

## HOUSE MINORITY REPORT AMENDMENTS TO A-ENGROSSED SENATE BILL 493

By Nonconcurring Members of COMMITTEE ON RULES

May 13

1 On page 2 of the printed A-engrossed bill, line 6, delete “, Polk and Yamhill Counties” and insert  
2 “County”.

3 In line 7, delete “and Linn” and insert “, Linn, Polk and Yamhill”.

4 On page 3, delete lines 9 through 45.

5 On page 4, delete line 1 and insert:

6 “**SECTION 2.** ORS 279C.815 is amended to read:

7 “279C.815. (1) As used in this section[,]:

8 “(a) ‘**Bona fide rate of wage**’ means a rate of wage that a labor organization certifies in  
9 writing to the Commissioner of the Bureau of Labor and Industries is applicable to at least  
10 50 percent of the labor organization’s membership in each trade or occupation within a lo-  
11 cality.

12 “(b) ‘Person’ means an employer, a labor organization or an official representative of an em-  
13 ployee or employer association.

14 “(c) ‘**Region 1**’ means a locality that is within District 2, District 3 or District 5.

15 “(d) ‘**Region 2**’ means a locality that is outside District 2, District 3 or District 5.

16 “(2)(a) The commissioner [*of the Bureau of Labor and Industries*] at least once each year shall  
17 determine in accordance with paragraph (b) of this subsection the prevailing rate of wage for  
18 workers in each trade or occupation in each locality described in ORS 279C.800 [*by means of an*  
19 *independent wage survey*] and shall make this information available at least twice each year. The  
20 commissioner may amend the rate at any time.

21 “(b) The prevailing rate of wage for a trade or occupation in a locality is:

22 “(A) In Region 1, the bona fide rate of wage set forth in the collective bargaining agree-  
23 ment for the trade or occupation in the locality or, if more than one collective bargaining  
24 agreement covers a trade or occupation in the locality, the average of the bona fide rate of  
25 wage set forth in the collective bargaining agreements for the trade or occupation in the  
26 locality; and

27 “(B) In Region 2, 85 percent of the bona fide rate of wage set forth in the collective  
28 bargaining agreement for the trade or occupation in the locality or, if more than one col-  
29 lective bargaining agreement covers a trade or occupation in the locality, 85 percent of the  
30 average of the bona fide rate of wage set forth in the collective bargaining agreements for  
31 the trade or occupation in the locality.

32 “[*(b) (c) [If the data derived only from the survey described in paragraph (a) of this subsection*  
33 *appear to the commissioner to be insufficient to determine the prevailing rate of wage, the commissioner*  
34 *shall]* If a collective bargaining agreement does not exist for a trade or occupation in a lo-

1 **cality, the commissioner shall determine the prevailing rate of wage by conducting an inde-**  
2 **pendent wage survey in the locality. The commissioner may also** consider additional  
3 information such as [*collective bargaining agreements,*] other independent wage surveys and the pre-  
4 prevailing rates of wage determined by appropriate federal agencies or agencies of adjoining states. If  
5 [*there is not*] **a wage survey under this paragraph does not show that** a majority in the same  
6 trade or occupation **is** paid at the same rate, the average rate of hourly wage, including all fringe  
7 benefits, paid in the locality to workers in the same trade or occupation is the prevailing rate. If  
8 the wage a contractor or subcontractor pays to workers on a public works is based on a period of  
9 time other than an hour, the hourly wage must be mathematically determined by the number of  
10 hours worked in that period of time.

11 “(3) A person shall make reports and returns to the Bureau of Labor and Industries that the  
12 commissioner requires to determine the prevailing rates of wage, using forms the bureau provides  
13 and within the time the commissioner prescribes. The person or an authorized representative of the  
14 person shall certify to the accuracy of the reports and returns.

15 “(4) Notwithstanding ORS 192.311 to 192.478, reports and returns or other information provided  
16 to the commissioner under this section are confidential and not available for inspection by the  
17 public.

18 “(5) The commissioner may enter into a contract with a public or private party to obtain data  
19 and information the commissioner needs to determine the prevailing rate of wage. The contract may  
20 provide for the manner and extent of the [*market*] review of affected trades and occupations and for  
21 other requirements regarding timelines of reports, accuracy of data and information and supervision  
22 and review as the commissioner prescribes.

23 “(6) **The commissioner may adopt rules to implement the provisions of this section after**  
24 **notifying, and seeking participation in the rulemaking process from, persons the rulemaking**  
25 **will affect, local governments and other participants the commissioner deems necessary.**

26 “**SECTION 3. The Commissioner of the Bureau of Labor and Industries shall report not**  
27 **later than September 1, 2023, to the Legislative Assembly in accordance with ORS 192.245**  
28 **concerning the implementation of the determinations of prevailing rate of wage under the**  
29 **amendments to ORS 279C.815 by section 2 of this 2021 Act. In the report, the commissioner**  
30 **at a minimum shall discuss and explain any effect on wage rates that the commissioner did**  
31 **not anticipate, any difficulties or problems in implementation and any unintended conse-**  
32 **quences of the implementation.**

33 “**SECTION 4. Section 3 of this 2021 Act is repealed on January 2, 2024.**”

34 In line 2, delete “3” and insert “5”.

35 In line 6, delete “4” and insert “6”.

36 In line 7, delete “4” and insert “6”.

37 In line 15, delete “5” and insert “7”.

38 /s/ Daniel Bonham  
39 Representative

40 /s/ Jack Zika  
41 Representative