

# Senate Bill 439

Sponsored by Senator ANDERSON (Presession filed.)

## 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 building a child care center in a place that provides affordable housing does not mean that a person building the whole place must pay prevailing wage. But building the child care center itself does require paying prevailing wage for labor. (Flesch Readability Score: 62.6).

Provides that constructing a child care facility within a project for affordable housing does not subject the project for affordable housing to prevailing wage requirements if the child care facility meets specified requirements. Provides that prevailing wage requirements do apply to the construction of a child care facility.

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

## A BILL FOR AN ACT

1  
2 Relating to constructing child care facilities within projects for affordable housing; creating new  
3 provisions; amending 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 organization, unless the  
9 government grant is issued for the purpose of construction, reconstruction, major renovation or  
10 painting;

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

12 (C) Tax credits or tax abatements;

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

14 (E) The difference between:

15 (i) The value of land that a public agency sells to a private entity as determined at the time of  
16 the sale after taking into account any plan, requirement, covenant, condition, restriction or other  
17 limitation, exclusive of zoning or land use regulations, that the public agency imposes on the de-  
18 velopment or use of the land; and

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

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

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

25 (H) Moneys derived from the sale of bonds that are loaned by a state agency to a private entity,  
26 unless the moneys will be used for a public improvement;

27 (I) Value added to land as a consequence of a public agency's site preparation, demolition of real

**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 property or remediation or removal of environmental contamination, except for value added in ex-  
2 cess of the expenses the public agency incurred in the site preparation, demolition or remediation  
3 or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870;  
4 or

5 (J) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289 or  
6 ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

7 (b) "Nonprofit organization" means an organization or group of organizations described in sec-  
8 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of  
9 the Internal Revenue Code.

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

11 (a) Projects for which the contract price does not exceed \$50,000. In determining the price of a  
12 project, a public agency:

13 (A) May not include the value of donated materials or work performed on the project by indi-  
14 viduals volunteering to the public agency without pay; and

15 (B) Shall include the value of work performed by every person paid by a contractor or subcon-  
16 tractor in any manner for the person's work on the project.

17 (b) Projects for which no funds of a public agency are directly or indirectly used. In accordance  
18 with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries shall adopt rules to  
19 carry out the provisions of this paragraph.

20 (c) Projects:

21 (A) That are privately owned;

22 (B) That use funds of a private entity;

23 (C) In which less than 25 percent of the square footage of a completed project will be occupied  
24 or used by a public agency; and

25 (D) For which less than \$750,000 of funds of a public agency are used.

26 (d) Projects for residential construction that are privately owned and that predominantly provide  
27 affordable housing. As used in this paragraph:

28 (A) "Affordable housing" means housing that serves occupants whose incomes are no greater  
29 than 60 percent of the area median income or, if the occupants are owners, whose incomes are no  
30 greater than 80 percent of the area median income.

31 (B) "Predominantly" means 60 percent or more.

32 (C) "Privately owned" includes:

33 (i) Affordable housing provided on real property owned by a public agency if the real property  
34 and related structures are leased to a private entity for 50 or more years; and

35 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-  
36 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or  
37 managing member and the housing authority is not a majority owner in the partnership, nonprofit  
38 corporation or limited liability company.

39 (D) "Residential construction" includes the construction, reconstruction, major renovation or  
40 painting of single-family houses or apartment buildings not more than four stories in height and all  
41 incidental items, such as site work, parking areas, utilities, streets and sidewalks, pursuant to the  
42 United States Department of Labor's "All Agency Memorandum No. 130: Application of the Standard  
43 of Comparison "Projects of a Character Similar" Under Davis-Bacon and Related Acts," dated  
44 March 17, 1978. However, the commissioner may consider different definitions of residential con-  
45 struction in determining whether a project is a residential construction project for purposes of this

1 paragraph, including definitions that:

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

3 (ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States  
4 Department of Labor’s description of residential construction.

5 **(3)(a) Except as provided in paragraph (b) of this subsection, projects described in sub-**  
6 **section (2)(d) of this section do not become subject to ORS 279C.800 to 279C.870 as a conse-**  
7 **quence of constructing within the project a child care facility, as defined in ORS 329A.250,**  
8 **and operating the child care facility as a commercial enterprise, if:**

9 (A) The child care facility throughout the calendar year serves an average of 75 percent  
10 of the children who reside in the project and who are eligible for government-subsidized child  
11 care or early learning; and

12 (B) The owner of the project each year provides evidence to the commissioner of the  
13 child care facility’s compliance with subparagraph (A) of this paragraph on a form or in a  
14 manner the commissioner specifies.

15 (b) ORS 279C.800 to 279C.870 apply to the labor costs involved in constructing a child care  
16 facility described in paragraph (a) of this subsection.

17 **SECTION 2.** The amendments to ORS 279C.810 by section 1 of this 2025 Act apply to  
18 contracts entered into by an owner, on or after the operative date specified in section 3 of  
19 this 2025 Act, for constructing an affordable housing project.

20 **SECTION 3.** (1) The amendments to ORS 279C.810 by section 1 of this 2025 Act become  
21 operative on January 1, 2026.

22 (2) The Commissioner of the Bureau of Labor and Industries may adopt rules and take  
23 any other action before the operative date specified in subsection (1) of this section that is  
24 necessary to enable the commissioner, on and after the operative date specified in subsection  
25 (1) of this section, to undertake and exercise all of the duties, functions and powers con-  
26 ferred on the commissioner by the amendments to ORS 279C.810 by section 1 of this 2025  
27 Act.

28 **SECTION 4.** This 2025 Act takes effect on the 91st day after the date on which the 2025  
29 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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