

## HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4154

By COMMITTEE ON RULES

February 21

1 On page 1 of the printed A-engrossed bill, delete lines 6 through 20 and delete page 2.

2 On page 3, delete lines 1 through 12 and insert:

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

4 **“(a) ‘Construction’ has the meaning given that term in ORS 701.410.**

5 **“(b) ‘Contractor’ has the meaning given that term in ORS 701.410.**

6 **“(c) ‘Subcontractor’ has the meaning given that term in ORS 701.410.**

7 **“(2) Except as provided in subsection (3) of this section, when an employee of a subcon-**  
8 **tractor at any tier files a wage claim under ORS chapter 652 and the Commissioner of the**  
9 **Bureau of Labor and Industries determines that the claim is valid but cannot be enforced**  
10 **against the subcontractor, the contractor who entered into a contract to use the services**  
11 **of the subcontractor to perform construction work is liable to the employee wage claimant**  
12 **in an amount equal to wages earned and unpaid, including any other benefit payments and**  
13 **contributions owed as part of the employee’s total compensation, and interest owed.**

14 **“(3) The commissioner may not hold the contractor liable under subsection (2) of this**  
15 **section if, by the time the commissioner has determined that the wage claim is valid but**  
16 **cannot be enforced against the subcontractor, the contractor has already paid the subcon-**  
17 **tractor in full for the services performed by the subcontractor under the contract.**

18 **“(4)(a) The commissioner may proceed under ORS 652.310 to 652.414 against the contrac-**  
19 **tor as if the contractor was the subcontractor who had employed the employee wage claim-**  
20 **ant to enforce the liability prescribed by subsection (2) of this section.**

21 **“(b) The contractor shall pay to the commissioner the amount due to the employee wage**  
22 **claimant under a final order issued in the wage claim proceeding.**

23 **“(c) The contractor may pay the amount of the claim from funds including, but not lim-**  
24 **ited to, funds held as retainage for construction work performed by the subcontractor under**  
25 **the contract.**

26 **“(d) Nothing in this section shall alter a contractor’s obligation to timely pay a subcon-**  
27 **tractor under ORS chapter 701, except that a contractor may deduct from the amount owed**  
28 **to the subcontractor an amount equal to the unpaid wages and benefits described under**  
29 **subsection (2) of this section.**

30 **“(5) Nothing in this section creates a new right of action of an employee of a subcon-**  
31 **tractor against a contractor.**

32 **“(6)(a) The remedies and obligations provided in this section are in addition to any other**  
33 **remedies and obligations otherwise provided by law, except that nothing in this section shall**  
34 **be construed to impose liability on a contractor for anything other than unpaid wages, in-**  
35 **cluding any benefit payments and contributions made as part of the employees total com-**

1 **pensation, and interest owed.**

2 **“(b) Liability under this section does not extend to penalties or liquidated damages.**

3 **“(7) This section does not apply to work performed under a public contract under ORS**  
4 **279C.800 to 279C.870.**

5 **“(8) Every contract entered into between a contractor and a first-tier subcontractor or**  
6 **between a first-tier subcontractor and a subcontractor at any tier to use the services of a**  
7 **subcontractor to perform construction work must include at a minimum a provision in which**  
8 **the subcontractor agrees to make timely payments to employees of the subcontractor for**  
9 **wages earned for services performed under the contract.”.**

10

---