

Senate Bill 105

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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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Says that people who get public contracts must obey the tax laws of the state, cities and counties and must show proof of compliance with the tax laws. (Flesch Readability Score: 69.6).

Requires public contractors to demonstrate and maintain tax compliance as a condition of the execution of a public contract.

Applies to public contracts executed on or after the effective date of the Act.

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

A BILL FOR AN ACT

1
2 Relating to tax compliance required for public contracts; creating new provisions; amending ORS
3 279B.110; repealing ORS 279B.045; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 305.**

6 **SECTION 2. (1) A state contracting agency, as defined in ORS 279A.010, as a condition**
7 **of the execution of a public contract, as defined in ORS 279A.010, shall require the contractor**
8 **to demonstrate continued compliance with the personal income tax laws of this state or the**
9 **corporate excise or income tax laws of this state, whichever are applicable.**

10 **(2) Any state contracting agency may, as provided in section 4 of this 2025 Act, terminate**
11 **a public contract and seek damages and other relief available under the terms of the public**
12 **contract or under applicable law if the Department of Revenue determines that a contractor**
13 **has failed to demonstrate or maintain tax compliance as provided in this section.**

14 **(3) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose to**
15 **a state contracting agency or a political subdivision of this state whether a proposer, bidder**
16 **or public contractor is in compliance.**

17 **(4) In determining compliance for purposes of this section, the department may consider**
18 **whether the proposer, bidder or contractor:**

19 **(a) Has failed to timely file returns with respect to taxes imposed by ORS chapter 316**
20 **or 317, whichever is applicable, for any of the three tax years immediately preceding a year**
21 **for which a tax return was required to be filed;**

22 **(b) Has failed to pay any tax within 30 days from the date of mailing of a notice of defi-**
23 **ciency or otherwise respond to a notice of deficiency within 30 days from the date of its**
24 **mailing; or**

25 **(c) Has been or is under investigation for possible criminal offenses related to the per-**
26 **sonal income tax laws of this state or the corporate excise and income tax laws of this state,**
27 **whichever are applicable.**

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 (5) The department may enter into agreements with any state contracting agency or
2 political subdivision of this state in order to assist in the administration of the tax compli-
3 ance requirement under this section.

4 **SECTION 3.** Section 4 of this 2025 Act is added to and made a part of ORS chapter 279A.

5 **SECTION 4.** (1) As used in this section, “public contract” means a public contract, a
6 public improvement contract and a contract for public works, as defined in ORS 279C.800.

7 (2) Every public contract must include a representation and warranty from the contrac-
8 tor that the contractor has complied with the tax laws of this state, or of a political subdivi-
9 sion of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and
10 318. Each public contract must also require a covenant from the contractor to continue to
11 comply with the tax laws of this state, or of a political subdivision of this state, during the
12 term of the public contract and provide that a contractor’s failure to comply with the tax
13 laws of this state, or of a political subdivision of this state, before the contractor executed
14 the public contract or during the term of the public contract is a default for which a con-
15 tracting agency may terminate the public contract and seek damages and other relief avail-
16 able under the terms of the public contract or under applicable law.

17 (3) Before entering into a public contract, periodically during the term of the public
18 contract and before terminating a public contract and seeking damages under subsection (2)
19 of this section, a contracting agency shall verify the contractor’s compliance with the tax
20 laws of this state, or of a political subdivision of this state. The contracting agency shall
21 consult with the Department of Revenue as provided in section 2 of this 2025 Act to verify
22 compliance with the tax laws of this state. The contracting agency shall consult with the
23 appropriate agency of local government in the jurisdiction in which the contractor will per-
24 form the public contract to verify compliance with the tax laws of a political subdivision of
25 this state.

26 **SECTION 5.** ORS 279B.110 is amended to read:

27 279B.110. (1) As part of a contracting agency’s evaluation of a bid or proposal, the contracting
28 agency shall determine whether the bidder or proposer is responsible in accordance with the stan-
29 dards of responsibility set forth in subsection (2) of this section. If the contracting agency deter-
30 mines that a bidder or proposer is not responsible, the contracting agency shall provide the bidder
31 or proposer with written notice of the contracting agency’s determination.

32 (2) In order for a contracting agency to determine that a bidder or proposer is responsible, the
33 bidder or proposer must demonstrate to the contracting agency that the bidder or proposer:

34 (a) Has available the appropriate financial, material, equipment, facility and personnel resources
35 and expertise, or has the ability to obtain the resources and expertise, necessary to meet all con-
36 tractual responsibilities.

37 (b) Completed previous contracts of a similar nature with a satisfactory record of performance.
38 For purposes of this paragraph, a satisfactory record of performance means that to the extent that
39 the costs associated with and time available to perform a previous contract remained within the
40 bidder’s or proposer’s control, the bidder or proposer stayed within the time and budget allotted for
41 the procurement and otherwise performed the contract in a satisfactory manner. The contracting
42 agency shall document the bidder’s or proposer’s record of performance if the contracting agency
43 finds under this paragraph that the bidder or proposer is not responsible.

44 (c) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder’s or
45 proposer’s record of integrity may consider, among other things, whether the bidder or proposer has

1 previous criminal convictions for offenses related to obtaining or attempting to obtain a contract
 2 or subcontract or in connection with the bidder's or proposer's performance of a contract or sub-
 3 contract. The contracting agency shall document the bidder's or proposer's record of integrity if the
 4 contracting agency finds under this paragraph that the bidder or proposer is not responsible.

5 (d) Is legally qualified to contract with the contracting agency.

6 (e) Complied with the tax laws of the state or a political subdivision of the state, including ORS
 7 305.620 and ORS chapters 316, 317 and 318 **as provided in section 4 of this 2025 Act.** [*The bidder*
 8 *or proposer shall demonstrate compliance by attesting to the bidder's or proposer's compliance in any*
 9 *way the contracting agency deems credible and convenient.*]

10 (f) Possesses an unexpired certificate that the Oregon Department of Administrative Services
 11 issued under ORS 279A.167 if the bidder or proposer employs 50 or more full-time workers and
 12 submitted a bid or proposal for a procurement with an estimated contract price that exceeds
 13 \$500,000 in response to an advertisement or solicitation from a state contracting agency.

14 (g) Supplied all necessary information in connection with the inquiry concerning responsibility.
 15 If a bidder or proposer fails to promptly supply information concerning responsibility that the con-
 16 tracting agency requests, the contracting agency shall determine the bidder's or proposer's respon-
 17 sibility based on available information or may find that the bidder or proposer is not responsible.

18 (h) Was not debarred by the contracting agency under ORS 279B.130.

19 (3) A contracting agency may refuse to disclose outside of the contracting agency confidential
 20 information furnished by a bidder or proposer under this section when the bidder or proposer has
 21 clearly identified in writing the information the bidder or proposer seeks to have treated as confi-
 22 dential and the contracting agency has authority under ORS 192.311 to 192.478 to withhold the
 23 identified information from disclosure.

24 **SECTION 6. ORS 279B.045 is repealed.**

25 **SECTION 7. Sections 2 and 4 of this 2025 Act, the amendments to ORS 279B.110 by sec-**
 26 **tion 5 of this 2025 Act and the repeal of ORS 279B.045 by section 6 of this 2025 Act apply to**
 27 **procurements that a contracting agency advertises on or after the operative date specified**
 28 **in section 8 of this 2025 Act or, if the contracting agency does not advertise or solicit the**
 29 **procurement, to a public contract into which the contracting agency enters on or after the**
 30 **operative date specified in section 8 of this 2025 Act.**

31 **SECTION 8. (1) Sections 2 and 4 of this 2025 Act, the amendments to ORS 279B.110 by**
 32 **section 5 of this 2025 Act and the repeal of ORS 279B.045 by section 6 of this 2025 Act become**
 33 **operative on January 1, 2026.**

34 **(2) The Attorney General, the Director of the Oregon Department of Administrative**
 35 **Services and a contracting agency that adopts rules under ORS 279A.065 or 279A.070 may**
 36 **adopt rules and take any other action before the operative date specified in subsection (1)**
 37 **of this section that is necessary to enable the Attorney General, the director or the con-**
 38 **tracting agency, on and after the operative date specified in subsection (1) of this section,**
 39 **to undertake and exercise all of the duties, functions and powers conferred on the Attorney**
 40 **General, the director or the contracting agency by sections 2 and 4 of this 2025 Act and the**
 41 **amendments to ORS 279B.110 by section 5 of this 2025 Act.**

42 **SECTION 9. This 2025 Act takes effect on the 91st day after the date on which the 2025**
 43 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**