

FISCAL IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Measure: SB 420 - A5

***Only Impacts on Original or Engrossed
Versions are Considered Official***

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Measure Description:

Permits local contract review board or local contracting agency to enact or adopt, as appropriate, ordinance, resolution, rule, regulation or other legislative or administrative measure to designate certain public improvement contracts or subcontracts with anticipated costs of \$200,000 or more as community benefit contracts.

Government Unit(s) Affected:

Statewide, Bureau of Labor and Industries (BOLI), Department of Administrative Services (DAS), Department of Justice (DOJ), Oregon Department of Transportation (ODOT), Counties, Cities, School Districts, Special Districts, TriMet, Metro

Summary of Fiscal Impact:

Costs related to the measure are anticipated to be minimal - See explanatory analysis.

Analysis:

Senate Bill 420, as amended by the -A5 amendments, amends the public contracting code to allow a state contracting agency or a local contract review board to designate a public improvement contract or subcontract with an anticipated contract price of \$200,000 or more as a “community benefit contract.” A public improvement contract that a contracting agency or local contract review board designates as a community benefit contract may include, but need not be limited to, terms and conditions that require a contractor to register as an apprentice training agent, employ apprentices to perform a specified percentage of work hours in occupations with viable apprenticeships, provide employer-paid family health benefits for each worker, establish and implement a plan to conduct outreach for recruiting and retaining women, members of minority groups and service-disabled veterans, and meet any other requirements established by the contracting agency. The measure allows a contracting agency or, if appropriate, a local contract review board, to adopt a rule, resolution, ordinance or other regulation that permits or requires a prospective bidder or proposer to prequalify for public improvement contracts, including community benefit contracts, for which the contracting agency intends to conduct a procurement. The rule, resolution, ordinance or other regulation must include the time for submitting prequalification applications and a general description of the type and nature of the contracts for which the contracting agency intends to conduct a procurement. A person who wishes to prequalify must submit a prequalification application to the contracting agency, and the contracting agency must determine whether the applicant is qualified within 30 days of receipt. The measure applies to procurements solicited or contracts entered into after the measure’s operative date. The measure takes effect 91 days after adjournment *sine die* and becomes operative on January 1, 2022.

State Agencies and Political Subdivisions

The measure is anticipated to have a minimal fiscal impact on state agencies and local governments. The measure is permissive to state contracting agencies and local contract review boards. Consequently, if a state contracting agency or a local contract review board do not designate a public improvement contract as a public benefit contract, the measure would have no fiscal impact on state and local government. Assuming a state contracting agency were to designate a public improvement contract as a public benefit contract, the agency in question would need to engage in rulemaking to guide this new process, which would present only a minimal

fiscal impact. However, the measure also has the potential to increase construction costs for public improvement contracts. If a contracting agency or a local contract review board were to designate a project as community benefit contract, the construction costs would likely increase. In order to qualify, a contractor in a community benefit contract must employ apprentices and provide employer-paid family health insurance, which would likely increase the cost of the contract bid to the contracting agency or local contract review board. Since the measure would limit the number of contractors that qualify for public improvement contracts, that in turn would limit competition amongst bidding contractors and, especially in more rural and remote areas, could substantially increase the cost of contracts or make it more difficult to secure a qualified contractor. It is unclear, though, how much these additional requirements on qualifying contractors would increase project costs.