

HB 3203 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 4/5

WHAT THE MEASURE DOES:

Requires contracting agency to determine whether constructing public improvement with own staff and equipment will result in least cost to agency. Requires cost analysis to be filed with Secretary of State. Permits Secretary of State to investigate contracting agency's alleged violation of Act and other statutes. Requires Secretary of State to investigate complaint made by construction contractor or trade association. Allows Secretary of State to enter final order setting forth terms of agreement between contracting agency and construction contractor or trade association. Allows party to agreement to bring civil action to enforce terms of agreement. Allows court to award actual damages to plaintiff or enjoin contracting agency from breaching terms of agreement. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 (Submitted by Rep. Clem) Replaces original measure. Differences between original measure and -1:

Assigns duties to Commissioner of Bureau of Labor and Industries instead of Secretary of State. Clarifies costs to be estimated. Clarifies public improvement projects exempt from cost analysis requirement. Limits basis on which complaint can be filed by construction contractor or trade association and on which Commission can investigate. Clarifies circumstances under which Commissioner shall require contracting agency to negotiate and enter into an agreement with construction contractor or trade association to remedy violation and prevent future violations. Modifies civil remedies available to construction contractor and trade association if agreement is breached. Eliminates emergency clause.

BACKGROUND:

Current law requires public contracting agencies to list all public improvement projects that the agency plans to fund in the upcoming budget period. For those projects on the list that the agency intends to perform with their own staff and equipment and that exceed \$125,000 in estimated costs, the agency must show that its decision conforms with the State of Oregon's policy that every effort shall be made to construct public improvements at the least cost to the contracting agency. For those projects that will be performed in-house, the contracting agency must prepare plans and specifications and the estimated unit cost of each classification of work. A full, true and accurate account of the costs to perform the work must be kept and made public. For purposes of the least-cost policy on public improvement projects, current law considers the resurfacing of a highway, road or street at a depth of two or more inches *and* at an estimated cost that exceeds \$125,000 to be a public improvement project.