

B-Engrossed
House Bill 2162

Ordered by the Senate June 6
Including House Amendments dated April 18 and Senate Amendments
dated June 6

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires state contracting agency that awards public improvement contract with contract price of more than \$5 million to require contractor to employ apprentices to perform 10 percent of work hours on public improvement that workers in apprenticeable occupations perform. **Requires in each subcontract for which contract price exceeds lesser of \$1 million or 25 percent of price of contract that subcontractor employ apprentices to perform 10 percent of work hours that workers in apprenticeable occupations perform on subcontract.** Increases in 2022 apprentice employment requirement to 12 percent on public improvement projects with contract price of more than \$3 million *[in 2022]* and subcontracts for which contract price exceeds lesser of \$1 million or 25 percent of price of contract. Exempts Department of Transportation from requirement.

Specifies reporting requirements for contractor.

Requires Bureau of Labor and Industries to establish and provide staffing for advisory committee that monitors implementation of and compliance with Act.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to increasing apprentice utilization on public improvements for state contracting agencies;
3 and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 279C.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "Apprentice" has the meaning given that term in ORS 660.010.

8 (b) "Apprenticeable occupation" has the meaning given that term in ORS 660.010.

9 (c) "Apprenticeship agreement" has the meaning given that term in ORS 660.010.

10 (d) "Apprenticeship training program" means the total system of apprenticeship that a
11 particular local joint committee, as defined in ORS 660.010, operates, including the local joint
12 committee's registered standards and all other terms and conditions for qualifying, recruit-
13 ing, selecting, employing and training apprentices in an apprenticeable occupation.

14 (2) A state contracting agency shall provide in each public improvement contract for
15 which the contract price exceeds \$5 million that the contractor shall:

16 (a) Employ apprentices to perform 10 percent of the work hours that workers in
17 apprenticeable occupations perform on the public improvement; and

18 (b) Require in each subcontract for which the contract price exceeds the lesser of \$1
19 million or 25 percent of the price of the contract that the subcontractor employ apprentices
20 to perform 10 percent of the work hours that workers in apprenticeable occupations perform

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 on the subcontract.

2 (3) A contractor or subcontractor shall pay an apprentice for work on the public im-
3 provement at the hourly rate to which the apprentice is entitled under an apprenticeship
4 agreement or that the apprenticeship training program specifies.

5 (4) Subject to the terms of the public improvement contract, a contractor on a public
6 improvement may decide the locations in which, the types of work for which and other de-
7 tails concerning how the contractor employs apprentices for work on the public improve-
8 ment. The contractor may meet the requirement set forth in subsection (2) of this section
9 by requiring one or more subcontractors to employ apprentices for work on the public im-
10 provement.

11 (5) A contractor shall report the extent of the contractor's compliance with this section
12 to the state contracting agency on forms, with contents the state contracting agency speci-
13 fies by rule, and at regular intervals that the state contracting agency specifies in the public
14 improvement contract. The forms and the contents that the state contracting agency speci-
15 fies must include, at a minimum, a report in which the contractor provides a detailed ac-
16 counting of the total number of work hours each month and the cumulative total number
17 of work hours since the public improvement contract term began in which:

18 (a) Workers in apprenticeable occupations performed work on the public improvement;
19 and

20 (b) Apprentices performed work on the public improvement.

21 (6) At least 30 days before making any final payment to a contractor under a public im-
22 provement contract, a state contracting agency shall determine the extent of the
23 contractor's compliance with the requirement in subsection (2) of this section. The state
24 contracting agency shall base the determination on the ratio between the actual number of
25 work hours that workers in apprenticeable occupations performed on the public improvement
26 and the actual number of work hours that apprentices performed on the public improvement,
27 as shown in reports the state contracting agency receives under subsection (5) of this sec-
28 tion.

29 (7) This section does not apply to:

30 (a) The Department of Transportation or a public improvement contract that a contrac-
31 tor enters into with the department; or

32 (b) A public contract that a state contracting agency enters into under ORS 279B.080.

33 **SECTION 3.** Section 2 of this 2017 Act is amended to read:

34 **Sec. 2.** (1) As used in this section:

35 (a) "Apprentice" has the meaning given that term in ORS 660.010.

36 (b) "Apprenticeable occupation" has the meaning given that term in ORS 660.010.

37 (c) "Apprenticeship agreement" has the meaning given that term in ORS 660.010.

38 (d) "Apprenticeship training program" means the total system of apprenticeship that a particular
39 local joint committee, as defined in ORS 660.010, operates, including the local joint committee's
40 registered standards and all other terms and conditions for qualifying, recruiting, selecting, em-
41 ploying and training apprentices in an apprenticeable occupation.

42 (2) A state contracting agency shall provide in each public improvement contract for which the
43 contract price exceeds [*\$5 million*] **\$3 million** that the contractor shall:

44 (a) Employ apprentices to perform [*10*] **12** percent of the work hours that workers in
45 apprenticeable occupations perform on the public improvement; and

1 (b) Require in each subcontract for which the contract price exceeds the lesser of \$1 million or
2 25 percent of the price of the contract that the subcontractor employ apprentices to perform [10]
3 **12** percent of the work hours that workers in apprenticeable occupations perform on the subcon-
4 tract.

5 (3) A contractor or subcontractor shall pay an apprentice for work on the public improvement
6 at the hourly rate to which the apprentice is entitled under an apprenticeship agreement or that the
7 apprenticeship training program specifies.

8 (4) Subject to the terms of the public improvement contract, a contractor on a public improve-
9 ment may decide the locations in which, the types of work for which and other details concerning
10 how the contractor employs apprentices for work on the public improvement. The contractor may
11 meet the requirement set forth in subsection (2) of this section by requiring one or more subcon-
12 tractors to employ apprentices for work on the public improvement.

13 (5) A contractor shall report the extent of the contractor's compliance with this section to the
14 state contracting agency on forms, with contents the state contracting agency specifies by rule, and
15 at regular intervals that the state contracting agency specifies in the public improvement contract.
16 The forms and the contents that the state contracting agency specifies must include, at a minimum,
17 a report in which the contractor provides a detailed accounting of the total number of work hours
18 each month and the cumulative total number of work hours since the public improvement contract
19 term began in which:

20 (a) Workers in apprenticeable occupations performed work on the public improvement; and

21 (b) Apprentices performed work on the public improvement.

22 (6) At least 30 days before making any final payment to a contractor under a public improve-
23 ment contract, a state contracting agency shall determine the extent of the contractor's compliance
24 with the requirement in subsection (2) of this section. The state contracting agency shall base the
25 determination on the ratio between the actual number of work hours that workers in apprenticeable
26 occupations performed on the public improvement and the actual number of work hours that ap-
27 prentices performed on the public improvement, as shown in reports the state contracting agency
28 receives under subsection (5) of this section.

29 (7) This section does not apply to:

30 (a) The Department of Transportation or a public improvement contract that a contractor enters
31 into with the department; or

32 (b) A public contract that a state contracting agency enters into under ORS 279B.080.

33 **SECTION 4. (1) The Bureau of Labor and Industries shall establish and provide staffing**
34 **for an advisory committee to monitor the implementation of, to advise state contracting**
35 **agencies on compliance with, and to advise the Legislative Assembly on changes needed for**
36 **better implementation of the requirements set forth in section 2 of this 2017 Act.**

37 **(2) The advisory committee consists of six members appointed by the Governor for a**
38 **term of four years, with equal representation from construction contractors that have**
39 **completed public improvement contracts for the state, or from an association of con-**
40 **struction contractors, and from workers who have performed labor on public improvement**
41 **contracts for the state, or from labor organizations that represent the workers. The Gover-**
42 **nor may reappoint a member.**

43 **(3) The advisory committee may:**

44 **(a) Request reports from state contracting agencies concerning compliance with section**
45 **2 of this 2017 Act, either regularly or in instances when the advisory committee believes a**

1 state contracting agency has failed to comply;

2 (b) Conduct inspections of public improvement contract project sites to determine how
3 state contracting agencies and contractors have implemented the requirements of section 2
4 of this 2017 Act; and

5 (c) Make recommendations to the Commissioner of the Bureau of Labor and Industries
6 concerning changes that the advisory committee believes necessary to better implement the
7 requirements of section 2 of this 2017 Act.

8 (4) A majority of the members of the task force constitutes a quorum for transacting
9 business and a majority of the members of the task force must approve any official action.

10 (5) The Governor shall appoint a member to replace any member that leaves a vacancy
11 on the advisory committee. The appointment is immediately effective.

12 (6) The advisory committee shall meet at least once each calendar quarter and may adopt
13 procedures necessary to carry out the committee's functions.

14 (7) Members of the advisory committee are not entitled to compensation, but may be
15 reimbursed for actual and necessary travel and other expenses the members incur in per-
16 forming the members' official duties. The Bureau of Labor and Industries shall pay the ex-
17 penses out of funds appropriated to the bureau for the advisory committee.

18 **SECTION 5.** (1) Section 2 of this 2017 Act applies to public improvement contracts that
19 a state contracting agency other than the Department of Transportation first advertises or
20 otherwise solicits or, if the state contracting agency does not advertise or solicit the public
21 improvement contract, to public improvement contracts that the state contracting agency
22 enters into on or after the operative date specified in section 6 (1) of this 2017 Act.

23 (2) The amendments to section 2 of this 2017 Act by section 3 of this 2017 Act apply to
24 public improvement contracts that a state contracting agency other than the Department
25 of Transportation first advertises or otherwise solicits or, if the state contracting agency
26 does not advertise or solicit the public improvement contract, to public improvement con-
27 tracts that the state contracting agency enters into on or after the operative date specified
28 in section 6 (2) of this 2017 Act.

29 **SECTION 6.** (1) Section 2 of this 2017 Act becomes operative January 1, 2018.

30 (2) The amendments to section 2 of this 2017 Act by section 3 of this 2017 Act become
31 operative January 1, 2022.

32 (3) The Attorney General, the Director of the Oregon Department of Administrative
33 Services or a state contracting agency that adopts rules under ORS 279A.065 may take any
34 action before the operative date specified in subsection (1) of this section that is necessary
35 to enable the Attorney General, the director or the state contracting agency to exercise, on
36 and after the operative date specified in subsection (1) of this section, all of the duties,
37 functions and powers conferred on the Attorney General, the director or the state con-
38 tracting agency by section 2 of this 2017 Act.

39 **SECTION 7.** This 2017 Act takes effect on the 91st day after the date on which the 2017
40 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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