

Requested by Representative CLEM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3203**

1 On page 1 of the printed bill, line 4, delete “declaring an emergency” and
2 insert “prescribing an effective date”.

3 Delete lines 6 through 24 and delete pages 2 through 9 and insert:

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

5 “279C.305. (1) [*It is*] 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) Not less than 30 days [*prior to adoption of the contracting agency’s*]
9 **before adopting a** budget for the subsequent budget period, 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 con-
17 struction work using the contracting agency’s own equipment and personnel
18 on a project estimated to cost more than \$125,000, the contracting agency
19 shall [*also show*] **include with the list an analysis that shows** that the
20 contracting agency’s decision conforms to the policy stated in subsection (1)
21 of this section. The list [*is a*] **and the analysis are** public [*record*] **records**

1 and the contracting agency may periodically revise the list or analysis
2 [*may be revised periodically by the agency*].

3 “(3) As part of the analysis described in subsection (2) of this sec-
4 tion, a contracting agency shall:

5 “(a) Estimate the cost of constructing a public improvement by
6 contracting with a private contractor;

7 “(b) Include in the contracting agency’s estimate of the costs the
8 contracting agency would incur in constructing the public improve-
9 ment with the contracting agency’s own equipment and personnel:

10 “(A) The cost of labor, including all benefits, workers’ compen-
11 sation insurance premiums and the cost of traveling to and from the
12 site of the public improvement that the contracting agency pays to or
13 on behalf of the contracting agency’s employees;

14 “(B) The cost of equipment, including any costs associated with
15 acquiring, owning, insuring, storing, operating, repairing and main-
16 taining the equipment and transporting the equipment to and from the
17 site of the public improvement;

18 “(C) The costs of administration and overhead the contracting
19 agency will incur, including costs associated with maintaining a shop
20 or office and the costs of insurance that the contracting agency allo-
21 cates to the public improvement;

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

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

25 “(F) The reasonable value of warranties and quality control if the
26 contracting agency would require warranties and quality control of a
27 private contractor that constructed the public improvement; and

28 “(G) Any other costs that the contracting agency would incur to
29 construct the public improvement with the contracting agency’s own
30 equipment and personnel; and

1 “(c) Compare the cost the contracting agency estimates under par-
2 agraph (a) of this subsection with the cost the contracting agency
3 would incur to construct the public improvement with the contracting
4 agency’s own equipment and personnel, taking into account all of the
5 elements specified in paragraph (b) of this subsection.

6 “[(3)] (4) Before a contracting agency constructs a public improvement
7 with [its] **the contracting agency’s** own equipment or personnel, **the con-**
8 **tracting agency shall:**

9 “[(a) *If the estimated cost exceeds \$125,000, the contracting agency shall*
10 *prepare adequate plans and specifications and the estimated unit cost of each*
11 *classification of work. The estimated cost of the work must include a reason-*
12 *able allowance for the cost, including investment cost, of any equipment used.*
13 *As used in this paragraph, ‘adequate’ means sufficient to control the perform-*
14 *ance of the work and to ensure satisfactory quality of construction by the*
15 *contracting agency personnel.*]

16 “(a) **Prepare plans, specifications and estimates of the unit cost of**
17 **each classification of work that are sufficient to control the perform-**
18 **ance of the work and ensure satisfactory construction quality, if the**
19 **estimated cost of the public improvement exceeds \$125,000.**

20 “(b) [*The contracting agency shall cause to be kept and preserved*] **Prepare**
21 **and preserve** a full, true and accurate account of the **actual** costs of per-
22 forming the work, including all [*engineering and administrative expenses and*
23 *the cost, including investment costs, of any equipment used*] **costs described**
24 **in subsection (3)(b) of this section, and use the costs in future cost**
25 **estimates for the public improvement.** The final account of the costs is
26 a public record.

27 “[(4)] (5) Subsections (2) [*and (3)*] **to (4)** of this section do not apply to
28 a contracting agency [*when*] **if** the public improvement is [*to be used for the*
29 *distribution or transmission of*] **for distributing or transmitting** electric
30 power.

1 **“[(5)] (6)(a) Except as provided in paragraph (b) of this subsection,**
2 **for purposes of this section, resurfacing [of] highways, roads or streets at a**
3 **depth of two or more inches [and] or at an estimated cost that exceeds**
4 **\$125,000 is a public improvement.**

5 **“(b) For purposes of this section, a public improvement does not**
6 **include:**

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

9 **“(B) Maintenance resurfacing for a single road, highway or street**
10 **in different locations along the road, highway or street, even if the**
11 **total cost of the resurfacing exceeds \$125,000, provided that the cost**
12 **of resurfacing any one location on the road, highway or street does**
13 **not exceed \$125,000 and provided that the contracting agency does not**
14 **artificially separate the resurfacing project into smaller projects in**
15 **order to avoid the application of this section.**

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

18 **“SECTION 3. (1)(a) A contractor that would be eligible to construct**
19 **a public improvement under this chapter or a trade association of**
20 **contractors acting on behalf of a member of the trade association may**
21 **allege in a complaint to the Commissioner of the Bureau of Labor and**
22 **Industries that a contracting agency has violated ORS 279C.305 or**
23 **279C.310.**

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

28 **“(c) A contractor or trade association may not file a complaint**
29 **under this subsection if the contractor or trade association has**
30 **brought an action in a court of this state that alleges an act or omis-**

1 sion that is the same or substantially similar to an act or omission the
2 contractor or trade association would allege in the complaint. The
3 commissioner may not act on a complaint described in this paragraph.

4 “(2) The commissioner shall investigate an alleged violation of ORS
5 279C.305 or 279C.310. In the course of an investigation under this sub-
6 section, the commissioner may:

7 “(a) Compel attendance from witnesses, receive testimony and ex-
8 amine the witnesses under oath;

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

11 “(c) Take any other action the commissioner deems necessary to
12 conduct the investigation.

13 “(3)(a) If after an investigation under this section the commissioner
14 finds substantial evidence of a violation of ORS 279C.305 or 279C.310,
15 the commissioner shall:

16 “(A) Notify the contracting agency in writing that the commis-
17 sioner has found substantial evidence of a violation of ORS 279C.305
18 or 279C.310, describe the nature of the violation and, if the commis-
19 sioner has not found a violation previously, state that for future vio-
20 lations, including any future violations that occur during construction
21 of the same public improvement, the commissioner will require the
22 contracting agency to negotiate and enter into an agreement under
23 paragraph (b) of this subsection.

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

28 “(b) If the commissioner in the course of the investigation under
29 paragraph (a) of this subsection finds that the same contracting
30 agency previously violated ORS 279C.305 or 279C.310, the commissioner

1 shall require the contracting agency to negotiate and enter into an
2 agreement with the contractor or trade association that submitted a
3 complaint under subsection (1) of this section to remedy the violation
4 and prevent future violations. The commissioner in an order may set
5 forth, and direct the contracting agency to comply with, the terms of
6 the agreement.

7 “(4)(a) If a contracting agency that is a party to an agreement set
8 forth in accordance with an order of the commissioner under sub-
9 section (3)(b) of this section breaches the agreement, a contractor or
10 trade association that is also a party to the agreement may bring an
11 action against the contracting agency in a court of this state to:

12 “(A) Petition the court for an injunction to prevent the contracting
13 agency from breaching or continuing to breach the terms of the
14 agreement; or

15 “(B) Seek a writ of mandamus under ORS 34.105 to 34.240 to compel
16 the contracting agency to perform an action required under the terms
17 of the agreement.

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

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

22 “279A.010. (1) As used in the Public Contracting Code, unless the context
23 or a specifically applicable definition requires otherwise:

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

26 “(b) ‘Contracting agency’ means a public body authorized by law to con-
27 duct a procurement. ‘Contracting agency’ includes, but is not limited to, the
28 Director of the Oregon Department of Administrative Services and any per-
29 son authorized by a contracting agency to conduct a procurement on the
30 contracting agency’s behalf. ‘Contracting agency’ does not include the judi-

1 cial department or the legislative department.

2 “(c) ‘Days’ means calendar days.

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

5 “(e) ‘Director’ means the Director of the Oregon Department of Adminis-
6 trative Services or a person designated by the director to carry out the au-
7 thority of the director under the Public Contracting Code.

8 “(f) ‘Emergency’ means circumstances that:

9 “(A) Could not have been reasonably foreseen;

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

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

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

18 “(h) ‘Executive department’ has the meaning given that term in ORS
19 174.112.

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

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

26 “(k)(A) ‘Grant’ means:

27 “(i) An agreement under which a contracting agency receives moneys,
28 property or other assistance, including but not limited to federal assistance
29 that is characterized as a grant by federal law or regulations, loans, loan
30 guarantees, credit enhancements, gifts, bequests, commodities or other assets,

1 from a grantor for the purpose of supporting or stimulating a program or
2 activity of the contracting agency and in which no substantial involvement
3 by the grantor is anticipated in the program or activity other than involve-
4 ment associated with monitoring compliance with the grant conditions; or

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

14 “(B) ‘Grant’ does not include a public contract for a public improvement,
15 for public works, as defined in ORS 279C.800, or for emergency work, minor
16 alterations or ordinary repair or maintenance necessary to preserve a public
17 improvement, when under the public contract a contracting agency pays, in
18 consideration for contract performance intended to realize or to support the
19 realization of the purposes for which grant funds were provided to the con-
20 tracting agency, moneys that the contracting agency has received under a
21 grant.

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

24 “(m) ‘Judicial department’ has the meaning given that term in ORS
25 174.113.

26 “(n) ‘Legislative department’ has the meaning given that term in ORS
27 174.114.

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

30 “(p) ‘Local contracting agency’ means a local government or special gov-

1 ernment body authorized by law to conduct a procurement. ‘Local contract-
2 ing agency’ includes any person authorized by a local contracting agency to
3 conduct a procurement on behalf of the local contracting agency.

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

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

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

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

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

12 “(D) If the advertised contract is a public improvement contract, is not
13 on the list created by the Construction Contractors Board under ORS
14 701.227.

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

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

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

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

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

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

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

9 “(x) ‘Proposer’ means a person that submits a proposal in response to a
10 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,
13 rental or other acquisition, by a contracting agency of personal property,
14 services, including personal services, public improvements, public works,
15 minor alterations, or ordinary repair or maintenance necessary to preserve
16 a public improvement. ‘Public contract’ does not include grants.

17 “(aa) ‘Public contracting’ means procurement activities described in the
18 Public Contracting Code relating to obtaining, modifying or administering
19 public contracts or price agreements.

20 “(bb) ‘Public Contracting Code’ or ‘code’ means ORS chapters 279A, 279B
21 and 279C.

22 “(cc) ‘Public improvement’ means a project for construction, recon-
23 struction or major renovation on real property by or for a contracting
24 agency. ‘Public improvement’ does not include:

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

28 “(B) Emergency work, minor alteration, ordinary repair or maintenance
29 necessary to preserve a public improvement.

30 “(dd) ‘Public improvement contract’ means a public contract for a public

1 improvement. 'Public improvement contract' does not include a public con-
2 tract for emergency work, minor alterations, or ordinary repair or mainte-
3 nance necessary to preserve a public improvement.

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

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

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

13 "(A) Fifty percent of its fiber weight consisting of secondary waste ma-
14 terials; or

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

17 "(hh) 'Recycled PETE' means post-consumer polyethylene terephthalate
18 material.

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

26 "(jj) 'Secondary waste materials' means fragments of products or finished
27 products of a manufacturing process that has converted a virgin resource
28 into a commodity of real economic value. 'Secondary waste materials' in-
29 cludes post-consumer waste. 'Secondary waste materials' does not include
30 excess virgin resources of the manufacturing process. For paper, 'secondary

1 waste materials' does not include fibrous waste generated during the manu-
2 facturing process such as fibers recovered from waste water or trimmings of
3 paper machine rolls, mill broke, wood slabs, chips, sawdust or other wood
4 residue from a manufacturing process.

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

9 “(LL) ‘Special government body’ has the meaning given that term in ORS
10 174.117.

11 “(mm) ‘State agency’ means the executive department, except the Secre-
12 tary of State and the State Treasurer in the performance of the duties of
13 their constitutional offices.

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

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

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

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

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

22

23 [(a) “Adequate”ORS 279C.305]

24 [(b)] (a) “Administering contracting
25 agency”ORS 279A.200

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

27 [(d)] (c) “Architect”ORS 279C.100

28 [(e)] (d) “Architectural,
29 engineering, photogram-
30 metric mapping,

1		transportation planning	
2		or land surveying	
3		services”.....	ORS 279C.100
4	[(f)] (e)	“Bid documents”.....	ORS 279C.400
5	[(g)] (f)	“Bidder”.....	ORS 279B.415
6	[(h)] (g)	“Bids”.....	ORS 279C.400
7	[(i)] (h)	“Brand name”	ORS 279B.405
8	[(j)] (i)	“Brand name or equal	
9		specification”.....	ORS 279B.200
10	[(k)] (j)	“Brand name	
11		specification”.....	ORS 279B.200
12	[(L)] (k)	“Class special	
13		procurement”.....	ORS 279B.085
14	[(m)] (L)	“Consultant”.....	ORS 279C.115
15	[(n)] (m)	“Contract-specific	
16		special procurement”.....	ORS 279B.085
17	[(o)] (n)	“Cooperative	
18		procurement”	ORS 279A.200
19	[(p)] (o)	“Cooperative procurement	
20		group”	ORS 279A.200
21	[(q)] (p)	“Donee”	ORS 279A.250
22	[(r)] (q)	“Engineer”	ORS 279C.100
23	[(s)] (r)	“Findings”	ORS 279C.330
24	[(t)] (s)	“Fire protection	
25		equipment”.....	ORS 279A.190
26	[(u)] (t)	“Fringe benefits”.....	ORS 279C.800
27	[(v)] (u)	“Funds of a public	
28		agency”	ORS 279C.810
29	[(w)] (v)	“Good cause”	ORS 279C.585
30	[(x)] (w)	“Good faith dispute”.....	ORS 279C.580

1	[(y)] (x)	“Goods”	ORS 279B.115
2	[(z)] (y)	“Housing”	ORS 279C.800
3	[(aa)] (z)	“Interstate cooperative	
4		procurement”	ORS 279A.200
5	[(bb)] (aa)	“Invitation to bid”	ORS 279B.005
6	and	279C.400
7	[(cc)] (bb)	“Joint cooperative	
8		procurement”	ORS 279A.200
9	[(dd)] (cc)	“Labor dispute”	ORS 279C.650
10	[(ee)] (dd)	“Land surveyor”	ORS 279C.100
11	[(ff)] (ee)	“Legally flawed”	ORS 279B.405
12	[(gg)] (ff)	“Locality”	ORS 279C.800
13	[(hh)] (gg)	“Nonprofit	
14		organization”	ORS 279C.810
15	[(ii)] (hh)	“Nonresident bidder”	ORS 279A.120
16	[(jj)] (ii)	“Not-for-profit	
17		organization”	ORS 279A.250
18	[(kk)] (jj)	“Original contract”	ORS 279A.200
19	[(LL)] (kk)	“Permissive cooperative	
20		procurement”	ORS 279A.200
21	[(mm)] (LL)	“Person”	ORS 279C.500
22	and	279C.815
23	[(nn)] (mm)	“Personal services”	ORS 279C.100
24	[(oo)] (nn)	“Photogrammetric	
25		mapping”	ORS 279C.100
26	[(pp)] (oo)	“Photogrammetrist”	ORS 279C.100
27	[(qq)] (pp)	“Prevailing rate of	
28		wage”	ORS 279C.800
29	[(rr)] (qq)	“Procurement	
30		description”	ORS 279B.005

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

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

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

12 **“(2) The Commissioner of the Bureau of Labor and Industries, the**
13 **Attorney General, the Director of the Oregon Department of Admin-**
14 **istrative Services, the Director of Transportation or a contracting**
15 **agency that adopts rules under ORS 279A.065 may adopt rules and take**
16 **any other action before the operative date specified in subsection (1)**
17 **of this section that is necessary to enable the commissioner, the At-**
18 **torney General, the director or the contracting agency to exercise all**
19 **of the duties, functions and powers conferred on the commissioner,**
20 **the Attorney General, the director or the contracting agency by sec-**
21 **tion 3 of this 2017 Act and the amendments to ORS 279A.010 and**
22 **279C.305 by section 1 and 4 of this 2017 Act.**

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

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