

# House Bill 2038

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Health Authority)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits Public Employees' Benefit Board and Oregon Educators Benefit Board to receive proposals from prospective contractors and open proposals without publicly disclosing contents of proposals. Requires each board to record and make available identities of proposers in public record.

Permits board to choose not to disclose contents of proposal until after board issues notice of intent to award contract. Requires board to disclose contents of proposal after issuing notice of intent to award contract.

Permits board to withhold from disclosure contents of proposal that are exempt or conditionally exempt from disclosure.

Becomes operative 91 days after effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to disclosure of contents of proposals for public contracts received by state benefit boards;  
3 and declaring an emergency.

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

5 **SECTION 1. (1)(a) The Public Employees' Benefit Board and the Oregon Educators Ben-**  
6 **efit Board, in conducting a procurement for a public contract, may receive proposals from**  
7 **prospective contractors and, notwithstanding ORS 192.311 to 192.478, may open the proposals**  
8 **in a manner that avoids publicly disclosing the contents of the proposals. After opening the**  
9 **proposals, the Public Employees' Benefit Board and the Oregon Educators Benefit Board**  
10 **shall record and make available as part of each board's public records the names of pro-**  
11 **spective contractors that submitted proposals.**

12 **(b) Notwithstanding ORS 192.311 to 192.478, the Public Employees' Benefit Board and the**  
13 **Oregon Educators Benefit Board need not make proposals available for public inspection**  
14 **until after the board issues a notice of intent to award a contract. After a board issues a**  
15 **notice of intent to award a contract, the contents of the proposals that the board received**  
16 **are subject to disclosure as provided in ORS 192.311 to 192.478.**

17 **(c) The contents of a proposal that the Public Employees' Benefit Board or the Oregon**  
18 **Educators Benefit Board receives are not subject to disclosure because of the fact that the**  
19 **board opened a proposal at a meeting, as defined in ORS 192.610, even if the board fails to**  
20 **give notice of, or provide for, an executive session for the purpose of opening proposals.**

21 **(2) Notwithstanding the requirement under subsection (1)(b) of this section to make**  
22 **proposals available for public inspection after issuing a notice of intent to award a contract,**  
23 **the Public Employees' Benefit Board and the Oregon Educators Benefit Board may withhold**  
24 **from disclosure to the public the contents of a proposal that are exempt or conditionally**  
25 **exempt from disclosure under ORS 192.345 or 192.355.**

26 **SECTION 2. Section 1 of this 2019 Act applies to procurements that the Public**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **Employees' Benefit Board or the Oregon Educators Benefit Board advertises or otherwise**  
2 **solicits or, if the Public Employees' Benefit Board or the Oregon Educators Benefit Board**  
3 **does not advertise or solicit the procurement, to public contracts into which the Public**  
4 **Employees' Benefit Board or the Oregon Educators Benefit Board enters on or after the**  
5 **operative date of section 1 of this 2019 Act.**

6 **SECTION 3. (1) Section 1 of this 2019 Act becomes operative 91 days after the effective**  
7 **date of this 2019 Act.**

8 **(2) The Public Employees' Benefit Board and the Oregon Educators Benefit Board may**  
9 **take any action before the operative date specified in subsection (1) of this section that is**  
10 **necessary to enable the boards to exercise, on or after the operative date specified in sub-**  
11 **section (1) of this section, all of the duties, functions and powers conferred on the boards**  
12 **by section 1 of this 2019 Act.**

13 **SECTION 4. This 2019 Act being necessary for the immediate preservation of the public**  
14 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
15 **on its passage.**

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