

D R A F T

SUMMARY

Digest: Says that a public agency does not need to set a certain wage level for a project that is affordable housing. (Flesch Readability Score: 60.6).

Exempts certain projects for public works, primarily related to affordable housing, from the requirement to pay a prevailing rate of wage.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the prevailing rate of wage; creating new provisions; amending
3 ORS 279C.810; and prescribing an effective date.

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

5 **SECTION 1.** ORS 279C.810 is amended to read:

6 279C.810. (1) As used in this section:

7 (a) “Funds of a public agency” does not include:

8 (A) Funds provided in the form of a government grant to a nonprofit or-
9 ganization, unless the government grant is issued for the purpose of con-
10 struction, reconstruction, major renovation or painting;

11 (B) Building and development permit fees paid or waived by the public
12 agency;

13 (C) Tax credits or tax abatements;

14 (D) Land that a public agency sells to a private entity at fair market
15 value;

16 (E) The difference between:

17 (i) The value of land that a public agency sells to a private entity as de-
18 termined at the time of the sale after taking into account any plan, re-

1 quirement, covenant, condition, restriction or other limitation, exclusive of
2 zoning or land use regulations, that the public agency imposes on the de-
3 velopment or use of the land; and

4 (ii) The fair market value of the land if the land is not subject to the
5 limitations described in sub-subparagraph (i) of this subparagraph;

6 (F) Staff resources of the public agency used to manage a project or to
7 provide a principal source of supervision, coordination or oversight of a
8 project;

9 (G) Staff resources of the public agency used to design or inspect one or
10 more components of a project;

11 (H) **Any loan from a public agency to a private entity, including**
12 moneys derived from the sale of bonds that [*are loaned by*] a state agency
13 **lends** to a private entity[, *unless the moneys will be used for a public im-*
14 *provement*];

15 (I) Value added to land as a consequence of a public agency's site prepa-
16 ration, demolition of real property, [*or*] remediation or removal of environ-
17 mental contamination, **or provision of infrastructure that includes but**
18 **is not limited to road construction or utilities**, except for value added in
19 excess of the expenses the public agency incurred in the site preparation,
20 demolition, [*or*] remediation or removal **or provision of infrastructure**
21 when the land is sold for use in a project otherwise subject to ORS 279C.800
22 to 279C.870; or

23 (J) Bonds, or loans from the proceeds of bonds, issued in accordance with
24 ORS chapter 289 or ORS 441.525 to 441.595[, *unless the bonds or loans will*
25 *be used for a public improvement*].

26 (b) "Nonprofit organization" means an organization or group of organ-
27 izations described in section 501(c)(3) of the Internal Revenue Code that is
28 exempt from income tax under section 501(a) of the Internal Revenue Code.

29 (2) ORS 279C.800 to 279C.870 do not apply to:

30 (a) [*Projects*] **A project in Clackamas, Lane, Marion, Multnomah,**
31 **Polk, Washington or Yamhill counties** for which the contract price does

1 not exceed \$50,000 **or a project elsewhere within this state for which the**
2 **contract price does not exceed \$250,000.** In determining the price of a
3 project, a public agency:

4 (A) May not include the value of donated materials or work performed
5 on the project by individuals volunteering to the public agency without pay;
6 and

7 (B) Shall include the value of work performed by every person paid by a
8 contractor or subcontractor in any manner for the person's work on the
9 project.

10 (b) *[Projects]* **A project** for which no funds of a public agency are directly
11 or indirectly used. In accordance with ORS chapter 183, the Commissioner
12 of the Bureau of Labor and Industries shall adopt rules to carry out the
13 provisions of this paragraph.

14 (c) *[Projects]* **A project:**

15 (A) That *[are]* **is** privately owned;

16 (B) That *[use]* **uses** funds of a private entity;

17 (C) In which **a public agency will occupy or use** less than 25 percent
18 of the square footage of *[a]* **the** completed project *[will be occupied or used*
19 *by a public agency];* and

20 (D) *[For which]* **That uses** less than \$750,000 of funds of a public agency
21 *[are used].*

22 *[(d) Projects for residential construction that are privately owned and that*
23 *predominantly provide affordable housing. As used in this paragraph:]*

24 *[(A) "Affordable housing" means housing that serves occupants whose in-*
25 *comes are no greater than 60 percent of the area median income or, if the oc-*
26 *cupants are owners, whose incomes are no greater than 80 percent of the area*
27 *median income.]*

28 *[(B) "Predominantly" means 60 percent or more.]*

29 *[(C) "Privately owned" includes:]*

30 *[(i) Affordable housing provided on real property owned by a public agency*
31 *if the real property and related structures are leased to a private entity for 50*

1 *or more years; and]*

2 *[(ii) Affordable housing owned by a partnership, nonprofit corporation or*
3 *limited liability company in which a housing authority, as defined in ORS*
4 *456.005, is a general partner, director or managing member and the housing*
5 *authority is not a majority owner in the partnership, nonprofit corporation or*
6 *limited liability company.]*

7 *[(D) “Residential construction” includes the construction, reconstruction,*
8 *major renovation or painting of single-family houses or apartment buildings*
9 *not more than four stories in height and all incidental items, such as site*
10 *work, parking areas, utilities, streets and sidewalks, pursuant to the United*
11 *States Department of Labor’s “All Agency Memorandum No. 130: Application*
12 *of the Standard of Comparison “Projects of a Character Similar” Under*
13 *Davis-Bacon and Related Acts,” dated March 17, 1978. However, the com-*
14 *missioner may consider different definitions of residential construction in de-*
15 *termining whether a project is a residential construction project for purposes*
16 *of this paragraph, including definitions that:]*

17 *[(i) Exist in local ordinances or codes; or]*

18 *[(ii) Differ, in the prevailing practice of a particular trade or occupation,*
19 *from the United States Department of Labor’s description of residential con-*
20 *struction.]*

21 **(d) A privately owned project that is constructed, reconstructed or**
22 **renovated for residential use and in which 60 percent or more of the**
23 **dwelling units are affordable housing:**

24 **(A) If the project meets the following criteria, as appropriate for the**
25 **project:**

26 **(i) The project is:**

27 **(I) Privately owned in fee simple;**

28 **(II) Land, or land and improvements, that are leased from a public**
29 **agency for 50 years or more; or**

30 **(III) Owned by a partnership, nonprofit corporation or limited li-**
31 **ability company in which a housing authority, as defined in ORS**

1 **456.005, is a general partner, director or managing member and the**
2 **housing authority is not a majority owner in the partnership,**
3 **nonprofit corporation or limited liability company.**

4 **(ii) The project is housing that:**

5 **(I) The state acquires, constructs, remodels, repairs, equips or fur-**
6 **nishes and owns or operates with funding provided under ORS 458.480**
7 **to 458.490;**

8 **(II) Serves occupants whose incomes do not exceed 120 percent of**
9 **the area median income if the housing is a public works or uses funds**
10 **of a public agency in an amount that exceeds \$750,000, as adjusted**
11 **annually by the commissioner in accordance with the Consumer Price**
12 **Index for All Urban Consumers, West Region (All Items), as published**
13 **by the Bureau of Labor Statistics of the United States Department of**
14 **Labor;**

15 **(III) Requires, for the purpose of serving occupants whose incomes**
16 **do not exceed 120 percent of the area median income, demolition or**
17 **removal of hazardous waste that uses \$750,000 or more in funds of a**
18 **public agency and that occurs on real property that a state agency**
19 **owns but that does not involve constructing, reconstructing, renovat-**
20 **ing or painting a road, highway, building, structure or improvement;**

21 **(IV) Serves occupants whose incomes do not exceed 60 percent of**
22 **the area median income if the project involves construction, recon-**
23 **struction, painting, demolition, removal of hazardous waste from, or**
24 **major renovation of an improvement that occurs, with or without us-**
25 **ing funds of a public agency, on real property that a public university**
26 **listed in ORS 352.002 owns; or**

27 **(V) Otherwise serves occupants whose incomes do not exceed 60**
28 **percent of the area median income or, if the occupants are owners,**
29 **whose incomes do not exceed 80 percent of the area median income.**

30 **(B) If the project constructs, reconstructs, performs a major reno-**
31 **vation of or paints single-family houses or apartments, together with**

1 incidental items such as site work, parking areas, utilities and streets
2 and sidewalks, that, except as provided in subparagraph (C) of this
3 paragraph:

4 (i) In Clackamas, Lane, Marion, Multnomah, Polk, Washington or
5 Yamhill counties are not more than seven stories in height; and

6 (ii) In all other areas of the state are not more than four stories in
7 height and are constructed, reconstructed, renovated or painted in
8 accordance with the United States Department of Labor’s “All Agency
9 Memorandum No. 130: Application of the Standard of Comparison
10 “Projects of a Character Similar” Under Davis-Bacon and Related
11 Acts,” dated March 17, 1978.

12 (C) If the project is residential construction under a definition that
13 the commissioner adopts after considering definitions that:

14 (i) Exist in local ordinances or codes; or

15 (ii) Differ, in the prevailing practice of a particular trade or occu-
16 pation, from the United States Department of Labor’s description of
17 residential construction.

18 (D) Even if the project includes any of the following elements:

19 (i) An on-site child care facility operated as a not-for-profit enter-
20 prise.

21 (ii) Commercial use in not more than 15 percent of the available
22 ground floor space in the project.

23 (E) Even if the project was previously used or occupied for a pur-
24 pose other than residential use.

25 **SECTION 2.** The amendments to ORS 279C.810 by section 1 of this
26 2026 Act apply to procurements that a contracting agency advertises
27 or otherwise solicits or, if the contracting agency does not advertise
28 or solicit the procurement, to a contract for public works or public
29 improvement contract into which the contracting agency enters on or
30 after the operative date specified in section 3 of this 2026 Act.

31 **SECTION 3.** (1) The amendments to ORS 279C.810 by section 1 of

1 **this 2026 Act become operative on January 1, 2027.**

2 **(2) The Attorney General, the Commissioner of the Bureau of Labor**
3 **and Industries, the Director of the Oregon Department of Adminis-**
4 **trative Services, the Director of Transportation and a contracting**
5 **agency that adopts rules under ORS 279A.065 or 279A.070 may adopt**
6 **rules and take any other action before the operative date specified in**
7 **subsection (1) of this section that is necessary to enable the Attorney**
8 **General, the commissioner, the directors and the contracting agency**
9 **to undertake and exercise, on and after the operative date specified in**
10 **subsection (1) of this section, all of the duties, functions and powers**
11 **conferred on the Attorney General, the commissioner, the directors**
12 **and the contracting agency by the amendments to ORS 279C.810 by**
13 **section 1 of this 2026 Act.**

14 **SECTION 4. This 2026 Act takes effect on the 91st day after the date**
15 **on which the 2026 regular session of the Eighty-third Legislative As-**
16 **sembly adjourns sine die.**

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