

House Bill 3335

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of League of Oregon Cities)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits public agency to establish specifications for cleaning and security services that public agency procures from qualified nonprofit agency for individuals with disabilities. Allows public agency to inspect and evaluate cleaning and security services provided and to terminate agreement with qualified nonprofit agency for individuals with disabilities that provides cleaning or security services that do not meet public agency's specifications. Requires public agency to enter into new agreement with another qualified nonprofit agency for individuals with disabilities unless no qualified nonprofit agency for individuals with disabilities can meet public agency's specifications. Requires public agency in new agreement to apply same specifications and to inspect and evaluate provided cleaning and security services using same methods that applied under terminated agreement.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to services provided by qualified nonprofit agency for individuals with disabilities; creating
3 new provisions; amending ORS 279.850; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 279.850 is amended to read:

6 279.850. (1)(a) Except as provided in [*paragraph (b) of this subsection*] **subsection (2) of this**
7 **section** and subject to [*paragraph (c) of this subsection*] **subsection (3) of this section**, a public
8 agency that intends to procure a product or service on the procurement list that the Oregon De-
9 partment of Administrative Services established under ORS 279.845 shall, in accordance with the
10 department's rules, procure the product or service at the price the department establishes from a
11 qualified nonprofit agency for individuals with disabilities, provided that the product or service is
12 of the appropriate specifications and is available within the period the public agency requires.

13 **(b) A public agency that under paragraph (a) of this subsection must procure cleaning**
14 **services or security services from a qualified nonprofit agency for individuals with disabilities**
15 **may:**

16 **(A) Establish detailed, commercially reasonable specifications for the cleaning services**
17 **or security services;**

18 **(B) Inspect and evaluate the quality of the cleaning services or security services that the**
19 **qualified nonprofit agency for individuals with disabilities provides; and**

20 **(C) Terminate for cause any agreement for cleaning services or security services the**
21 **public agency has with the qualified nonprofit agency for individuals with disabilities if the**
22 **cleaning services or security services do not meet all of the public agency's specifications.**
23 **The public agency shall give the qualified nonprofit agency for individuals with disabilities**
24 **not less than 30 days' notice of a termination and may provide an opportunity to cure defi-**
25 **ciencies in performance.**

26 **(c) Except as provided in subsection (2)(a) of this section, a public agency that terminates**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **a contract with a qualified nonprofit agency for individuals with disabilities under paragraph**
 2 **(b)(C) of this subsection shall enter into an agreement with another qualified nonprofit**
 3 **agency for individuals with disabilities to perform the cleaning services or security services**
 4 **the public agency requires. The public agency shall apply the same specifications and shall**
 5 **inspect and evaluate the cleaning services or security services the new qualified nonprofit**
 6 **agency for individuals with disabilities provides using the same standards that applied under**
 7 **the agreement that the public agency terminated.**

8 **(d) Rules the department adopts and the procurement list and prices that the department**
 9 **establishes under ORS 279.845 and paragraph (a) of this subsection must allow for and take**
 10 **account of specifications that public agencies establish under paragraph (b) of this sub-**
 11 **section.**

12 [(b)] **(2)** A public agency may procure a product or service that is on the procurement list de-
 13 scribed in [paragraph (a) of this] subsection **(1)(a) of this section** from a person other than a qual-
 14 ified nonprofit agency for individuals with disabilities if:

15 [(A)] **(a)** All of the qualified nonprofit agencies for individuals with disabilities on the procure-
 16 ment list that applies to the public agency have a record in the previous three years of repeatedly
 17 violating, or are not now in compliance with, applicable local ordinances or resolutions that govern
 18 labor standards **or, if the public agency is procuring cleaning services or security services, all**
 19 **qualified nonprofit agencies for individuals with disabilities cannot provide, as appropriate,**
 20 **cleaning services or security services that meet all of the specifications that the public**
 21 **agency establishes under subsection (1)(b) of this section; and**

22 [(B)] **(b)** The person, for a period of 90 days after the person enters into an agreement with the
 23 public agency, offers to employ the employees of a qualified nonprofit agency for individuals with
 24 disabilities from which the public agency would have procured the product or service but for the
 25 failure of the qualified nonprofit agency for individuals with disabilities to comply with an applicable
 26 local ordinance or resolution that governs labor standards.

27 [(c)] **(3)** If a public agency [may choose] **chooses** to procure a product or service from more than
 28 one qualified nonprofit agency for individuals with disabilities, the public agency may give a pref-
 29 erence to the qualified nonprofit agency for individuals with disabilities that best demonstrates that
 30 the qualified nonprofit agency for individuals with disabilities:

31 [(A)] **(a)** Complies with all applicable local ordinances and resolutions that govern labor stan-
 32 dards; and

33 [(B)] **(b)** Provides wages, health care benefits, alternative dispute resolution services and pen-
 34 sion or other retirement arrangements that, in the aggregate, are better than the average package
 35 of wages, health care benefits, alternative dispute resolution services and pension or other retire-
 36 ment arrangements that private employers provide to employees that perform the same or similar
 37 job duties:

38 [(i)] **(A)** In the same industry in which the qualified nonprofit agency for individuals with disa-
 39 bilities engages; and

40 [(ii)] **(B)** In the county in which the qualified nonprofit agency for individuals with disabilities
 41 will deliver the product or perform the service.

42 [(2)(a)] **(4)(a)** A public agency may require in any agreement with a qualified nonprofit agency
 43 for individuals with disabilities under ORS 279.835 to 279.855 that the qualified nonprofit agency for
 44 individuals with disabilities comply with applicable local ordinances or resolutions that govern labor
 45 standards.

1 (b) A public agency may disqualify a qualified nonprofit agency for individuals with disabilities
 2 from entering into an agreement with the public agency under ORS 279.835 to 279.855 for a period
 3 of three years if the public agency:

4 (A) Determines that the qualified nonprofit agency for individuals with disabilities repeatedly
 5 violated local ordinances or resolutions that govern labor standards during the term of an agree-
 6 ment with the public agency under ORS 279.835 to 279.855; or

7 (B) Finds that the qualified nonprofit agency for individuals with disabilities has a record in the
 8 previous three years of repeatedly violating applicable local ordinances or resolutions that govern
 9 labor standards.

10 [(3)] (5) In furthering the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335, the
 11 Legislative Assembly intends that the department, public agencies and qualified nonprofit agencies
 12 for individuals with disabilities cooperate closely. The department on behalf of public agencies and
 13 qualified nonprofit agencies for individuals with disabilities may enter into contractual agreements,
 14 cooperative working relationships or other arrangements that are necessary to effectively coordi-
 15 nate and efficiently realize the objectives of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 and
 16 any other law that governs a procurement of products or services.

17 **SECTION 2. The amendments to ORS 279.850 by section 1 of this 2023 Act apply to**
 18 **agreements that a public agency enters into with a qualified nonprofit agency for individuals**
 19 **with disabilities on or after the operative date specified in section 3 of this 2023 Act.**

20 **SECTION 3. (1) The amendments to ORS 279.850 by section 1 of this 2023 Act become**
 21 **operative on January 1, 2023.**

22 **(2) The Director of the Oregon Department of Administrative Services may adopt rules**
 23 **and take any other action before the operative date specified in subsection (1) of this section**
 24 **that is necessary to enable the director, on and after the operative date specified in sub-**
 25 **section (1) of this section, to undertake and exercise all of the duties, functions and powers**
 26 **conferred on the director by the amendments to ORS 279.850 by section 1 of this 2023 Act.**

27 **SECTION 4. This 2023 Act takes effect on the 91st day after the date on which the 2023**
 28 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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