

Requested by Representative FAHEY

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4154**

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

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

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

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

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

7 **“(c) ‘Subcontractor’ has the meaning given that term in ORS**
8 **701.410.**

9 **“(2) Except as provided in subsection (3) of this section, when an**
10 **employee of a subcontractor at any tier files a wage claim under ORS**
11 **chapter 652 and the Commissioner of the Bureau of Labor and Indus-**
12 **tries determines that the claim is valid but cannot be enforced against**
13 **the subcontractor, the contractor who entered into a contract to use**
14 **the services of the subcontractor to perform construction work is lia-**
15 **ble to the employee wage claimant in an amount equal to wages**
16 **earned and unpaid, including any other benefit payments and contri-**
17 **butions owed as part of the employee’s total compensation, and inter-**
18 **est owed.**

19 **“(3) The commissioner may not hold the contractor liable under**
20 **subsection (2) of this section if, by the time the commissioner has de-**
21 **termined that the wage claim is valid but cannot be enforced against**

1 the subcontractor, the contractor has already paid the subcontractor
2 in full for the services performed by the subcontractor under the
3 contract.

4 “(4)(a) The commissioner may proceed under ORS 652.310 to 652.414
5 against the contractor as if the contractor was the subcontractor who
6 had employed the employee wage claimant to enforce the liability
7 prescribed by subsection (2) of this section.

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

11 “(c) The contractor may pay the amount of the claim from funds
12 including, but not limited to, funds held as retainage for construction
13 work performed by the subcontractor under the contract.

14 “(d) Nothing in this section shall alter a contractor’s obligation to
15 timely pay a subcontractor under ORS chapter 701, except that a con-
16 tractor may deduct from the amount owed to the subcontractor an
17 amount equal to the unpaid wages and benefits described under sub-
18 section (2) of this section.

19 “(5) Nothing in this section creates a new right of action of an
20 employee of a subcontractor against a contractor.

21 “(6)(a) The remedies and obligations provided in this section are in
22 addition to any other remedies and obligations otherwise provided by
23 law, except that nothing in this section shall be construed to impose
24 liability on a contractor for anything other than unpaid wages, in-
25 cluding any benefit payments and contributions made as part of the
26 employees total compensation, and interest owed.

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

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

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

8
