

HOUSE AMENDMENTS TO HOUSE BILL 2057

By COMMITTEE ON BUSINESS AND LABOR

April 3

1 On page 1 of the printed bill, delete lines 4 through 28 and delete pages 2 and 3 and insert:

2 **“SECTION 1. Sections 2 and 3 of this 2023 Act are added to and made a part of ORS**
3 **chapter 652.**

4 **“SECTION 2. (1) As used in this section and section 3 of this 2023 Act:**

5 **“(a) ‘Construction’ has the meaning given that term in ORS 701.410.**

6 **“(b) ‘Contractor’ has the meaning given that term in ORS 701.410.**

7 **“(c) ‘Labor organization’ has the meaning given that term in ORS 663.005.**

8 **“(d) ‘Owner’ has the meaning given that term in ORS 701.410.**

9 **“(e) ‘Subcontractor’ has the meaning given that term in ORS 701.410.**

10 **“(f) ‘Unrepresented employee’ means an employee of a contractor or a subcontractor who**
11 **is:**

12 **“(A) Not represented by a labor organization certified to represent employees for pur-**
13 **poses of collective bargaining; and**

14 **“(B) Not subject to the terms of a collective bargaining agreement.**

15 **“(2) A contractor who enters into a construction contract with a subcontractor to per-**
16 **form construction work on a project shall be jointly and severally liable in any civil or ad-**
17 **ministrative action for any unpaid wages owed to an unrepresented employee of a**
18 **subcontractor at any tier for the employee’s performance of labor on the project, and any**
19 **damages, penalty wages or attorney fees or costs incurred in an action brought by the em-**
20 **ployee.**

21 **“(3)(a) A civil action under this section to recover unpaid wages must be commenced**
22 **within six years from the date on which the wages became due.**

23 **“(b) A civil action under this section to recover unpaid overtime wages must be com-**
24 **menced within two years from the date on which the wages were earned.**

25 **“(4) Except as provided in subsection (5) of this section, any agreement or release by an**
26 **unrepresented employee or subcontractor to waive liability assigned to a contractor under**
27 **this section is invalid.**

28 **“(5) Nothing in this section is intended to diminish the rights, privileges or remedies of**
29 **an employee under a collective bargaining agreement.**

30 **“(6) This section does not prohibit a contractor from entering into an agreement with a**
31 **subcontractor to indemnify the contractor for the liability described in subsection (2) of this**
32 **section, provided that the agreement does not diminish the rights of an employee under this**
33 **section.**

34 **“(7) Nothing in this section impairs the right of a contractor to bring an action against**
35 **a subcontractor for the amounts of unpaid wages and any damages or attorney fees paid by**

1 a contractor under this section.

2 “(8) This section does not apply to work performed under a public contract under ORS
3 279C.800 to 279C.870.

4 “(9) The Commissioner of the Bureau of Labor and Industries may adopt any rules nec-
5 essary to implement the provisions of this section.

6 “**SECTION 3.** (1) Any subcontractor with whom a contractor has entered into a contract
7 to perform a portion of a construction project within the scope of a construction contract
8 between the contractor and an owner shall provide the following records to the contractor,
9 upon the contractor’s request:

10 “(a) Certified payroll reports that, at a minimum, include sufficient information for the
11 contractor to determine whether a subcontractor has paid in full all wages earned by un-
12 represented employees who performed work on the project as part of the employees’ total
13 compensation.

14 “(b) The name, address and phone number of a contact for the subcontractor.

15 “(c) The names of all workers who performed work on the construction project and no-
16 tation of whether each worker is classified as an employee or an independent contractor.

17 “(d) The name of any subcontractor with whom the first-tier subcontractor contracts.

18 “(e) The anticipated contract start date and scheduled duration of work.

19 “(2) A subcontractor’s failure to comply with this section does not relieve a contractor
20 of the liability prescribed by section 2 of this 2023 Act.

21 “(3) Nothing in this section alters a contractor’s obligation to timely pay a subcontractor
22 under ORS chapter 701, except that a contractor may:

23 “(a) Withhold payment to a subcontractor because of the subcontractor’s failure to
24 comply with the request for records under subsection (1) of this section; and

25 “(b) Withhold payment to a subcontractor if the contractor has paid wages, on behalf of
26 the subcontractor, to the subcontractor’s employees.

27 “**SECTION 4.** Sections 2 and 3 of this 2023 Act apply to labor performed by employees on
28 a project for a contractor or subcontractor on or after the effective date of this 2023 Act.”.