

Requested by Representative SMITH WARNER

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3203**

1 On page 1 of the printed A-engrossed bill, delete lines 6 through 17 and  
2 delete pages 2 through 10 and insert:

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

4 “279C.305. (1) *[It is]* The policy of the State of Oregon **is** that contracting  
5 agencies shall make every effort to construct public improvements at the  
6 least cost to the contracting agency.

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

1       “(b) If the contracting agency intends to use the contracting  
2 agency’s own equipment or personnel to perform construction work  
3 on a public improvement, and the estimated value of the construction  
4 work that the contracting agency intends to perform with the con-  
5 tracting agency’s own equipment or personnel exceeds \$200,000, the  
6 contracting agency shall file with the commissioner not later than 180  
7 days before construction begins on the public improvement an analysis  
8 that shows that the contracting agency’s decision conforms to the  
9 policy stated in subsection (1) of this section. The list and the analysis  
10 are public records and the contracting agency may periodically revise  
11 the list or analysis.

12       “(3) As part of the analysis required under subsection (2)(b) of this  
13 section, a contracting agency shall:

14       “(a) Estimate the cost of contracting with a private contractor to  
15 construct the public improvement, including in the estimate all nec-  
16 essary and related costs that the private contractor would incur to  
17 construct the public improvement;

18       “(b) Estimate the costs the contracting agency would incur in con-  
19 structing the public improvement with the contracting agency’s own  
20 equipment or personnel and include in the estimate:

21       “(A) The cost of labor, including all benefits the contracting agency  
22 pays to or on behalf of employees of the contracting agency who will  
23 work on the public improvement, workers’ compensation insurance  
24 premiums and the cost of traveling to and from the site of the public  
25 improvement;

26       “(B) The cost of equipment, including costs associated with leasing,  
27 renting or acquiring and owning the equipment, costs for transporting  
28 the equipment to and from the site of the public improvement, costs  
29 for depreciation and costs for insuring, operating, storing, repairing  
30 and maintaining the equipment;

1       “(C) The costs of administration and overhead the contracting  
2 agency will incur, including insurance, shop and office costs that are  
3 allocable to the public improvement;

4       “(D) The cost of tools and materials;

5       “(E) The costs associated with any contracts into which the con-  
6 tracting agency must enter;

7       “(F) The commercially reasonable value of quality control testing  
8 if the contracting agency would require a private contractor that  
9 constructed the public improvement to undergo quality control test-  
10 ing; and

11       “(G) Any other necessary and related costs that the contracting  
12 agency will incur to construct the public improvement with the con-  
13 tracting agency’s own equipment or personnel; and

14       “(c) Compare the cost the contracting agency estimates under par-  
15 agraph (a) of this subsection with the cost the contracting agency es-  
16 timates under paragraph (b) of this subsection.

17       “[(3)] (4)(a) Before a contracting agency constructs a public improvement  
18 with [its] the contracting agency’s own equipment or personnel[:], the  
19 contracting agency shall prepare plans, specifications and estimates  
20 of the unit cost of each classification of construction work that are  
21 sufficient to control the performance of the construction work and  
22 ensure satisfactory construction quality, if the estimated value of the  
23 construction work that the contracting agency will perform with the  
24 contracting agency’s equipment or personnel exceeds \$200,000.

25       “[(a) If the estimated cost exceeds \$125,000, the contracting agency shall  
26 prepare adequate plans and specifications and the estimated unit cost of each  
27 classification of work. The estimated cost of the work must include a reason-  
28 able allowance for the cost, including investment cost, of any equipment used.  
29 As used in this paragraph, ‘adequate’ means sufficient to control the perform-  
30 ance of the work and to ensure satisfactory quality of construction by the

1 *contracting agency personnel.*]

2 “(b) The contracting agency shall [*cause to be kept and preserved*] **prepare**  
3 **and preserve** a full, true and accurate account of the **actual** costs of per-  
4 forming the **construction** work, including all [*engineering and administra-*  
5 *tive expenses and the cost, including investment costs, of any equipment used*]  
6 **categories of costs described in subsection (3)(b) of this section.** The  
7 final account of the costs is a public record.

8 “[~~4~~] **(5)** Subsections (2) [*and (3)*] **to (4)** of this section do not apply to  
9 a contracting agency [*when*] **if:**

10 “**(a)** The public improvement is [*to be used for the distribution or trans-*  
11 *mission of*] **for distributing or transmitting** electric power[.]; **or**

12 “**(b)** **The contracting agency did not receive a responsive quotation**  
13 **for constructing the public improvement from a responsible bidder or**  
14 **proposer after soliciting quotes for constructing the public improve-**  
15 **ment, if the solicitation:**

16 “**(A)** **Occurred within one year before the date on which con-**  
17 **struction began; and**

18 “**(B)** **Allowed a commercially reasonable time in which to perform**  
19 **the construction.**

20 “[~~5~~] **(6)(a)** **Except as provided in paragraph (b) of this subsection,**  
21 for purposes of this section, resurfacing [*of*] highways, roads or streets at a  
22 depth of two or more inches and at an estimated cost that exceeds  
23 [~~\$125,000~~] **\$175,000** is a public improvement.

24 “**(b)** **A public improvement does not include:**

25 “**(A)** **Maintenance patching, chip seals or other seals as a mainte-**  
26 **nance treatment on highways, roads, streets or bridges; or**

27 “**(B)** **Maintenance resurfacing for a single road, highway or street**  
28 **if the total cost of the resurfacing exceeds \$175,000 but is less than**  
29 **\$750,000, provided that the cost of resurfacing any one location on the**  
30 **road, highway or street does not exceed \$175,000 and provided that the**

1 **contracting agency does not artificially separate the resurfacing into**  
2 **smaller projects in order to avoid the application of this section.**

3 **“SECTION 2.** ORS 279C.305, as amended by section 1 of this 2017 Act,  
4 is amended to read:

5 “279C.305. (1) The policy of the State of Oregon is that contracting  
6 agencies shall make every effort to construct public improvements at the  
7 least cost to the contracting agency.

8 “(2)(a) Not less than 30 days before adopting a budget for the subsequent  
9 budget period or before starting to construct a public improvement, each  
10 contracting agency shall prepare and file with the Commissioner of the Bu-  
11 reau of Labor and Industries a list of every public improvement that the  
12 contracting agency plans to fund in the budget period, identifying each im-  
13 provement by name and estimating the total on-site construction costs. The  
14 list must also state whether the contracting agency intends to perform the  
15 construction through a private contractor.

16 “(b) If the contracting agency intends to use the contracting agency’s own  
17 equipment or personnel to perform construction work on a public improve-  
18 ment, and the estimated value of the construction work that the contracting  
19 agency intends to perform with the contracting agency’s own equipment or  
20 personnel exceeds [~~\$200,000~~] **\$225,000**, the contracting agency shall file with  
21 the commissioner not later than 180 days before construction begins on the  
22 public improvement an analysis that shows that the contracting agency’s  
23 decision conforms to the policy stated in subsection (1) of this section. The  
24 list and the analysis are public records and the contracting agency may pe-  
25 riodically revise the list or analysis.

26 “(3) As part of the analysis required under subsection (2)(b) of this sec-  
27 tion, a contracting agency shall:

28 “(a) Estimate the cost of contracting with a private contractor to con-  
29 struct the public improvement, including in the estimate all necessary and  
30 related costs that the private contractor would incur to construct the public

1 improvement;

2 “(b) Estimate the costs the contracting agency would incur in construct-  
3 ing the public improvement with the contracting agency’s own equipment or  
4 personnel and include in the estimate:

5 “(A) The cost of labor, including all benefits the contracting agency pays  
6 to or on behalf of employees of the contracting agency who will work on the  
7 public improvement, workers’ compensation insurance premiums and the cost  
8 of traveling to and from the site of the public improvement;

9 “(B) The cost of equipment, including costs associated with leasing,  
10 renting or acquiring and owning the equipment, costs for transporting the  
11 equipment to and from the site of the public improvement, costs for depre-  
12 ciation and costs for insuring, operating, storing, repairing and maintaining  
13 the equipment;

14 “(C) The costs of administration and overhead the contracting agency will  
15 incur, including insurance, shop and office costs that are allocable to the  
16 public improvement;

17 “(D) The cost of tools and materials;

18 “(E) The costs associated with any contracts into which the contracting  
19 agency must enter;

20 “(F) The commercially reasonable value of quality control testing if the  
21 contracting agency would require a private contractor that constructed the  
22 public improvement to undergo quality control testing; and

23 “(G) Any other necessary and related costs that the contracting agency  
24 will incur to construct the public improvement with the contracting agency’s  
25 own equipment or personnel; and

26 “(c) Compare the cost the contracting agency estimates under paragraph  
27 (a) of this subsection with the cost the contracting agency estimates under  
28 paragraph (b) of this subsection.

29 “(4)(a) Before a contracting agency constructs a public improvement with  
30 the contracting agency’s own equipment or personnel, the contracting agency

1 shall prepare plans, specifications and estimates of the unit cost of each  
2 classification of construction work that are sufficient to control the per-  
3 formance of the construction work and ensure satisfactory construction  
4 quality, if the estimated value of the construction work that the contracting  
5 agency will perform with the contracting agency's equipment or personnel  
6 exceeds [~~\$200,000~~] **\$225,000**.

7 “(b) The contracting agency shall prepare and preserve a full, true and  
8 accurate account of the actual costs of performing the construction work,  
9 including all categories of costs described in subsection (3)(b) of this section.  
10 The final account of the costs is a public record.

11 “(5) Subsections (2) to (4) of this section do not apply to a contracting  
12 agency if:

13 “(a) The public improvement is for distributing or transmitting electric  
14 power; or

15 “(b) The contracting agency did not receive a responsive quotation for  
16 constructing the public improvement from a responsible bidder or proposer  
17 after soliciting quotes for constructing the public improvement, if the solici-  
18 tation:

19 “(A) Occurred within one year before the date on which construction be-  
20 gan; and

21 “(B) Allowed a commercially reasonable time in which to perform the  
22 construction.

23 “(6)(a) Except as provided in paragraph (b) of this subsection, for purposes  
24 of this section, resurfacing highways, roads or streets at a depth of two or  
25 more inches and at an estimated cost that exceeds [~~\$175,000~~] **\$193,750** is a  
26 public improvement.

27 “(b) A public improvement does not include:

28 “(A) Maintenance patching, chip seals or other seals as a maintenance  
29 treatment on highways, roads, streets or bridges; or

30 “(B) Maintenance resurfacing for a single road, highway or street if the

1 total cost of the resurfacing exceeds [*\$175,000*] **\$193,750** but is less than  
2 [*\$750,000*] **\$1,062,500**, provided that the cost of resurfacing any one location  
3 on the road, highway or street does not exceed [*\$175,000*] **\$193,750** and pro-  
4 vided that the contracting agency does not artificially separate the resur-  
5 facing into smaller projects in order to avoid the application of this section.

6 **“SECTION 3.** ORS 279C.305, as amended by sections 1 and 2 of this 2017  
7 Act, is amended to read:

8 “279C.305. (1) The policy of the State of Oregon is that contracting  
9 agencies shall make every effort to construct public improvements at the  
10 least cost to the contracting agency.

11 “(2)(a) Not less than 30 days before adopting a budget for the subsequent  
12 budget period or before starting to construct a public improvement, each  
13 contracting agency shall prepare and file with the Commissioner of the Bu-  
14 reau of Labor and Industries a list of every public improvement that the  
15 contracting agency plans to fund in the budget period, identifying each im-  
16 provement by name and estimating the total on-site construction costs. The  
17 list must also state whether the contracting agency intends to perform the  
18 construction through a private contractor.

19 “(b) If the contracting agency intends to use the contracting agency’s own  
20 equipment or personnel to perform construction work on a public improve-  
21 ment, and the estimated value of the construction work that the contracting  
22 agency intends to perform with the contracting agency’s own equipment or  
23 personnel exceeds [*\$225,000*] **\$250,000**, the contracting agency shall file with  
24 the commissioner not later than 180 days before construction begins on the  
25 public improvement an analysis that shows that the contracting agency’s  
26 decision conforms to the policy stated in subsection (1) of this section. The  
27 list and the analysis are public records and the contracting agency may pe-  
28 riodically revise the list or analysis.

29 “(3) As part of the analysis required under subsection (2)(b) of this sec-  
30 tion, a contracting agency shall:



1       “(a) Estimate the cost of contracting with a private contractor to con-  
2 struct the public improvement, including in the estimate all necessary and  
3 related costs that the private contractor would incur to construct the public  
4 improvement;

5       “(b) Estimate the costs the contracting agency would incur in construct-  
6 ing the public improvement with the contracting agency’s own equipment or  
7 personnel and include in the estimate:

8       “(A) The cost of labor, including all benefits the contracting agency pays  
9 to or on behalf of employees of the contracting agency who will work on the  
10 public improvement, workers’ compensation insurance premiums and the cost  
11 of traveling to and from the site of the public improvement;

12       “(B) The cost of equipment, including costs associated with leasing,  
13 renting or acquiring and owning the equipment, costs for transporting the  
14 equipment to and from the site of the public improvement, costs for depre-  
15 ciation and costs for insuring, operating, storing, repairing and maintaining  
16 the equipment;

17       “(C) The costs of administration and overhead the contracting agency will  
18 incur, including insurance, shop and office costs that are allocable to the  
19 public improvement;

20       “(D) The cost of tools and materials;

21       “(E) The costs associated with any contracts into which the contracting  
22 agency must enter;

23       “(F) The commercially reasonable value of quality control testing if the  
24 contracting agency would require a private contractor that constructed the  
25 public improvement to undergo quality control testing; and

26       “(G) Any other necessary and related costs that the contracting agency  
27 will incur to construct the public improvement with the contracting agency’s  
28 own equipment or personnel; and

29       “(c) Compare the cost the contracting agency estimates under paragraph  
30 (a) of this subsection with the cost the contracting agency estimates under

1 paragraph (b) of this subsection.

2 “(4)(a) Before a contracting agency constructs a public improvement with  
3 the contracting agency’s own equipment or personnel, the contracting agency  
4 shall prepare plans, specifications and estimates of the unit cost of each  
5 classification of construction work that are sufficient to control the per-  
6 formance of the construction work and ensure satisfactory construction  
7 quality, if the estimated value of the construction work that the contracting  
8 agency will perform with the contracting agency’s equipment or personnel  
9 exceeds [~~\$225,000~~] **\$250,000**.

10 “(b) The contracting agency shall prepare and preserve a full, true and  
11 accurate account of the actual costs of performing the construction work,  
12 including all categories of costs described in subsection (3)(b) of this section.  
13 The final account of the costs is a public record.

14 “(5) Subsections (2) to (4) of this section do not apply to a contracting  
15 agency if:

16 “(a) The public improvement is for distributing or transmitting electric  
17 power; or

18 “(b) The contracting agency did not receive a responsive quotation for  
19 constructing the public improvement from a responsible bidder or proposer  
20 after soliciting quotes for constructing the public improvement, if the solici-  
21 tation:

22 “(A) Occurred within one year before the date on which construction be-  
23 gan; and

24 “(B) Allowed a commercially reasonable time in which to perform the  
25 construction.

26 “(6)(a) Except as provided in paragraph (b) of this subsection, for purposes  
27 of this section, resurfacing highways, roads or streets at a depth of two or  
28 more inches and at an estimated cost that exceeds [~~\$193,750~~] **\$212,500** is a  
29 public improvement.

30 “(b) A public improvement does not include:

1 “(A) Maintenance patching, chip seals or other seals as a maintenance  
2 treatment on highways, roads, streets or bridges; or

3 “(B) Maintenance resurfacing for a single road, highway or street if the  
4 total cost of the resurfacing exceeds [~~\$193,750~~] **\$212,500** but is less than  
5 [~~\$1,062,500~~] **\$1,375,000**, provided that the cost of resurfacing any one location  
6 on the road, highway or street does not exceed [~~\$193,750~~] **\$212,500** and pro-  
7 vided that the contracting agency does not artificially separate the resur-  
8 facing into smaller projects in order to avoid the application of this section.

9 **“SECTION 4.** ORS 279C.305, as amended by sections 1, 2 and 3 of this  
10 2017 Act, is amended to read:

11 “279C.305. (1) The policy of the State of Oregon is that contracting  
12 agencies shall make every effort to construct public improvements at the  
13 least cost to the contracting agency.

14 “(2)(a) Not less than 30 days before adopting a budget for the subsequent  
15 budget period or before starting to construct a public improvement, each  
16 contracting agency shall prepare and file with the Commissioner of the Bu-  
17 reau of Labor and Industries a list of every public improvement that the  
18 contracting agency plans to fund in the budget period, identifying each im-  
19 provement by name and estimating the total on-site construction costs. The  
20 list must also state whether the contracting agency intends to perform the  
21 construction through a private contractor.

22 “(b) If the contracting agency intends to use the contracting agency’s own  
23 equipment or personnel to perform construction work on a public improve-  
24 ment, and the estimated value of the construction work that the contracting  
25 agency intends to perform with the contracting agency’s own equipment or  
26 personnel exceeds [~~\$250,000~~] **\$275,000**, the contracting agency shall file with  
27 the commissioner not later than 180 days before construction begins on the  
28 public improvement an analysis that shows that the contracting agency’s  
29 decision conforms to the policy stated in subsection (1) of this section. The  
30 list and the analysis are public records and the contracting agency may pe-

1 riodically revise the list or analysis.

2 “(3) As part of the analysis required under subsection (2)(b) of this sec-  
3 tion, a contracting agency shall:

4 “(a) Estimate the cost of contracting with a private contractor to con-  
5 struct the public improvement, including in the estimate all necessary and  
6 related costs that the private contractor would incur to construct the public  
7 improvement;

8 “(b) Estimate the costs the contracting agency would incur in construct-  
9 ing the public improvement with the contracting agency’s own equipment or  
10 personnel and include in the estimate:

11 “(A) The cost of labor, including all benefits the contracting agency pays  
12 to or on behalf of employees of the contracting agency who will work on the  
13 public improvement, workers’ compensation insurance premiums and the cost  
14 of traveling to and from the site of the public improvement;

15 “(B) The cost of equipment, including costs associated with leasing,  
16 renting or acquiring and owning the equipment, costs for transporting the  
17 equipment to and from the site of the public improvement, costs for depre-  
18 ciation and costs for insuring, operating, storing, repairing and maintaining  
19 the equipment;

20 “(C) The costs of administration and overhead the contracting agency will  
21 incur, including insurance, shop and office costs that are allocable to the  
22 public improvement;

23 “(D) The cost of tools and materials;

24 “(E) The costs associated with any contracts into which the contracting  
25 agency must enter;

26 “(F) The commercially reasonable value of quality control testing if the  
27 contracting agency would require a private contractor that constructed the  
28 public improvement to undergo quality control testing; and

29 “(G) Any other necessary and related costs that the contracting agency  
30 will incur to construct the public improvement with the contracting agency’s

1 own equipment or personnel; and

2 “(c) Compare the cost the contracting agency estimates under paragraph  
3 (a) of this subsection with the cost the contracting agency estimates under  
4 paragraph (b) of this subsection.

5 “(4)(a) Before a contracting agency constructs a public improvement with  
6 the contracting agency’s own equipment or personnel, the contracting agency  
7 shall prepare plans, specifications and estimates of the unit cost of each  
8 classification of construction work that are sufficient to control the per-  
9 formance of the construction work and ensure satisfactory construction  
10 quality, if the estimated value of the construction work that the contracting  
11 agency will perform with the contracting agency’s equipment or personnel  
12 exceeds [~~\$250,000~~] **\$275,000**.

13 “(b) The contracting agency shall prepare and preserve a full, true and  
14 accurate account of the actual costs of performing the construction work,  
15 including all categories of costs described in subsection (3)(b) of this section.  
16 The final account of the costs is a public record.

17 “(5) Subsections (2) to (4) of this section do not apply to a contracting  
18 agency if:

19 “(a) The public improvement is for distributing or transmitting electric  
20 power; or

21 “(b) The contracting agency did not receive a responsive quotation for  
22 constructing the public improvement from a responsible bidder or proposer  
23 after soliciting quotes for constructing the public improvement, if the solic-  
24 itation:

25 “(A) Occurred within one year before the date on which construction be-  
26 gan; and

27 “(B) Allowed a commercially reasonable time in which to perform the  
28 construction.

29 “(6)(a) Except as provided in paragraph (b) of this subsection, for purposes  
30 of this section, resurfacing highways, roads or streets at a depth of two or

1 more inches and at an estimated cost that exceeds [~~\$212,500~~] **\$231,250** is a  
2 public improvement.

3 “(b) A public improvement does not include:

4 “(A) Maintenance patching, chip seals or other seals as a maintenance  
5 treatment on highways, roads, streets or bridges; or

6 “(B) Maintenance resurfacing for a single road, highway or street if the  
7 total cost of the resurfacing exceeds [~~\$212,500~~] **\$231,250** but is less than  
8 [~~\$1,375,000~~] **\$1,687,500**, provided that the cost of resurfacing any one location  
9 on the road, highway or street does not exceed [~~\$212,500~~] **\$231,250** and pro-  
10 vided that the contracting agency does not artificially separate the resur-  
11 facing into smaller projects in order to avoid the application of this section.

12 **“SECTION 5.** ORS 279C.305, as amended by sections 1, 2, 3 and 4 of this  
13 2017 Act, is amended to read:

14 “279C.305. (1) The policy of the State of Oregon is that contracting  
15 agencies shall make every effort to construct public improvements at the  
16 least cost to the contracting agency.

17 “(2)(a) Not less than 30 days before adopting a budget for the subsequent  
18 budget period or before starting to construct a public improvement, each  
19 contracting agency shall prepare and file with the Commissioner of the Bu-  
20 reau of Labor and Industries a list of every public improvement that the  
21 contracting agency plans to fund in the budget period, identifying each im-  
22 provement by name and estimating the total on-site construction costs. The  
23 list must also state whether the contracting agency intends to perform the  
24 construction through a private contractor.

25 “(b) If the contracting agency intends to use the contracting agency’s own  
26 equipment or personnel to perform construction work on a public improve-  
27 ment, and the estimated value of the construction work that the contracting  
28 agency intends to perform with the contracting agency’s own equipment or  
29 personnel exceeds [~~\$275,000~~] **\$300,000**, the contracting agency shall file with  
30 the commissioner not later than 180 days before construction begins on the

1 public improvement an analysis that shows that the contracting agency's  
2 decision conforms to the policy stated in subsection (1) of this section. The  
3 list and the analysis are public records and the contracting agency may pe-  
4 riodically revise the list or analysis.

5 “(3) As part of the analysis required under subsection (2)(b) of this sec-  
6 tion, a contracting agency shall:

7 “(a) Estimate the cost of contracting with a private contractor to con-  
8 struct the public improvement, including in the estimate all necessary and  
9 related costs that the private contractor would incur to construct the public  
10 improvement;

11 “(b) Estimate the costs the contracting agency would incur in construct-  
12 ing the public improvement with the contracting agency's own equipment or  
13 personnel and include in the estimate:

14 “(A) The cost of labor, including all benefits the contracting agency pays  
15 to or on behalf of employees of the contracting agency who will work on the  
16 public improvement, workers' compensation insurance premiums and the cost  
17 of traveling to and from the site of the public improvement;

18 “(B) The cost of equipment, including costs associated with leasing,  
19 renting or acquiring and owning the equipment, costs for transporting the  
20 equipment to and from the site of the public improvement, costs for depre-  
21 ciation and costs for insuring, operating, storing, repairing and maintaining  
22 the equipment;

23 “(C) The costs of administration and overhead the contracting agency will  
24 incur, including insurance, shop and office costs that are allocable to the  
25 public improvement;

26 “(D) The cost of tools and materials;

27 “(E) The costs associated with any contracts into which the contracting  
28 agency must enter;

29 “(F) The commercially reasonable value of quality control testing if the  
30 contracting agency would require a private contractor that constructed the

1 public improvement to undergo quality control testing; and

2 “(G) Any other necessary and related costs that the contracting agency  
3 will incur to construct the public improvement with the contracting agency’s  
4 own equipment or personnel; and

5 “(c) Compare the cost the contracting agency estimates under paragraph  
6 (a) of this subsection with the cost the contracting agency estimates under  
7 paragraph (b) of this subsection.

8 “(4)(a) Before a contracting agency constructs a public improvement with  
9 the contracting agency’s own equipment or personnel, the contracting agency  
10 shall prepare plans, specifications and estimates of the unit cost of each  
11 classification of construction work that are sufficient to control the per-  
12 formance of the construction work and ensure satisfactory construction  
13 quality, if the estimated value of the construction work that the contracting  
14 agency will perform with the contracting agency’s equipment or personnel  
15 exceeds [~~\$275,000~~] **\$300,000**.

16 “(b) The contracting agency shall prepare and preserve a full, true and  
17 accurate account of the actual costs of performing the construction work,  
18 including all categories of costs described in subsection (3)(b) of this section.  
19 The final account of the costs is a public record.

20 “(5) Subsections (2) to (4) of this section do not apply to a contracting  
21 agency if:

22 “(a) The public improvement is for distributing or transmitting electric  
23 power; or

24 “(b) The contracting agency did not receive a responsive quotation for  
25 constructing the public improvement from a responsible bidder or proposer  
26 after soliciting quotes for constructing the public improvement, if the solici-  
27 tation:

28 “(A) Occurred within one year before the date on which construction be-  
29 gan; and

30 “(B) Allowed a commercially reasonable time in which to perform the



1 construction.

2 “(6)(a) Except as provided in paragraph (b) of this subsection, for purposes  
3 of this section, resurfacing highways, roads or streets at a depth of two or  
4 more inches and at an estimated cost that exceeds [231,250] **\$250,000** is a  
5 public improvement.

6 “(b) A public improvement does not include:

7 “(A) Maintenance patching, chip seals or other seals as a maintenance  
8 treatment on highways, roads, streets or bridges; or

9 “(B) Maintenance resurfacing for a single road, highway or street if the  
10 total cost of the resurfacing exceeds [231,250] **\$250,000** but is less than  
11 [1,687,500] **\$2 million**, provided that the cost of resurfacing any one location  
12 on the road, highway or street does not exceed [231,250] **\$250,000** and pro-  
13 vided that the contracting agency does not artificially separate the resur-  
14 facing into smaller projects in order to avoid the application of this section.

15 **“SECTION 6. Section 7 of this 2017 Act is added to and made a part**  
16 **of ORS chapter 279C.**

17 **“SECTION 7. (1)(a) A contractor, or a trade association of contrac-**  
18 **tors acting on behalf of a member of the trade association, may allege**  
19 **in a complaint to the Commissioner of the Bureau of Labor and In-**  
20 **dustries that a contracting agency has violated ORS 279C.305 with re-**  
21 **spect to a public improvement that the contractor was eligible to**  
22 **construct.**

23 **“(b) A complaint under paragraph (a) of this subsection must set**  
24 **forth the acts or omissions that constitute the alleged violation. The**  
25 **contractor or trade association must file the complaint with the com-**  
26 **missioner within one year after the contractor or trade association**  
27 **discovered or should have known that the violation occurred.**

28 **“(c) The contractor or trade association must submit along with a**  
29 **complaint under paragraph (a) of this subsection a filing fee of \$250.**  
30 **If the commissioner finds substantial evidence of a violation, the**

1 commissioner shall refund the filing fee. The commissioner by rule  
2 may specify other circumstances in which the commissioner will re-  
3 fund the filing fee.

4 “(d) The commissioner shall dismiss a complaint under this sub-  
5 section if the contractor or trade association brings an action in a  
6 court of this state or initiates another proceeding that alleges an act  
7 or omission that is the same or substantially similar to an act or  
8 omission the contractor or trade association alleged in the complaint.

9 “(2)(a) The commissioner may investigate a violation of ORS  
10 279C.305 that is alleged in a complaint under subsection (1) of this  
11 section or that the commissioner discovers or otherwise has reason to  
12 believe occurred.

13 “(b) In the course of an investigation under this subsection, the  
14 commissioner may:

15 “(A) Compel attendance from witnesses, receive testimony and ex-  
16 amine the witnesses under oath;

17 “(B) Require a contracting agency or an employee of a contracting  
18 agency to produce books, records, files and other documents; and

19 “(C) Take any other action the commissioner deems necessary to  
20 conduct the investigation.

21 “(3)(a) The commissioner must conclude an investigation under  
22 subsection (2) of this section within 60 days after the date of a com-  
23 plaint under subsection (1) of this section and must either find sub-  
24 stantial evidence of a violation of ORS 279C.305 or dismiss the  
25 complaint. If the commissioner finds substantial evidence of a vio-  
26 lation, the commissioner shall:

27 “(A) Notify the contracting agency in writing that the commis-  
28 sioner has found substantial evidence of a violation of ORS 279C.305,  
29 describe the nature of the violation and, if the commissioner has not  
30 found a violation in the five years preceding the date of the complaint,

1 state that for future violations, the commissioner will require the  
2 contracting agency to negotiate an agreement under paragraph (b) of  
3 this subsection.

4 “(B) Provide a copy of any notice the commissioner issued under  
5 subparagraph (A) of this paragraph to any contractor or trade associ-  
6 ation that filed a complaint concerning the violation under subsection  
7 (1) of this section.

8 “(b) If the commissioner in the course of an investigation under  
9 subsection (2) of this section finds that the contracting agency violated  
10 ORS 279C.305 within the five years preceding the date of the complaint,  
11 the commissioner shall specify a period of time within which the con-  
12 tracting agency must negotiate an agreement with the contractor or  
13 the trade association to remedy the violation and prevent future vio-  
14 lations.

15 “(c) If the contracting agency and the contractor or trade associ-  
16 ation enter into an agreement within the specified period, the com-  
17 missioner in an order shall set forth, and direct the contracting agency  
18 to comply with, the terms of the agreement.

19 “(d) If negotiations between the contracting agency and the con-  
20 tractor or trade association do not result in an agreement within the  
21 time the commissioner specifies, the commissioner may:

22 “(A) Extend the time period for negotiations;

23 “(B) End negotiations and dismiss the complaint; or

24 “(C) End negotiations and initiate a contested case hearing against  
25 the contracting agency under ORS chapter 183.

26 “(4)(a) If a contracting agency that is a party to an agreement set  
27 forth in accordance with an order of the commissioner under sub-  
28 section (3)(c) of this section breaches the agreement, a contractor or  
29 trade association that is a party to the agreement may submit a  
30 complaint to the commissioner that asks the commissioner to enforce

1 the agreement. The contractor or trade association must file the  
2 complaint within 180 days after the date the contractor or trade asso-  
3 ciation discovered or should have known of the breach.

4 “(b) The commissioner shall investigate a complaint that a con-  
5 tractor or trade association files under paragraph (a) of this subsection  
6 as provided in subsection (2) of this section. If the commissioner finds  
7 substantial evidence that the contracting agency materially breached  
8 the agreement, the commissioner may:

9 “(A) Issue an order to cease and desist from the contracting  
10 agency’s material breach and to perform actions that the commis-  
11 sioner determines will carry out the purposes of ORS 279C.305 and  
12 remedy the effects of the breach; or

13 “(B) Conduct a contested case hearing in accordance with ORS  
14 chapter 183.

15 “(c) An order to cease and desist that the commissioner issues un-  
16 der paragraph (b)(A) of this subsection may not include an award of  
17 attorney fees. The remedy that the commissioner orders may include  
18 requiring the contracting agency to enter into a contract with the  
19 contractor to perform any remaining construction on the public im-  
20 provement that is the subject of the contracting agency’s violation.

21 “(5)(a) If the commissioner finds by a preponderance of the evidence  
22 in a contested case hearing under subsection (3)(d)(C) of this section  
23 that a local contracting agency violated the least cost policy set forth  
24 in ORS 279C.305 (1), or in a contested case hearing under subsection  
25 (4)(b)(B) of this section that a local contracting agency materially  
26 breached the agreement described in subsection (3)(c) of this section,  
27 the commissioner may impose a civil penalty of not more than \$5,000  
28 for the violation or breach or a civil penalty of not more than \$20,000  
29 if the commissioner determines that the local contracting agency  
30 willfully engaged in a violation of the least cost policy set forth in ORS

1 **279C.305 (1).**

2 **“(b) The commissioner shall impose a civil penalty under paragraph**  
3 **(a) of this subsection in accordance with ORS 183.745 and shall apply**  
4 **the proceeds of the civil penalty first to the costs of the**  
5 **commissioner’s investigation and any administrative proceedings that**  
6 **result from the investigation. The commissioner shall deposit any re-**  
7 **maining proceeds in the State Treasury to the credit of the General**  
8 **Fund.**

9 **“SECTION 8.** ORS 279A.010 is amended to read:

10 “279A.010. (1) As used in the Public Contracting Code, unless the context  
11 or a specifically applicable definition requires otherwise:

12 “(a) ‘Bidder’ means a person that submits a bid in response to an invita-  
13 tion to bid.

14 “(b) ‘Contracting agency’ means a public body authorized by law to con-  
15 duct a procurement. ‘Contracting agency’ includes, but is not limited to, the  
16 Director of the Oregon Department of Administrative Services and any per-  
17 son authorized by a contracting agency to conduct a procurement on the  
18 contracting agency’s behalf. ‘Contracting agency’ does not include the judi-  
19 cial department or the legislative department.

20 “(c) ‘Days’ means calendar days.

21 “(d) ‘Department’ means the Oregon Department of Administrative Ser-  
22 vices.

23 “(e) ‘Director’ means the Director of the Oregon Department of Adminis-  
24 trative Services or a person designated by the director to carry out the au-  
25 thority of the director under the Public Contracting 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  
29 or a substantial threat to property, public health, welfare or safety; and

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

1 “(g) ‘Energy savings performance contract’ means a public contract be-  
2 tween a contracting agency and a qualified energy service company for the  
3 identification, evaluation, recommendation, design and construction of en-  
4 ergy conservation measures, including a design-build contract, that guaran-  
5 tee energy savings or performance.

6 “(h) ‘Executive department’ has the meaning given that term in ORS  
7 174.112.

8 “(i) ‘Goods’ includes supplies, equipment, materials, personal property,  
9 including any tangible, intangible and intellectual property and rights and  
10 licenses in relation thereto, and combinations of any of the items identified  
11 in this paragraph.

12 “(j) ‘Goods and services’ or ‘goods or services’ includes combinations of  
13 any of the items identified in the definitions of ‘goods’ and ‘services.’

14 “(k)(A) ‘Grant’ means:

15 “(i) An agreement under which a contracting agency receives moneys,  
16 property or other assistance, including but not limited to federal assistance  
17 that is characterized as a grant by federal law or regulations, loans, loan  
18 guarantees, credit enhancements, gifts, bequests, commodities or other assets,  
19 from a grantor for the purpose of supporting or stimulating a program or  
20 activity of the contracting agency and in which no substantial involvement  
21 by the grantor is anticipated in the program or activity other than involve-  
22 ment associated with monitoring compliance with the grant conditions; or

23 “(ii) An agreement under which a contracting agency provides moneys,  
24 property or other assistance, including but not limited to federal assistance  
25 that is characterized as a grant by federal law or regulations, loans, loan  
26 guarantees, credit enhancements, gifts, bequests, commodities or other assets,  
27 to a recipient for the purpose of supporting or stimulating a program or ac-  
28 tivity of the recipient and in which no substantial involvement by the con-  
29 tracting agency is anticipated in the program or activity other than  
30 involvement associated with monitoring compliance with the grant condi-

1 tions.

2 “(B) ‘Grant’ does not include a public contract for a public improvement,  
3 for public works, as defined in ORS 279C.800, or for emergency work, minor  
4 alterations or ordinary repair or maintenance necessary to preserve a public  
5 improvement, when under the public contract a contracting agency pays, in  
6 consideration for contract performance intended to realize or to support the  
7 realization of the purposes for which grant funds were provided to the con-  
8 tracting agency, moneys that the contracting agency has received under a  
9 grant.

10 “(L) ‘Industrial oil’ means any compressor, turbine or bearing oil, hy-  
11 draulic oil, metal-working oil or refrigeration oil.

12 “(m) ‘Judicial department’ has the meaning given that term in ORS  
13 174.113.

14 “(n) ‘Legislative department’ has the meaning given that term in ORS  
15 174.114.

16 “(o) ‘Local contract review board’ means a local contract review board  
17 described in ORS 279A.060.

18 “(p) ‘Local contracting agency’ means a local government or special gov-  
19 ernment body authorized by law to conduct a procurement. ‘Local contract-  
20 ing agency’ includes any person authorized by a local contracting agency to  
21 conduct a procurement on behalf of the local contracting agency.

22 “(q) ‘Local government’ has the meaning given that term in ORS 174.116.

23 “(r) ‘Lowest responsible bidder’ means the lowest bidder who:

24 “(A) Has substantially complied with all prescribed public contracting  
25 procedures and requirements;

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

28 “(C) Has not been debarred or disqualified by the contracting agency un-  
29 der ORS 279B.130 or 279C.440; and

30 “(D) If the advertised contract is a public improvement contract, is not

1 on the list created by the Construction Contractors Board under ORS  
2 701.227.

3 “(s) ‘Lubricating oil’ means any oil intended for use in an internal com-  
4 bustion crankcase, transmission, gearbox or differential or an automobile,  
5 bus, truck, vessel, plane, train, heavy equipment or machinery powered by  
6 an internal combustion engine.

7 “(t) ‘Person’ means a natural person capable of being legally bound, a sole  
8 proprietorship, a corporation, a partnership, a limited liability company or  
9 partnership, a limited partnership, a for-profit or nonprofit unincorporated  
10 association, a business trust, two or more persons having a joint or common  
11 economic interest, any other person with legal capacity to contract or a  
12 public body.

13 “(u) ‘Post-consumer waste’ means a finished material that would normally  
14 be disposed of as solid waste, having completed its life cycle as a consumer  
15 item. ‘Post-consumer waste’ does not include manufacturing waste.

16 “(v) ‘Price agreement’ means a public contract for the procurement of  
17 goods or services at a set price with:

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

19 “(B) An initial order or minimum purchase combined with a continuing  
20 contractor obligation to provide goods or services in which the contracting  
21 agency does not guarantee a minimum or maximum additional purchase.

22 “(w) ‘Procurement’ means the act of purchasing, leasing, renting or oth-  
23 erwise acquiring goods or services. ‘Procurement’ includes each function and  
24 procedure undertaken or required to be undertaken by a contracting agency  
25 to enter into a public contract, administer a public contract and obtain the  
26 performance of a public contract under the Public Contracting Code.

27 “(x) ‘Proposer’ means a person that submits a proposal in response to a  
28 request for proposals.

29 “(y) ‘Public body’ has the meaning given that term in ORS 174.109.

30 “(z) ‘Public contract’ means a sale or other disposal, or a purchase, lease,



1 rental or other acquisition, by a contracting agency of personal property,  
2 services, including personal services, public improvements, public works,  
3 minor alterations, or ordinary repair or maintenance necessary to preserve  
4 a public improvement. 'Public contract' does not include grants.

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

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

10 "(cc) 'Public improvement' means a project for construction, recon-  
11 struction or major renovation on real property by or for a contracting  
12 agency. 'Public improvement' does not include:

13 "(A) Projects for which no funds of a contracting agency are directly or  
14 indirectly used, except for participation that is incidental or related prima-  
15 rily to project design or inspection; or

16 "(B) Emergency work, minor alteration, ordinary repair or maintenance  
17 necessary to preserve a public improvement.

18 "(dd) 'Public improvement contract' means a public contract for a public  
19 improvement. 'Public improvement contract' does not include a public con-  
20 tract for emergency work, minor alterations, or ordinary repair or mainte-  
21 nance necessary to preserve a public improvement.

22 "(ee) 'Recycled material' means any material that would otherwise be a  
23 useless, unwanted or discarded material except for the fact that the material  
24 still has useful physical or chemical properties after serving a specific pur-  
25 pose and can, therefore, be reused or recycled.

26 "(ff) 'Recycled oil' means used oil that has been prepared for reuse as a  
27 petroleum product by refining, rerefining, reclaiming, reprocessing or other  
28 means, provided that the preparation or use is operationally safe, environ-  
29 mentally sound and complies with all laws and regulations.

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

1 “(A) Fifty percent of its fiber weight consisting of secondary waste ma-  
2 terials; or

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

5 “(hh) ‘Recycled PETE’ means post-consumer polyethylene terephthalate  
6 material.

7 “(ii) ‘Recycled product’ means all materials, goods and supplies, not less  
8 than 50 percent of the total weight of which consists of secondary and post-  
9 consumer waste with not less than 10 percent of its total weight consisting  
10 of post-consumer waste. ‘Recycled product’ includes any product that could  
11 have been disposed of as solid waste, having completed its life cycle as a  
12 consumer item, but otherwise is refurbished for reuse without substantial  
13 alteration of the product’s form.

14 “(jj) ‘Secondary waste materials’ means fragments of products or finished  
15 products of a manufacturing process that has converted a virgin resource  
16 into a commodity of real economic value. ‘Secondary waste materials’ in-  
17 cludes post-consumer waste. ‘Secondary waste materials’ does not include  
18 excess virgin resources of the manufacturing process. For paper, ‘secondary  
19 waste materials’ does not include fibrous waste generated during the manu-  
20 facturing process such as fibers recovered from waste water or trimmings of  
21 paper machine rolls, mill broke, wood slabs, chips, sawdust or other wood  
22 residue from a manufacturing process.

23 “(kk) ‘Services’ mean services other than personal services designated  
24 under ORS 279A.055, except that, for state contracting agencies with pro-  
25 curement authority under ORS 279A.050 or 279A.140, ‘services’ includes per-  
26 sonal services as designated by the state contracting agencies.

27 “(LL) ‘Special government body’ has the meaning given that term in ORS  
28 174.117.

29 “(mm) ‘State agency’ means the executive department, except the Secre-  
30 tary of State and the State Treasurer in the performance of the duties of

1 their constitutional offices.

2 “(nn) ‘State contracting agency’ means an executive department entity  
3 authorized by law to conduct a procurement.

4 “(oo) ‘State government’ has the meaning given that term in ORS 174.111.

5 “(pp) ‘Used oil’ has the meaning given that term in ORS 459A.555.

6 “(qq) ‘Virgin oil’ means oil that has been refined from crude oil and that  
7 has not been used or contaminated with impurities.

8 “(2) Other definitions appearing in the Public Contracting Code and the  
9 sections in which they appear are:

10

11 [(a) “Adequate” .....ORS 279C.305]

12 [(b) (a) “Administering contracting  
13 agency” .....ORS 279A.200

14 [(c) (b) “Affirmative action” .....ORS 279A.100

15 [(d) (c) “Architect” .....ORS 279C.100

16 [(e) (d) “Architectural,  
17 engineering, photogram-  
18 metric mapping,  
19 transportation planning  
20 or land surveying  
21 services” .....ORS 279C.100

22 [(f) (e) “Bid documents” .....ORS 279C.400

23 [(g) (f) “Bidder” .....ORS 279B.415

24 [(h) (g) “Bids” .....ORS 279C.400

25 [(i) (h) “Brand name” .....ORS 279B.405

26 [(j) (i) “Brand name or equal  
27 specification” .....ORS 279B.200

28 [(k) (j) “Brand name  
29 specification” .....ORS 279B.200

30 [(L) (k) “Class special

|    |             |                                       |
|----|-------------|---------------------------------------|
| 1  |             | procurement”.....ORS 279B.085         |
| 2  | [(m)] (L)   | “Consultant”.....ORS 279C.115         |
| 3  | [(n)] (m)   | “Contract-specific                    |
| 4  |             | special procurement”.....ORS 279B.085 |
| 5  | [(o)] (n)   | “Cooperative                          |
| 6  |             | procurement” .....ORS 279A.200        |
| 7  | [(p)] (o)   | “Cooperative procurement              |
| 8  |             | group” .....ORS 279A.200              |
| 9  | [(q)] (p)   | “Donee” .....ORS 279A.250             |
| 10 | [(r)] (q)   | “Engineer” .....ORS 279C.100          |
| 11 | [(s)] (r)   | “Findings” .....ORS 279C.330          |
| 12 | [(t)] (s)   | “Fire protection                      |
| 13 |             | equipment”.....ORS 279A.190           |
| 14 | [(u)] (t)   | “Fringe benefits”.....ORS 279C.800    |
| 15 | [(v)] (u)   | “Funds of a public                    |
| 16 |             | agency” .....ORS 279C.810             |
| 17 | [(w)] (v)   | “Good cause” .....ORS 279C.585        |
| 18 | [(x)] (w)   | “Good faith dispute”.....ORS 279C.580 |
| 19 | [(y)] (x)   | “Goods” .....ORS 279B.115             |
| 20 | [(z)] (y)   | “Housing”.....ORS 279C.800            |
| 21 | [(aa)] (z)  | “Interstate cooperative               |
| 22 |             | procurement” .....ORS 279A.200        |
| 23 | [(bb)] (aa) | “Invitation to bid” .....ORS 279B.005 |
| 24 |             | .....and 279C.400                     |
| 25 | [(cc)] (bb) | “Joint cooperative                    |
| 26 |             | procurement” .....ORS 279A.200        |
| 27 | [(dd)] (cc) | “Labor dispute” .....ORS 279C.650     |
| 28 | [(ee)] (dd) | “Land surveyor”.....ORS 279C.100      |
| 29 | [(ff)] (ee) | “Legally flawed”.....ORS 279B.405     |
| 30 | [(gg)] (ff) | “Locality”.....ORS 279C.800           |

|    |         |      |                           |                   |
|----|---------|------|---------------------------|-------------------|
| 1  | [(hh)]  | (gg) | “Nonprofit                |                   |
| 2  |         |      | organization”             | .....ORS 279C.810 |
| 3  | [(ii)]  | (hh) | “Nonresident bidder”      | .....ORS 279A.120 |
| 4  | [(jj)]  | (ii) | “Not-for-profit           |                   |
| 5  |         |      | organization”             | .....ORS 279A.250 |
| 6  | [(kk)]  | (jj) | “Original contract”       | .....ORS 279A.200 |
| 7  | [(LL)]  | (kk) | “Permissive cooperative   |                   |
| 8  |         |      | procurement”              | .....ORS 279A.200 |
| 9  | [(mm)]  | (LL) | “Person”                  | .....ORS 279C.500 |
| 10 |         |      | .....and                  | 279C.815          |
| 11 | [(nn)]  | (mm) | “Personal services”       | .....ORS 279C.100 |
| 12 | [(oo)]  | (nn) | “Photogrammetric          |                   |
| 13 |         |      | mapping”                  | .....ORS 279C.100 |
| 14 | [(pp)]  | (oo) | “Photogrammetrist”        | .....ORS 279C.100 |
| 15 | [(qq)]  | (pp) | “Prevailing rate of       |                   |
| 16 |         |      | wage”                     | .....ORS 279C.800 |
| 17 | [(rr)]  | (qq) | “Procurement              |                   |
| 18 |         |      | description”              | .....ORS 279B.005 |
| 19 | [(ss)]  | (rr) | “Property”                | .....ORS 279A.250 |
| 20 | [(tt)]  | (ss) | “Public agency”           | .....ORS 279C.800 |
| 21 | [(uu)]  | (tt) | “Public contract”         | .....ORS 279A.190 |
| 22 | [(vv)]  | (uu) | “Public works”            | .....ORS 279C.800 |
| 23 | [(ww)]  | (vv) | “Purchasing contracting   |                   |
| 24 |         |      | agency”                   | .....ORS 279A.200 |
| 25 | [(xx)]  | (ww) | “Regularly organized fire |                   |
| 26 |         |      | department”               | .....ORS 279A.190 |
| 27 | [(yy)]  | (xx) | “Related services”        | .....ORS 279C.100 |
| 28 | [(zz)]  | (yy) | “Request for              |                   |
| 29 |         |      | proposals”                | .....ORS 279B.005 |
| 30 | [(aaa)] | (zz) | “Resident bidder”         | .....ORS 279A.120 |

1 [(bbb)] (aaa) “Responsible bidder” .....ORS 279A.105  
2 .....and 279B.005  
3 [(ccc)] (bbb) “Responsible  
4 proposer” .....ORS 279B.005  
5 [(ddd)] (ccc) “Responsive bid” .....ORS 279B.005  
6 [(eee)] (ddd) “Responsive  
7 proposal” .....ORS 279B.005  
8 [(fff)] (eee) “Retainage” .....ORS 279C.550  
9 [(ggg)] (fff) “Special  
10 procurement” .....ORS 279B.085  
11 [(hhh)] (ggg) “Specification” .....ORS 279B.200  
12 [(iii)] (hhh) “State agency” .....ORS 279A.250  
13 [(jjj)] (iii) “Substantial  
14 completion” .....ORS 279C.465  
15 [(kkk)] (jjj) “Surplus property” .....ORS 279A.250  
16 [(LLL)] (kkk) “Transportation  
17 planning services” .....ORS 279C.100  
18 [(mmm)] (LLL) “Unnecessarily  
19 restrictive” .....ORS 279B.405

20 **“SECTION 9. Section 7 of this 2017 Act and the amendments to ORS**  
21 **279A.010 and 279C.305 by sections 1 and 8 of this 2017 Act apply to**  
22 **procurements that a contracting agency first advertises or otherwise**  
23 **solicits or, if the contracting agency does not advertise or solicit the**  
24 **procurement, to a public contract that a contracting agency enters**  
25 **into on or after the operative date specified in section 10 (1)(a) of this**  
26 **2017 Act.**

27 **“SECTION 10. (1)(a) Section 7 of this 2017 Act and the amendments**  
28 **to ORS 279A.010 and 279C.305 by sections 1 and 8 of this 2017 Act be-**  
29 **come operative on January 1, 2018.**

30 **“(b) The amendments to ORS 279C.305 by section 2 of this 2017 Act**

1 **become operative on July 1, 2019.**

2 **“(c) The amendments to ORS 279C.305 by section 3 of this 2017 Act**  
3 **become operative on July 1, 2021.**

4 **“(d) The amendments to ORS 279C.305 by section 4 of this 2017 Act**  
5 **become operative on July 1, 2023.**

6 **“(e) The amendments to ORS 279C.305 by section 5 of this 2017 Act**  
7 **become operative on July 1, 2025.**

8 **“(2) The Commissioner of the Bureau of Labor and Industries, the**  
9 **Attorney General, the Director of the Oregon Department of Admin-**  
10 **istrative Services, the Director of Transportation or a contracting**  
11 **agency that adopts rules under ORS 279A.065 may adopt rules and take**  
12 **any other action before the operative date specified in subsection (1)(a)**  
13 **of this section that is necessary to enable the commissioner, the At-**  
14 **torney General, the director or the contracting agency to exercise all**  
15 **of the duties, functions and powers conferred on the commissioner,**  
16 **the Attorney General, the director or the contracting agency by sec-**  
17 **tion 7 of this 2017 Act and the amendments to ORS 279A.010 and**  
18 **279C.305 by sections 1 and 8 of this 2017 Act.**

19 **“SECTION 11. This 2017 Act takes effect on the 91st day after the**  
20 **date on which the 2017 regular session of the Seventy-ninth Legislative**  
21 **Assembly adjourns sine die.”.**

22 \_\_\_\_\_