

SB 416 STAFF MEASURE SUMMARY

Carrier: Rep. Fahey

House Committee On Business and Labor

Action Date: 05/10/17

Action: Do Pass.

Vote: 7-2-0-0

Yeas: 7 - Bynum, Doherty, Evans, Fahey, Hack, Holvey, Kennemer

Nays: 2 - Barreto, Heard

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Prohibits anyone, not just public agencies, from dividing public works project into more than one contract to avoid prevailing wage rate laws. Clarifies factors Commissioner of Bureau of Labor and Industries may consider in determining whether project should be divided. Clarifies requirement that every public works contract and subcontract must specify that every contractor and subcontractor, unless exempt, must file bond with Construction Contractors Board. Requires disadvantaged business enterprise, minority-owned business, woman-owned business, business owned by a service-disabled veteran, and emerging small business to post bond if it fails to pay workers prevailing wage rate. Clarifies actions that violate provisions prohibiting any person other than contractor or subcontractor from paying prevailing wage rate or fringe benefits to workers performing public works contract. Establishes that failure to pay fringe benefits and failure to pay prevailing wage rate are separate violations. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Whether it will be costly for Bureau of Labor and Industries to implement and enforce
- Whether measure will likely result in greater or lesser participation of women-owned businesses

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Bureau of Labor and Industries (BOLI) has jurisdiction over matters such as wage and hour disputes, civil rights violations, and workforce apprenticeships and training. Among its responsibilities, BOLI enforces Oregon's prevailing wage rate laws.

Under Oregon law, the hourly wage for the workers of any contractor performing a public works contract must be equal to or greater than the prevailing wage rate. BOLI sets the prevailing wage rate based upon the specific trade and region where the work is performed. Though there are exemptions, public works projects are generally covered by the state's prevailing wage rate law under the following conditions: the total project cost exceeds \$50,000; the project is for construction, reconstruction, major renovation or painting; and the project directly or indirectly uses public agency funds.

Projects on privately owned roads, highways, buildings, structures and improvements of any type are subject to prevailing wage law if the project is for construction, reconstruction, major renovation or painting and uses a

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combination of private funds and at least \$750,000 in public funds. Also subject to prevailing wage laws are construction projects in which one or more public agencies will occupy or use at least 25 percent of the project's square footage.

To ensure that wages are properly paid, the contractor and every subcontractor on a public works contract must file certified statements with the public contracting agency. The BOLI Commissioner may inspect the contractor's records at any time to determine whether the prevailing wage is actually being paid. A contractor or subcontractor found to be in violation of prevailing wage laws may be barred from receiving a public works contract or subcontract for three years. In addition, the BOLI Commissioner can assess a civil penalty of up to \$5,000 for each violation.

Senate Bill 416 clarifies and modifies the prevailing wage rate laws concerning restrictions on dividing projects into multiple contracts; modifies bond requirements for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that a service-disabled veteran owns, and emerging small businesses; provides guidance on when a surety may pay for a contractor or subcontractor; and makes failure to pay fringe benefits a separate violation from failure to pay the prevailing wage rate.