

Requested by Representative BONHAM

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 493**

1 On page 2 of the printed A-engrossed bill, delete lines 2 through 17 and  
2 insert:

3 “(3) ‘Locality’ means one of the following regions in which a public  
4 works, or the major portion of the public works, is constructed:

5 “(a) Region 1, composed of Clackamas, Deschutes, Hood River, Lane,  
6 Marion, Multnomah and Washington Counties;

7 “(b) Region 2, composed of Benton, Columbia, Polk and Yamhill Counties;

8 “(c) Region 3, composed of Clatsop, Jackson, Jefferson, Linn, Morrow,  
9 Sherman, Umatilla, Union, Wallowa and Wasco Counties;

10 “(d) Region 4, composed of Baker, Coos, Crook, Curry, Douglas, Gilliam,  
11 Josephine, Klamath, Lincoln and Tillamook Counties; and

12 “(e) Region 5, composed of Grant, Harney, Lake, Malheur and Wheeler  
13 Counties.”.

14 On page 3, delete lines 9 through 45.

15 On page 4, delete line 1 and insert:

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

17 “279C.815. (1) As used in this section[,]:

18 “(a) ‘**Bona fide rate of wage**’ means a rate of wage that a labor or-  
19 ganization certifies in writing to the Commissioner of the Bureau of  
20 Labor and Industries is applicable to at least 50 percent of the labor  
21 organization’s membership in each trade or occupation within a lo-

1 **cality.**

2 “(b) ‘Person’ means an employer, a labor organization or an official rep-  
3 resentative of an employee or employer association.

4 “(2)(a) The commissioner [*of the Bureau of Labor and Industries*] at least  
5 once each year shall determine **in accordance with paragraph (b) of this**  
6 **subsection** the prevailing rate of wage for workers in each trade or occu-  
7 pation in each locality described in ORS 279C.800 [*by means of an independ-*  
8 *ent wage survey*] and shall make this information available at least twice  
9 each year. The commissioner may amend the rate at any time.

10 “(b) **The prevailing rate of wage for a trade or occupation in a lo-**  
11 **cality is:**

12 “(A) **In Region 1, the bona fide rate of wage set forth in the col-**  
13 **lective bargaining agreement for the trade or occupation in the local-**  
14 **ity or, if more than one collective bargaining agreement covers a trade**  
15 **or occupation in the locality, the average of the bona fide rate of wage**  
16 **set forth in the collective bargaining agreements for the trade or oc-**  
17 **cupation in the locality;**

18 “(B) **In Region 2, 90 percent of the bona fide rate of wage set forth**  
19 **in the collective bargaining agreement for the trade or occupation in**  
20 **the locality or, if more than one collective bargaining agreement cov-**  
21 **ers a trade or occupation in the locality, 90 percent of the average of**  
22 **the bona fide rate of wage set forth in the collective bargaining**  
23 **agreements for the trade or occupation in the locality;**

24 “(C) **In Region 3, 85 percent of the bona fide rate of wage set forth**  
25 **in the collective bargaining agreement for the trade or occupation in**  
26 **the locality or, if more than one collective bargaining agreement cov-**  
27 **ers a trade or occupation in the locality, 85 percent of the average of**  
28 **the bona fide rate of wage set forth in the collective bargaining**  
29 **agreements for the trade or occupation in the locality;**

30 “(D) **In Region 4, 80 percent of the bona fide rate of wage set forth**

1 in the collective bargaining agreement for the trade or occupation in  
2 the locality or, if more than one collective bargaining agreement cov-  
3 ers a trade or occupation in the locality, 80 percent of the average of  
4 the bona fide rate of wage set forth in the collective bargaining  
5 agreements for the trade or occupation in the locality;

6 “(E) In Region 5, 75 percent of the bona fide rate of wage set forth  
7 in the collective bargaining agreement for the trade or occupation in  
8 the locality or, if more than one collective bargaining agreement cov-  
9 ers a trade or occupation in the locality, 75 percent of the average of  
10 the bona fide rate of wage set forth in the collective bargaining  
11 agreements for the trade or occupation in the locality.

12 “[*(b)*] (c) [*If the data derived only from the survey described in paragraph*  
13 *(a) of this subsection appear to the commissioner to be insufficient to determine*  
14 *the prevailing rate of wage, the commissioner shall]* **If a collective bargain-**  
15 **ing agreement does not exist for a trade or occupation in a locality,**  
16 **the commissioner shall determine the prevailing rate of wage by con-**  
17 **ducting an independent wage survey in the locality. The commissioner**  
18 **may also** consider additional information such as [*collective bargaining*  
19 *agreements,*] other independent wage surveys and the prevailing rates of wage  
20 determined by appropriate federal agencies or agencies of adjoining states.  
21 If [*there is not*] **a wage survey under this paragraph does not show that**  
22 a majority in the same trade or occupation **is** paid at the same rate, the av-  
23 erage rate of hourly wage, including all fringe benefits, paid in the locality  
24 to workers in the same trade or occupation is the prevailing rate. If the wage  
25 a contractor or subcontractor pays to workers on a public works is based  
26 on a period of time other than an hour, the hourly wage must be math-  
27 ematically determined by the number of hours worked in that period of time.  
28 “(3) A person shall make reports and returns to the Bureau of Labor and  
29 Industries that the commissioner requires to determine the prevailing rates  
30 of wage, using forms the bureau provides and within the time the commis-

1 sioner prescribes. The person or an authorized representative of the person  
2 shall certify to the accuracy of the reports and returns.

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

6 “(5) The commissioner may enter into a contract with a public or private  
7 party to obtain data and information the commissioner needs to determine  
8 the prevailing rate of wage. The contract may provide for the manner and  
9 extent of the [*market*] review of affected trades and occupations and for other  
10 requirements regarding timelines of reports, accuracy of data and informa-  
11 tion and supervision and review as the commissioner prescribes.

12 **“(6) The commissioner may adopt rules to implement the provisions  
13 of this section after notifying, and seeking participation in the  
14 rulemaking process from, persons the rulemaking will affect, local  
15 governments and other participants the commissioner deems neces-  
16 sary.**

17 **“SECTION 3. The Commissioner of the Bureau of Labor and In-  
18 dustries shall report not later than September 1, 2023, to the Legisla-  
19 tive Assembly in accordance with ORS 192.245 concerning the  
20 implementation of the determinations of prevailing rate of wage under  
21 the amendments to ORS 279C.815 by section 2 of this 2021 Act. In the  
22 report, the commissioner at a minimum shall discuss and explain any  
23 effect on wage rates that the commissioner did not anticipate, any  
24 difficulties or problems in implementation and any unintended conse-  
25 quences of the implementation.**

26 **“SECTION 4. Section 3 of this 2021 Act is repealed on January 2,  
27 2024.”.**

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

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

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

1 In line 15, delete "5" and insert "7".

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