations and steps taken to remedy and improve subsequent compliance. The contracting agency, in determining if the bidder or proposer is responsible, must determine if the violations disclosed and the description of any remedies and improvement in compliance warrant finding the bidder or proposer to have a satisfactory record of integrity and is otherwise responsible. A contractor must require any prospective subcontractor to disclose their history of certain violations. New violations during the term of the contract must be disclosed, allowing the contracting to take action such as terminate the contract, debar the contractor, or demand the contractor remedy the violation.

This Summary has not been adopted or officially endorsed by action of the committee.