

House Bill 3083

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of Ironworkers Local 29)

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**.

Provides that specifications for public improvement contracts and contracts for public works must require adherence to current seismic safety standards and seismic rehabilitation standards in constructing, reconstructing or performing major renovation on public building or critical infrastructure that is or will be located in area of state that is susceptible to seismic events.

Requires contracting agency to consult with Seismic Safety Policy Advisory Commission to determine if public improvement or public works is or will be located in area of state that is susceptible to seismic events. Requires contracting agency to consult with Department of Consumer and Business Services and local government to determine applicable seismic safety and seismic rehabilitation standards.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to requirements for adherence to applicable seismic standards in certain public contracts;
3 creating new provisions; amending ORS 279C.345 and 279C.350; and prescribing an effective
4 date.

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

6 **SECTION 1.** ORS 279C.345 is amended to read:

7 279C.345. (1) **As used in this section, "public works" has the meaning given that term in**
8 **ORS 279C.800.**

9 [(1)] (2) Specifications for public improvement contracts **or contracts for public works** may
10 not expressly or implicitly require any product by any brand name or mark, nor the product of any
11 particular manufacturer or seller unless the product is exempt under subsection [(2)] (4) of this
12 section.

13 (3)(a) **Specifications for public improvement contracts or contracts for public works must**
14 **require adherence to current seismic safety standards and seismic rehabilitation standards**
15 **in constructing, reconstructing or performing major renovations on public buildings or crit-**
16 **ical infrastructure that is or will be located in an area of the state that is susceptible to**
17 **seismic events.**

18 (b) **In preparing specifications for a public improvement contract or contract for public**
19 **works a contracting agency shall consult with the Seismic Safety Policy Advisory Commis-**
20 **sion to determine if the proposed public improvement or public works is within an area of**
21 **the state that is susceptible to seismic events. To determine applicable seismic safety**
22 **standards and seismic rehabilitation standards to include within the contract specifications,**
23 **the contracting agency shall consult with the Department of Consumer and Business Ser-**
24 **vices and any local government within the jurisdiction of which the public improvement or**
25 **public works will be located, if the local government administers a building code with seismic**
26 **safety standards or seismic rehabilitation standards.**

[(2)] (4) The Director of the Oregon Department of Administrative Services, a local contract

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 review board or, for contracts described in ORS 279A.050 (3)(b), the Director of Transportation may
 2 exempt certain products or classes of products from subsection (1) of this section upon any of the
 3 following findings:

4 (a) *[It is unlikely that]* The exemption *[will]* **is unlikely to** encourage favoritism in the awarding
 5 of public improvement contracts or substantially diminish competition for public improvement con-
 6 tracts;

7 (b) The specification of a product by brand name or mark, or the product of a particular man-
 8 ufacturer or seller, would result in substantial cost savings to the contracting agency;

9 (c) There is only one manufacturer or seller of the product of the quality required; or

10 (d) Efficient utilization of existing equipment or supplies requires the acquisition of compatible
 11 equipment or supplies.

12 **SECTION 2.** ORS 279C.350 is amended to read:

13 279C.350. (1) Exemptions *[granted by]* **that** the Director of the Oregon Department of Adminis-
 14 trative Services **grants** under ORS 279C.335 (2) or 279C.345 [(2)] (4) constitute rulemaking and not
 15 contested cases under ORS chapter 183. However, an exemption granted with regard to a specific
 16 public improvement contract by the Director of the Oregon Department of Administrative Services,
 17 or an exemption granted by the Director of Transportation with regard to a specific public im-
 18 provement contract or class of public improvement contracts described in ORS 279A.050 (3)(b),
 19 *[shall]* **must** be granted by order. The order *[shall]* **must** set forth findings supporting the decision
 20 to grant or deny the request for the exemption. The order is reviewable under ORS 183.484 and does
 21 not constitute a contested case order. Jurisdiction for review of the order is with the Circuit Court
 22 of Marion County. The court may award costs and attorney fees to the prevailing party.

23 (2) Any person except the contracting agency or anyone representing the contracting agency
 24 may bring a petition **in the manner provided in ORS 183.400** for a declaratory judgment to test
 25 the validity of any rule *[adopted by]* the Director of the Oregon Department of Administrative Ser-
 26 vices **adopts** under ORS 279C.335 or 279C.345 *[in the manner provided in ORS 183.400]*.

27 (3) Any person except the contracting agency or anyone representing the contracting agency
 28 may bring an action for writ of review under ORS chapter 34 to test the validity of an exemption
 29 *[granted]* **a local contract review board grants** under ORS 279C.335 or 279C.345 *[by a local con-*
 30 *tract review board]*.

31 **SECTION 3.** The amendments to ORS 279C.345 and 279C.350 by sections 1 and 2 of this
 32 **2021 Act apply to public improvement contracts or contracts for public works that a con-**
 33 **tracting agency first advertises or otherwise solicits or, if the contracting agency does not**
 34 **advertise or solicit the public improvement contract or contract for public works, to public**
 35 **improvement contracts or contracts for public works into which the contracting agency en-**
 36 **ters on or after the operative date specified in section 4 of this 2021 Act.**

37 **SECTION 4.** (1) The amendments to ORS 279C.345 and 279C.350 by sections 1 and 2 of this
 38 **2021 Act become operative on January 1, 2022.**

39 (2) **The Attorney General, the Director of the Oregon Department of Administrative**
 40 **Services, the Director of Transportation and a contracting agency that adopts rules under**
 41 **ORS 279A.065 or 279A.070 may adopt rules and take any other action before the operative**
 42 **date specified in subsection (1) of this section that is necessary to enable the Attorney**
 43 **General, the directors or the contracting agency, on and after the operative date specified**
 44 **in subsection (1) of this section to undertake and exercise all of the duties, functions and**
 45 **powers conferred on the Attorney General, the directors or the contracting agency by the**

1 amendments to ORS 279C.345 and 279C.350 by sections 1 and 2 of this 2021 Act.

2 SECTION 5. This 2021 Act takes effect on the 91st day after the date on which the 2021
3 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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