

Senate Bill 1045

Sponsored by Senator LINTHICUM; Senators BOQUIST, JOHNSON (at the request of Associated General Contractors, Northwest Utility Contractors Association, Oregon Building Trades Council, Oregon Pavement Association, Oregon Concrete and Asphalt Producers Association, Associated Builders and Contractors)

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 **as introduced**.

Requires contracting agency to perform analysis to determine whether constructing public improvement with contracting agency's own equipment and personnel will result in least cost to contracting agency. Specifies contents of analysis. Requires contracting agency to file analysis with Commissioner of Bureau of Labor and Industries.

Requires commissioner to investigate alleged violation of Act in response to complaint from contractor or trade association that represents contractors. Provides that if commissioner finds that contracting agency has previously violated provisions of Act, commissioner shall require contracting agency to negotiate and enter into agreement with contractor or trade association to remedy and prevent future violations. Permits commissioner to enter order that sets forth terms of agreement.

Permits party to agreement with contracting agency to bring action in court of this state to enjoin contracting agency from breaching or to compel contracting agency to comply with terms of agreement.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to an analysis required before a contracting agency constructs a public improvement with
3 the agency's own resources; creating new provisions; amending ORS 279A.010 and 279C.305; and
4 prescribing an effective date.

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

6 **SECTION 1.** ORS 279C.305 is amended to read:

7 279C.305. (1) [*It is*] The policy of the State of Oregon **is** that contracting agencies shall make
8 every effort to construct public improvements at the least cost to the contracting agency.

9 (2) Not less than 30 days [*prior to adoption of the contracting agency's*] **before adopting a** budget
10 for the subsequent budget period, each contracting agency shall prepare and file with the Commis-
11 sioner of the Bureau of Labor and Industries a list of every public improvement [*known to the con-*
12 *tracting agency*] that the contracting agency plans to fund in the budget period, identifying each
13 improvement by name and estimating the total on-site construction costs. The list [*shall*] **must** also
14 [*contain a statement as to*] **state** whether the contracting agency intends to perform the construction
15 through a private contractor. If the contracting agency intends to perform construction work using
16 the contracting agency's own equipment and personnel on a project estimated to cost more than
17 \$125,000, the contracting agency shall [*also show*] **include with the list an analysis that shows**
18 that the contracting agency's decision conforms to the policy stated in subsection (1) of this section.
19 The list [*is a*] **and the analysis are** public [*record*] **records** and **the contracting agency may pe-**
20 **riodically revise the list or analysis** [*may be revised periodically by the agency*].

21 (3) **As part of the analysis described in subsection (2) of this section, a contracting**
22 **agency shall:**

23 (a) **Estimate the cost of constructing a public improvement by contracting with a private**

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 contractor;

2 (b) Include in the contracting agency's estimate of the costs the contracting agency
3 would incur in constructing the public improvement with the contracting agency's own
4 equipment and personnel:

5 (A) The cost of labor, including all benefits, workers' compensation insurance premiums
6 and the cost of traveling to and from the site of the public improvement that the contracting
7 agency pays to or on behalf of the contracting agency's employees;

8 (B) The cost of equipment, including any costs associated with acquiring, owning, insur-
9 ing, storing, operating, repairing and maintaining the equipment and transporting the
10 equipment to and from the site of the public improvement;

11 (C) The costs of administration and overhead the contracting agency will incur, including
12 costs associated with maintaining a shop or office and the costs of insurance that the con-
13 tracting agency allocates to the public improvement;

14 (D) The cost of tools and materials;

15 (E) Costs associated with any contracts into which the contracting agency must enter;

16 (F) The reasonable value of warranties and quality control if the contracting agency
17 would require warranties and quality control of a private contractor that constructed the
18 public improvement; and

19 (G) Any other costs that the contracting agency would incur to construct the public
20 improvement with the contracting agency's own equipment and personnel; and

21 (c) Compare the cost the contracting agency estimates under paragraph (a) of this sub-
22 section with the cost the contracting agency would incur to construct the public improve-
23 ment with the contracting agency's own equipment and personnel, taking into account all
24 of the elements specified in paragraph (b) of this subsection.

25 [(3)] (4) Before a contracting agency constructs a public improvement with [its] the contracting
26 agency's own equipment or personnel, the contracting agency shall:

27 [(a) If the estimated cost exceeds \$125,000, the contracting agency shall prepare adequate plans and
28 specifications and the estimated unit cost of each classification of work. The estimated cost of the work
29 must include a reasonable allowance for the cost, including investment cost, of any equipment used.
30 As used in this paragraph, "adequate" means sufficient to control the performance of the work and to
31 ensure satisfactory quality of construction by the contracting agency personnel.]

32 (a) Prepare plans, specifications and estimates of the unit cost of each classification of
33 work that are sufficient to control the performance of the work and ensure satisfactory
34 construction quality, if the estimated cost of the public improvement exceeds \$125,000.

35 (b) [The contracting agency shall cause to be kept and preserved] Prepare and preserve a full,
36 true and accurate account of the actual costs of performing the work, including all [engineering and
37 administrative expenses and the cost, including investment costs, of any equipment used] costs de-
38 scribed in subsection (3)(b) of this section. The final account of the costs is a public record.

39 [(4)] (5) Subsections (2) [and (3)] to (4) of this section do not apply to a contracting agency
40 [when] if the public improvement is [to be used for the distribution or transmission of] for distrib-
41 uting or transmitting electric power.

42 [(5)] (6)(a) Except as provided in paragraph (b) of this subsection, for purposes of this sec-
43 tion, resurfacing [of] highways, roads or streets at a depth of two or more inches [and] or at an
44 estimated cost that exceeds \$125,000 is a public improvement.

45 (b) For purposes of this section, a public improvement does not include:

1 (A) Maintaining a road with patching, chip seals or other seals as a maintenance treat-
2 ment on highways, roads, streets or bridges; or

3 (B) Maintenance resurfacing for a single road, highway or street in different locations
4 along the road, highway or street, even if the total cost of the resurfacing exceeds \$125,000,
5 provided that the cost of resurfacing any one location on the road, highway or street does
6 not exceed \$125,000 and provided that the contracting agency does not artificially separate
7 the resurfacing project into smaller projects in order to avoid the application of this section.

8 **SECTION 2.** Section 3 of this 2017 Act is added to and made a part of ORS chapter 279C.

9 **SECTION 3.** (1)(a) A contractor that would be eligible to construct a public improvement
10 under this chapter or a trade association of contractors acting on behalf of a member of the
11 trade association may allege in a complaint to the Commissioner of the Bureau of Labor and
12 Industries that a contracting agency has violated ORS 279C.305.

13 (b) A complaint under paragraph (a) of this subsection must set forth the acts or omis-
14 sions that constitute the alleged violation. The contractor or trade association must file the
15 complaint with the commissioner within one year after the alleged violation occurred.

16 (c) A contractor or trade association may not file a complaint under this subsection if
17 the contractor or trade association has brought an action in a court of this state that alleges
18 an act or omission that is the same or substantially similar to an act or omission the con-
19 tractor or trade association would allege in the complaint. The commissioner may not act
20 on a complaint described in this paragraph.

21 (2) The commissioner shall investigate an alleged violation of ORS 279C.305. In the course
22 of an investigation under this subsection, the commissioner may:

23 (a) Compel attendance from witnesses, receive testimony and examine the witnesses un-
24 der oath;

25 (b) Require a contracting agency or an employee of a contracting agency to produce
26 books, records, files and other documents; and

27 (c) Take any other action the commissioner deems necessary to conduct the investi-
28 gation.

29 (3)(a) If after an investigation under this section the commissioner finds substantial ev-
30 idence of a violation of ORS 279C.305, the commissioner shall:

31 (A) Notify the contracting agency in writing that the commissioner has found substantial
32 evidence of a violation of ORS 279C.305, describe the nature of the violation and, if the
33 commissioner has not found a violation previously, state that for future violations, including
34 any future violations that occur during construction of the same public improvement, the
35 commissioner will require the contracting agency to negotiate and enter into an agreement
36 under paragraph (b) of this subsection.

37 (B) Provide a copy of any notice the commissioner issued under subparagraph (A) of this
38 paragraph to any contractor or trade association that filed a complaint concerning the vio-
39 lation under subsection (1) of this section.

40 (b) If the commissioner in the course of the investigation under paragraph (a) of this
41 subsection finds that the same contracting agency previously violated ORS 279C.305, the
42 commissioner shall require the contracting agency to negotiate and enter into an agreement
43 with the contractor or trade association that submitted a complaint under subsection (1) of
44 this section to remedy the violation and prevent future violations. The commissioner in an
45 order may set forth, and direct the contracting agency to comply with, the terms of the

1 **agreement.**

2 **(4)(a) If a contracting agency that is a party to an agreement set forth in accordance**
 3 **with an order of the commissioner under subsection (3)(b) of this section breaches the**
 4 **agreement, a contractor or trade association that is also a party to the agreement may bring**
 5 **an action against the contracting agency in a court of this state to:**

6 **(A) Petition the court for an injunction to prevent the contracting agency from breaching**
 7 **or continuing to breach the terms of the agreement; or**

8 **(B) Seek a writ of mandamus under ORS 34.105 to 34.240 to compel the contracting**
 9 **agency to perform an action required under the terms of the agreement.**

10 **(b) A contractor or trade association must bring an action under this subsection within**
 11 **one year after the contracting agency’s alleged breach of the agreement.**

12 **SECTION 4.** ORS 279A.010 is amended to read:

13 279A.010. (1) As used in the Public Contracting Code, unless the context or a specifically ap-
 14 plicable definition requires otherwise:

15 (a) “Bidder” means a person that submits a bid in response to an invitation to bid.

16 (b) “Contracting agency” means a public body authorized by law to conduct a procurement.
 17 “Contracting agency” includes, but is not limited to, the Director of the Oregon Department of Ad-
 18 ministrative Services and any person authorized by a contracting agency to conduct a procurement
 19 on the contracting agency’s behalf. “Contracting agency” does not include the judicial department
 20 or the legislative department.

21 (c) “Days” means calendar days.

22 (d) “Department” means the Oregon Department of Administrative Services.

23 (e) “Director” means the Director of the Oregon Department of Administrative Services or a
 24 person designated by the director to carry out the authority of the director under the Public Con-
 25 tracting Code.

26 (f) “Emergency” means circumstances that:

27 (A) Could not have been reasonably foreseen;

28 (B) Create a substantial risk of loss, damage or interruption of services or a substantial threat
 29 to property, public health, welfare or safety; and

30 (C) Require prompt execution of a contract to remedy the condition.

31 (g) “Energy savings performance contract” means a public contract between a contracting
 32 agency and a qualified energy service company for the identification, evaluation, recommendation,
 33 design and construction of energy conservation measures, including a design-build contract, that
 34 guarantee energy savings or performance.

35 (h) “Executive department” has the meaning given that term in ORS 174.112.

36 (i) “Goods” includes supplies, equipment, materials, personal property, including any tangible,
 37 intangible and intellectual property and rights and licenses in relation thereto, and combinations
 38 of any of the items identified in this paragraph.

39 (j) “Goods and services” or “goods or services” includes combinations of any of the items iden-
 40 tified in the definitions of “goods” and “services.”

41 (k)(A) “Grant” means:

42 (i) An agreement under which a contracting agency receives moneys, property or other assist-
 43 ance, including but not limited to federal assistance that is characterized as a grant by federal law
 44 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other
 45 assets, from a grantor for the purpose of supporting or stimulating a program or activity of the

1 contracting agency and in which no substantial involvement by the grantor is anticipated in the
2 program or activity other than involvement associated with monitoring compliance with the grant
3 conditions; or

4 (ii) An agreement under which a contracting agency provides moneys, property or other assist-
5 ance, including but not limited to federal assistance that is characterized as a grant by federal law
6 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other
7 assets, to a recipient for the purpose of supporting or stimulating a program or activity of the re-
8 cipient and in which no substantial involvement by the contracting agency is anticipated in the
9 program or activity other than involvement associated with monitoring compliance with the grant
10 conditions.

11 (B) "Grant" does not include a public contract for a public improvement, for public works, as
12 defined in ORS 279C.800, or for emergency work, minor alterations or ordinary repair or mainte-
13 nance necessary to preserve a public improvement, when under the public contract a contracting
14 agency pays, in consideration for contract performance intended to realize or to support the real-
15 ization of the purposes for which grant funds were provided to the contracting agency, moneys that
16 the contracting agency has received under a grant.

17 (L) "Industrial oil" means any compressor, turbine or bearing oil, hydraulic oil, metal-working
18 oil or refrigeration oil.

19 (m) "Judicial department" has the meaning given that term in ORS 174.113.

20 (n) "Legislative department" has the meaning given that term in ORS 174.114.

21 (o) "Local contract review board" means a local contract review board described in ORS
22 279A.060.

23 (p) "Local contracting agency" means a local government or special government body authorized
24 by law to conduct a procurement. "Local contracting agency" includes any person authorized by a
25 local contracting agency to conduct a procurement on behalf of the local contracting agency.

26 (q) "Local government" has the meaning given that term in ORS 174.116.

27 (r) "Lowest responsible bidder" means the lowest bidder who:

28 (A) Has substantially complied with all prescribed public contracting procedures and require-
29 ments;

30 (B) Has met the standards of responsibility set forth in ORS 279B.110 or 279C.375;

31 (C) Has not been debarred or disqualified by the contracting agency under ORS 279B.130 or
32 279C.440; and

33 (D) If the advertised contract is a public improvement contract, is not on the list created by the
34 Construction Contractors Board under ORS 701.227.

35 (s) "Lubricating oil" means any oil intended for use in an internal combustion crankcase,
36 transmission, gearbox or differential or an automobile, bus, truck, vessel, plane, train, heavy equip-
37 ment or machinery powered by an internal combustion engine.

38 (t) "Person" means a natural person capable of being legally bound, a sole proprietorship, a
39 corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-
40 profit or nonprofit unincorporated association, a business trust, two or more persons having a joint
41 or common economic interest, any other person with legal capacity to contract or a public body.

42 (u) "Post-consumer waste" means a finished material that would normally be disposed of as solid
43 waste, having completed its life cycle as a consumer item. "Post-consumer waste" does not include
44 manufacturing waste.

45 (v) "Price agreement" means a public contract for the procurement of goods or services at a set

1 price with:

2 (A) No guarantee of a minimum or maximum purchase; or

3 (B) An initial order or minimum purchase combined with a continuing contractor obligation to
4 provide goods or services in which the contracting agency does not guarantee a minimum or maxi-
5 mum additional purchase.

6 (w) "Procurement" means the act of purchasing, leasing, renting or otherwise acquiring goods
7 or services. "Procurement" includes each function and procedure undertaken or required to be
8 undertaken by a contracting agency to enter into a public contract, administer a public contract and
9 obtain the performance of a public contract under the Public Contracting Code.

10 (x) "Proposer" means a person that submits a proposal in response to a request for proposals.

11 (y) "Public body" has the meaning given that term in ORS 174.109.

12 (z) "Public contract" means a sale or other disposal, or a purchase, lease, rental or other ac-
13 quisition, by a contracting agency of personal property, services, including personal services, public
14 improvements, public works, minor alterations, or ordinary repair or maintenance necessary to pre-
15 serve a public improvement. "Public contract" does not include grants.

16 (aa) "Public contracting" means procurement activities described in the Public Contracting Code
17 relating to obtaining, modifying or administering public contracts or price agreements.

18 (bb) "Public Contracting Code" or "code" means ORS chapters 279A, 279B and 279C.

19 (cc) "Public improvement" means a project for construction, reconstruction or major renovation
20 on real property by or for a contracting agency. "Public improvement" does not include:

21 (A) Projects for which no funds of a contracting agency are directly or indirectly used, except
22 for participation that is incidental or related primarily to project design or inspection; or

23 (B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a
24 public improvement.

25 (dd) "Public improvement contract" means a public contract for a public improvement. "Public
26 improvement contract" does not include a public contract for emergency work, minor alterations,
27 or ordinary repair or maintenance necessary to preserve a public improvement.

28 (ee) "Recycled material" means any material that would otherwise be a useless, unwanted or
29 discarded material except for the fact that the material still has useful physical or chemical prop-
30 erties after serving a specific purpose and can, therefore, be reused or recycled.

31 (ff) "Recycled oil" means used oil that has been prepared for reuse as a petroleum product by
32 refining, rerefining, reclaiming, reprocessing or other means, provided that the preparation or use
33 is operationally safe, environmentally sound and complies with all laws and regulations.

34 (gg) "Recycled paper" means a paper product with not less than:

35 (A) Fifty percent of its fiber weight consisting of secondary waste materials; or

36 (B) Twenty-five percent of its fiber weight consisting of post-consumer waste.

37 (hh) "Recycled PETE" means post-consumer polyethylene terephthalate material.

38 (ii) "Recycled product" means all materials, goods and supplies, not less than 50 percent of the
39 total weight of which consists of secondary and post-consumer waste with not less than 10 percent
40 of its total weight consisting of post-consumer waste. "Recycled product" includes any product that
41 could have been disposed of as solid waste, having completed its life cycle as a consumer item, but
42 otherwise is refurbished for reuse without substantial alteration of the product's form.

43 (jj) "Secondary waste materials" means fragments of products or finished products of a manu-
44 facturing process that has converted a virgin resource into a commodity of real economic value.
45 "Secondary waste materials" includes post-consumer waste. "Secondary waste materials" does not

1 include excess virgin resources of the manufacturing process. For paper, “secondary waste
 2 materials” does not include fibrous waste generated during the manufacturing process such as fibers
 3 recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips,
 4 sawdust or other wood residue from a manufacturing process.

5 (kk) “Services” mean services other than personal services designated under ORS 279A.055, ex-
 6 cept that, for state contracting agencies with procurement authority under ORS 279A.050 or
 7 279A.140, “services” includes personal services as designated by the state contracting agencies.

8 (LL) “Special government body” has the meaning given that term in ORS 174.117.

9 (mm) “State agency” means the executive department, except the Secretary of State and the
 10 State Treasurer in the performance of the duties of their constitutional offices.

11 (nn) “State contracting agency” means an executive department entity authorized by law to
 12 conduct a procurement.

13 (oo) “State government” has the meaning given that term in ORS 174.111.

14 (pp) “Used oil” has the meaning given that term in ORS 459A.555.

15 (qq) “Virgin oil” means oil that has been refined from crude oil and that has not been used or
 16 contaminated with impurities.

17 (2) Other definitions appearing in the Public Contracting Code and the sections in which they
 18 appear are:

19		
20	[(a)]	“Adequate”ORS 279C.305]
21	[(b)] (a)	“Administering contracting
22		agency”ORS 279A.200
23	[(c)] (b)	“Affirmative action”ORS 279A.100
24	[(d)] (c)	“Architect”ORS 279C.100
25	[(e)] (d)	“Architectural,
26		engineering, photogram-
27		metric mapping,
28		transportation planning
29		or land surveying
30		services”ORS 279C.100
31	[(f)] (e)	“Bid documents”ORS 279C.400
32	[(g)] (f)	“Bidder”ORS 279B.415
33	[(h)] (g)	“Bids”ORS 279C.400
34	[(i)] (h)	“Brand name”ORS 279B.405
35	[(j)] (i)	“Brand name or equal
36		specification”ORS 279B.200
37	[(k)] (j)	“Brand name
38		specification”ORS 279B.200
39	[(L)] (k)	“Class special
40		procurement”ORS 279B.085
41	[(m)] (L)	“Consultant”ORS 279C.115
42	[(n)] (m)	“Contract-specific
43		special procurement”ORS 279B.085
44	[(o)] (n)	“Cooperative
45		procurement”ORS 279A.200

1	[(p)] (o)	“Cooperative procurement
2		group”ORS 279A.200
3	[(q)] (p)	“Donee”ORS 279A.250
4	[(r)] (q)	“Engineer”ORS 279C.100
5	[(s)] (r)	“Findings”ORS 279C.330
6	[(t)] (s)	“Fire protection
7		equipment”ORS 279A.190
8	[(u)] (t)	“Fringe benefits”ORS 279C.800
9	[(v)] (u)	“Funds of a public
10		agency”ORS 279C.810
11	[(w)] (v)	“Good cause”ORS 279C.585
12	[(x)] (w)	“Good faith dispute”ORS 279C.580
13	[(y)] (x)	“Goods”ORS 279B.115
14	[(z)] (y)	“Housing”ORS 279C.800
15	[(aa)] (z)	“Interstate cooperative
16		procurement”ORS 279A.200
17	[(bb)] (aa)	“Invitation to bid”ORS 279B.005
18	and 279C.400
19	[(cc)] (bb)	“Joint cooperative
20		procurement”ORS 279A.200
21	[(dd)] (cc)	“Labor dispute”ORS 279C.650
22	[(ee)] (dd)	“Land surveyor”ORS 279C.100
23	[(ff)] (ee)	“Legally flawed”ORS 279B.405
24	[(gg)] (ff)	“Locality”ORS 279C.800
25	[(hh)] (gg)	“Nonprofit
26		organization”ORS 279C.810
27	[(ii)] (hh)	“Nonresident bidder”ORS 279A.120
28	[(jj)] (ii)	“Not-for-profit
29		organization”ORS 279A.250
30	[(kk)] (jj)	“Original contract”ORS 279A.200
31	[(LL)] (kk)	“Permissive cooperative
32		procurement”ORS 279A.200
33	[(mm)] (LL)	“Person”ORS 279C.500
34	and 279C.815
35	[(nn)] (mm)	“Personal services”ORS 279C.100
36	[(oo)] (nn)	“Photogrammetric
37		mapping”ORS 279C.100
38	[(pp)] (oo)	“Photogrammetrist”ORS 279C.100
39	[(qq)] (pp)	“Prevailing rate of
40		wage”ORS 279C.800
41	[(rr)] (qq)	“Procurement
42		description”ORS 279B.005
43	[(ss)] (rr)	“Property”ORS 279A.250
44	[(tt)] (ss)	“Public agency”ORS 279C.800
45	[(uu)] (tt)	“Public contract”ORS 279A.190

1	[(vv)] (uu)	“Public works”.....ORS 279C.800
2	[(ww)] (vv)	“Purchasing contracting
3		agency”.....ORS 279A.200
4	[(xx)] (ww)	“Regularly organized fire
5		department”.....ORS 279A.190
6	[(yy)] (xx)	“Related services”.....ORS 279C.100
7	[(zz)] (yy)	“Request for
8		proposals”.....ORS 279B.005
9	[(aaa)] (zz)	“Resident bidder”.....ORS 279A.120
10	[(bbb)] (aaa)	“Responsible bidder”.....ORS 279A.105
11	and 279B.005
12	[(ccc)] (bbb)	“Responsible
13		proposer”.....ORS 279B.005
14	[(ddd)] (ccc)	“Responsive bid”.....ORS 279B.005
15	[(eee)] (ddd)	“Responsive
16		proposal”.....ORS 279B.005
17	[(fff)] (eee)	“Retainage”.....ORS 279C.550
18	[(ggg)] (fff)	“Special
19		procurement”.....ORS 279B.085
20	[(hhh)] (ggg)	“Specification”.....ORS 279B.200
21	[(iii)] (hhh)	“State agency”.....ORS 279A.250
22	[(jjj)] (iii)	“Substantial
23		completion”.....ORS 279C.465
24	[(kkk)] (jjj)	“Surplus property”.....ORS 279A.250
25	[(LLL)] (kkk)	“Transportation
26		planning services”.....ORS 279C.100
27	[(mmm)] (LLL)	“Unnecessarily
28		restrictive”.....ORS 279B.405

29 **SECTION 5.** Section 3 of this 2017 Act and the amendments to ORS 279A.010 and 279C.305
 30 by sections 1 and 4 of this 2017 Act apply to procurements that a contracting agency first
 31 advertises or otherwise solicits or, if the contracting agency does not advertise or solicit the
 32 procurement, to a public contract that a contracting agency enters into on or after the op-
 33 erative date specified in section 6 of this 2017 Act.

34 **SECTION 6.** (1) Section 3 of this 2017 Act and the amendments to ORS 279A.010 and
 35 279C.305 by sections 1 and 4 of this 2017 Act become operative on January 1, 2018.

36 (2) The Commissioner of the Bureau of Labor and Industries, the Attorney General, the
 37 Director of the Oregon Department of Administrative Services, the Director of Transporta-
 38 tion or a contracting agency that adopts rules under ORS 279A.065 may adopt rules and take
 39 any other action before the operative date specified in subsection (1) of this section that is
 40 necessary to enable the commissioner, the Attorney General, the director or the contracting
 41 agency to exercise all of the duties, functions and powers conferred on the commissioner,
 42 the Attorney General, the director or the contracting agency by section 3 of this 2017 Act
 43 and the amendments to ORS 279A.010 and 279C.305 by section 1 and 4 of this 2017 Act.

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

