

Senate Bill 471

Sponsored by Senators BOQUIST, DEMBROW, Representative MCLAIN; Senators BURDICK, FREDERICK, LINTHICUM, MONNES ANDERSON, RILEY, TAYLOR, THOMSEN, WAGNER, Representatives BONHAM, EVANS, FAHEY, HELM, LEIF, PILUSO, POWER (at the request of Never Again Coalition) (Presession filed.)

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**.

Requires prospective contractor to state in bid or proposal for public contract whether and extent to which prospective contractor will use conflict minerals in performing public contract and whether prospective contractor's disclosures, policies, practices and procedures with respect to procuring conflict minerals comply with Organization for Economic Cooperation and Development's Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

Requires contracting agency to give preference to prospective contractor that complies with provisions in guidance document. Permits contracting agency to give additional weight in evaluating bid or proposal to prospective contractor with most thorough description of disclosures, policies, practices and procedures.

Becomes operative January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to preferences in public contracting for prospective contractors that meet certain require-
3 ments with respect to procuring conflict minerals; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 279A.**

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

7 (a) **"Affiliated entity" means an entity that a prospective contractor controls, that con-**
8 **trols the prospective contractor or that another entity controls in common with the pro-**
9 **spective contractor.**

10 (b) **"Conflict minerals" means:**

11 (A) **Columbite-tantalite or an ore for tantalum;**

12 (B) **Cassiterite or an ore for tin;**

13 (C) **Wolframite or an ore for tungsten;**

14 (D) **Gold;**

15 (E) **A derivative of any of the minerals identified in subparagraph (A), (B), (C) or (D) of**
16 **this paragraph; or**

17 (F) **Any other mineral or derivative of a mineral the extraction, sale, distribution or use**
18 **of which a contracting agency determines, based on findings that the United States Secretary**
19 **of State makes, is financing conflict in the Democratic Republic of the Congo or a country**
20 **that shares an internationally recognized border with the Democratic Republic of the Congo.**

21 (2)(a) **A contracting agency in solicitation documents for a public contract shall require**
22 **a prospective contractor to state in the prospective contractor's bid or proposal for the**
23 **public contract:**

24 (A) **Whether and to what extent any of the materials the prospective contractor or an**

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 affiliated entity of the prospective contractor intends to use in performing the public con-
2 tract are conflict minerals; and

3 (B) That the prospective contractor's and the affiliated entity's disclosures, policies,
4 practices and procedures with respect to procuring conflict minerals comply with the most
5 recent edition of the Organization for Economic Cooperation and Development's Due Dili-
6 gence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-
7 Risk Areas.

8 (b) A prospective contractor may meet the requirement set forth in paragraph (a) of this
9 subsection by linking or referring in a bid or proposal to a description of disclosures, policies,
10 practices and procedures with respect to procuring conflict minerals that the prospective
11 contractor or the affiliated entity has posted on the prospective contractor's or affiliated
12 entity's website or has otherwise made available as an official publication that is accessible
13 to the public.

14 (3) Notwithstanding provisions of law that require a contracting agency to award a public
15 contract to the lowest responsible bidder or to the prospective contractor that submits the
16 best proposal or quotation, to the extent that procurement requires or will use conflict
17 minerals, a contracting agency:

18 (a) Shall give a preference to each prospective contractor that meets the requirements
19 set forth in subsection (2) of this section; and

20 (b) May give additional weight in evaluating bids or proposals for a public contract to a
21 prospective contractor that has the most thorough description of the prospective
22 contractor's or an affiliated entity's disclosures, policies, practices and procedures with re-
23 spect to procuring conflict minerals.

24 **SECTION 3.** Section 2 of this 2019 Act applies to procurements that a contracting agency
25 advertises or otherwise solicits or, if the contracting agency does not advertise or otherwise
26 solicit the procurement, to a public contract into which the contracting agency enters on
27 or after the operative date specified in section 4 of this 2019 Act.

28 **SECTION 4.** (1) Section 2 of this 2019 Act becomes operative on January 1, 2020.

29 (2) The Attorney General, the Director of the Oregon Department of Administrative
30 Services, the Director of Transportation and a contracting agency that adopts rules under
31 ORS 279A.065 or 279A.070 may adopt rules and take any other action before the operative
32 date specified in subsection (1) of this section that is necessary to enable the Attorney
33 General, the director or the contracting agency, on and after the operative date specified in
34 subsection (1) of this section, to exercise all of the duties, functions and powers conferred
35 on the Attorney General, the director or the contracting agency by section 2 of this 2019 Act.

36 **SECTION 5.** This 2019 Act takes effect on the 91st day after the date on which the 2019
37 regular session of the Eightieth Legislative Assembly adjourns sine die.

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