

SB 442 A STAFF MEASURE SUMMARY**Carrier:** Sen. Hayden**Senate Committee On Labor and Business****Action Date:** 03/07/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 5-0-0-0**Yeas:** 5 - Bonham, Hansell, Jama, Patterson, Taylor**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Whitney Perez, LPRO Analyst**Meeting Dates:** 1/24, 3/2, 3/7**WHAT THE MEASURE DOES:**

Allows contracting agency to grant preference to procuring goods or services for public use that are fabricated, processed, or have services performed in Oregon when goods or services cost not more than five percent of goods not processed or fabricated, or services not performed, in Oregon and contracting agency can determine that the higher priced procurement offsets environmental costs attributable to transporting out-of-state goods or services. Exempts public improvement contracts or contracts for public works that contracting agency procures under ORS chapter 279C, or contract for goods that contracting agency procures in connection with public improvement contract or contract for public works, from specified procurement preferences. Operative on January 1, 2024. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Measure not intended to include construction materials
- Impact on procurement process
- Carbon impact of transporting goods to Oregon
- Examples of application of measure

EFFECT OF AMENDMENT:

Exempts public improvement contracts or contracts for public works that contracting agency procures under ORS chapter 279C, or contract for goods that contracting agency procures in connection with public improvement contract or contract for public works, from specified procurement preferences.

BACKGROUND:

Public contracting is governed by the Public Contracting Code (Code) and governs contracting activities (ORS chapter 279A), the procurement of goods and services (ORS chapter 279B), and the procurement of construction and related services (ORS chapter 279C). The Code applies to public bodies authorized to conduct procurements, including state governments, local governments, and special governments. Several government entities are exempt from the Code, including the judicial and legislative department. Generally, a contracting agency awards contracts to the lowest bidder or best proposer. However, the Code contains provisions allowing contracting agencies to give preference in certain circumstances.

Currently, a contracting agency may grant preference in the procurement of goods or services, for a public use, that are fabricated, processed, or have services performed in Oregon, when the cost is not more than ten percent greater than the out-of-state goods. Senate Bill 442 A adds a provision allowing a contracting agency to grant preference in the procurement of goods or services, for a public use, that are fabricated, processed, or have services performed in Oregon when the cost is not more than five percent greater than the goods not processed or fabricated, or services are not performed in Oregon, and the contracting agency determines that the cost offsets environmental costs attributable to the transportation of out-of-state goods or services.