

Requested by Representative BONHAM

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

1 On page 2 of the printed A-engrossed bill, line 6, delete “, Polk and
2 Yamhill Counties” and insert “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 or-**
9 **ganization certifies in writing to the Commissioner of the Bureau of**
10 **Labor and Industries is applicable to at least 50 percent of the labor**
11 **organization’s membership in each trade or occupation within a lo-**
12 **cality.**

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

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

17 **“(d) ‘Region 2’ means a locality that is outside District 2, District**
18 **3 or District 5.**

19 **“(2)(a) The commissioner [of the Bureau of Labor and Industries] at least**
20 **once each year shall determine in accordance with paragraph (b) of this**
21 **subsection the prevailing rate of wage for workers in each trade or occu-**

1 pation in each locality described in ORS 279C.800 [*by means of an independ-*
2 *ent wage survey*] and shall make this information available at least twice
3 each year. The commissioner may amend the rate at any time.

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

6 “(A) **In Region 1, the bona fide rate of wage set forth in the col-**
7 **lective bargaining agreement for the trade or occupation in the local-**
8 **ity or, if more than one collective bargaining agreement covers a trade**
9 **or occupation in the locality, the average of the bona fide rate of wage**
10 **set forth in the collective bargaining agreements for the trade or oc-**
11 **cupation in the locality; and**

12 “(B) **In Region 2, 85 percent of the bona fide rate of wage set forth**
13 **in the collective bargaining agreement for the trade or occupation in**
14 **the locality or, if more than one collective bargaining agreement cov-**
15 **ers a trade or occupation in the locality, 85 percent of the average of**
16 **the bona fide rate of wage set forth in the collective bargaining**
17 **agreements for the trade or occupation in the locality.**

18 “[~~(b)~~] (c) [*If the data derived only from the survey described in paragraph*
19 (*a*) *of this subsection appear to the commissioner to be insufficient to determine*
20 *the prevailing rate of wage, the commissioner shall*] **If a collective bargain-**
21 **ing agreement does not exist for a trade or occupation in a locality,**
22 **the commissioner shall determine the prevailing rate of wage by con-**
23 **ducting an independent wage survey in the locality. The commissioner**
24 **may also** consider additional information such as [*collective bargaining*
25 *agreements,*] other independent wage surveys and the prevailing rates of wage
26 determined by appropriate federal agencies or agencies of adjoining states.
27 If [*there is not*] **a wage survey under this paragraph does not show that**
28 a majority in the same trade or occupation **is** paid at the same rate, the av-
29 erage rate of hourly wage, including all fringe benefits, paid in the locality
30 to workers in the same trade or occupation is the prevailing rate. If the wage

1 a contractor or subcontractor pays to workers on a public works is based
2 on a period of time other than an hour, the hourly wage must be math-
3 ematically determined by the number of hours worked in that period of time.

4 “(3) A person shall make reports and returns to the Bureau of Labor and
5 Industries that the commissioner requires to determine the prevailing rates
6 of wage, using forms the bureau provides and within the time the commis-
7 sioner prescribes. The person or an authorized representative of the person
8 shall certify to the accuracy of the reports and returns.

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

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

18 “(6) **The commissioner may adopt rules to implement the provisions**
19 **of this section after notifying, and seeking participation in the**
20 **rulemaking process from, persons the rulemaking will affect, local**
21 **governments and other participants the commissioner deems neces-**
22 **sary.**

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

1 **quences of the implementation.**

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

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

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

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

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

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