

House Bill 4016

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Revenue for Representative Nancy Nathanson)

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 tax laws and must show proof of compliance with tax laws. (Flesch Readability Score: 76.8).

Requires public contractors to demonstrate and maintain tax compliance, through a certification process, as a condition of the execution of a public contract. Becomes operative January 1, 2027.

Directs the Secretary of State to study methods for collecting information through business registry function to ensure tax compliance by persons doing business in this state.

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

A BILL FOR AN ACT

Relating to tax compliance; creating new provisions; amending ORS 279B.045, 279B.110, 305.380 and 305.385; and prescribing an effective date.

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

SECTION 1. ORS 305.380 is amended to read:

305.380. As used in **this section and** ORS 305.385:

(1) "Agency" means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state *[which]* **that** imposes a local tax administered by the Department of Revenue under ORS 305.620.

(2) "License" means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

(3) **"Owner" means an owner, as defined in ORS 60.470, that has at least a 20 percent ownership interest of a provider.**

[(3)] (4) "Provider" means any person who contracts to supply goods, services or real estate space to an agency.

[(4)(a)] (5)(a) "Tax" means state taxes administered by the department under the tax laws of this state and local taxes administered by the department under ORS 305.620, **and any associated penalties and interest imposed in addition to the tax.**

(b) "Tax" does not include ad valorem property taxes collected by counties.

SECTION 2. ORS 305.385 is amended to read:

305.385. (1) Upon request of the Department of Revenue, an agency issuing or renewing a license to conduct a business, trade or profession shall annually, on or before March 1, supply the department with a list of specified licenses issued or renewed by the agency during the preceding calendar year.

(2) Upon request of the department, an agency shall annually, on or before March 1, supply the department with a list of specified persons contracting with the agency to provide goods, services or real estate space to the agency during the preceding calendar year.

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.

(3) The lists required by subsections (1) and (2) of this section shall contain the name, address, Social Security or federal employer identification number of each licensee or provider or such other information as the department may by rule require.

(4)(a) If the department determines that any licensee or provider has neglected or refused to file any return or to pay any tax and that such person has not filed in good faith a petition before the department contesting the tax, and the department has been unable to obtain payment of the tax through other methods of collection, the Director of the Department of Revenue may, notwithstanding ORS 118.525, 314.835 or 314.840 or any similar provision of law, notify the agency and the person in writing.

(b) Upon receipt of such notice, the agency shall refuse to reissue, renew or extend any license, contract or agreement until the agency receives a certificate issued by the department that the person is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(c) Upon the written request of the director and after a hearing and notice to the licensee as required under any applicable provision of law, the agency shall suspend the person's license if the agency finds that the returns and taxes have not been filed or paid and that the licensee has not filed in good faith a petition before the department contesting the tax and the department has been unable to obtain payment of the tax through other methods of collection. For the purpose of the agency's findings, the written representation to that effect by the department to the agency shall constitute prima facie evidence of the person's failure to file returns or pay the tax. The department shall have the right to intervene in any license suspension proceeding.

(d) Any license suspended under this subsection *[shall]* **may** not be reissued or renewed until the agency receives a certificate issued by the department that the licensee is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(5) The department may enter into an installment payment agreement with a licensee or provider with respect to any unpaid tax, penalty and interest. The agreement shall provide for interest on the outstanding amount at the rate prescribed by ORS 305.220. The department may issue a provisional certificate of good standing pursuant to subsection (4)(b) and (d) of this section which shall remain in effect so long as the licensee or provider fully complies with the terms of the installment agreement. Failure by the licensee or provider to fully comply with the terms of the installment agreement shall render the agreement and the provisional certificate of good standing null and void, unless the department determines that the failure was due to reasonable cause. If the department determines that the failure was not due to reasonable cause, the total amount of the tax, penalty and interest shall be immediately due and payable, and the department shall notify any affected agency that the licensee or provider is not in good standing. The agency shall then take appropriate action under subsection (4)(b) and (d) of this section.

(6) *[No]* **A contract or other agreement for the purpose of providing goods, services or real estate space to any agency *[shall]*, other than a political subdivision of this state, may not be entered into, renewed or extended with any *[person, unless the person certifies in writing, under penalty of perjury, that the person is, to the best of the person's knowledge,]* provider or owner, unless at the time of contracting with an agency, the provider and each owner submits a certificate issued by the department stating that, as of the date of the certificate, the provider and each owner are** not in violation of any tax laws described in ORS 305.380 *[(4)]*.

(7) The *[certification]* **certificate** under subsection (6) of this section shall be required for each contract and renewal or extension of a contract *[or may be provided on an annual basis]* **and must**

1 **be dated no earlier than 90 days prior to the date that the provider contracts with the**
 2 **agency.** A *[certification shall not be]* **certificate is not** required for a contract if the consideration
 3 for the goods, services or real estate space provided under the contract is no more than *[\$1,000]*
 4 **\$250,000.**

5 **(8) A contract may not be executed if a certificate as described in subsection (6) of this**
 6 **section is not provided to the agency.**

7 **(9) Upon request of a provider, if the provider and each owner are not in violation of any**
 8 **tax laws described in ORS 305.380, the department shall, within 30 days after the request,**
 9 **issue to the provider and each owner a certificate as described in subsection (6) of this sec-**
 10 **tion.**

11 *[(8)(a)]* **(10)(a)** The requirements of the *[certification]* **certificate** under subsection (6) of this
 12 section shall be subject to the rules adopted by the department in accordance with this section.

13 (b) The department may by rule exempt certain contracts from the requirements of subsection
 14 (6) of this section.

15 **SECTION 3.** ORS 279B.110 is amended to read:

16 279B.110. (1) As part of a contracting agency's evaluation of a bid or proposal, the contracting
 17 agency shall determine whether the bidder or proposer is responsible in accordance with the stan-
 18 dards of responsibility set forth in subsection (2) of this section. If the contracting agency deter-
 19 mines that a bidder or proposer is not responsible, the contracting agency shall provide the bidder
 20 or proposer with written notice of the contracting agency's determination.

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

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

26 (b) Completed previous contracts of a similar nature with a satisfactory record of performance.
 27 For purposes of this paragraph, a satisfactory record of performance means that to the extent that
 28 the costs associated with and time available to perform a previous contract remained within the
 29 bidder's or proposer's control, the bidder or proposer stayed within the time and budget allotted for
 30 the procurement and otherwise performed the contract in a satisfactory manner. The contracting
 31 agency shall document the bidder's or proposer's record of performance if the contracting agency
 32 finds under this paragraph that the bidder or proposer is not responsible.

33 (c) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder's or
 34 proposer's record of integrity may consider, among other things, whether the bidder or proposer has
 35 previous criminal convictions for offenses related to obtaining or attempting to obtain a contract
 36 or subcontract or in connection with the bidder's or proposer's performance of a contract or sub-
 37 contract. The contracting agency shall document the bidder's or proposer's record of integrity if the
 38 contracting agency finds under this paragraph that the bidder or proposer is not responsible.

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

40 (e) *[Complied with the tax laws of the state or a political subdivision of the state, including ORS*
 41 *305.620 and ORS chapters 316, 317 and 318. The bidder or proposer shall demonstrate compliance by*
 42 *attesting to the bidder's or proposer's compliance in any way the contracting agency deems credible and*
 43 *convenient.]* **Is not in violation of any tax laws described in ORS 305.380 and provides a cer-**
 44 **tificate in the manner prescribed in ORS 305.385.**

45 (f) Possesses an unexpired certificate that the Oregon Department of Administrative Services

1 issued under ORS 279A.167 if the bidder or proposer employs 50 or more full-time workers and
 2 submitted a bid or proposal for a procurement with an estimated contract price that exceeds
 3 \$500,000 in response to an advertisement or solicitation from a state contracting agency.

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

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

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

14 **SECTION 4.** ORS 279B.045 is amended to read:

15 279B.045. (1) **Except as provided in subsection (2) of this section,** every public contract that
 16 is subject to this chapter must include a representation and warranty from the contractor that the
 17 contractor has complied with the tax laws of this state or a political subdivision of this state, in-
 18 cluding but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. The public contract must
 19 also require a covenant from the contractor to continue to comply with the tax laws of this state
 20 or a political subdivision of this state during the term of the public contract and provide that a
 21 contractor's failure to comply with the tax laws of this state or a political subdivision of this state
 22 before the contractor executed the public contract or during the term of the public contract is a
 23 default for which a contracting agency may terminate the public contract and seek damages and
 24 other relief available under the terms of the public contract or under applicable law.

25 (2) **This section does not apply to a contract with a contracting agency other than a**
 26 **political subdivision of this state if the consideration for the goods, services or real estate**
 27 **space provided under the contract is less than \$1,000 or is more than \$250,000.**

28 **SECTION 5.** The amendments to ORS 279B.045, 279B.110, 305.380 and 305.385 by sections
 29 1 to 4 of this 2026 Act become operative on January 1, 2027.

30 **SECTION 6.** (1) The Secretary of State shall study methods for ensuring that information
 31 collected by the Corporation Division of the Office of the Secretary of State in its business
 32 registry function from persons doing business in this state is collected and retained in a
 33 manner most effective to ensure compliance with the tax laws of this state by those that are
 34 doing business in this state. This information includes names and addresses of persons doing
 35 business in this state.

36 (2) In the study required under this section, the secretary shall review methods to:

37 (a) Ensure that all business owners are properly registered.

38 (b) Verify that provided physical addresses of business owners are accurate.

39 (c) Use technology to detect variations in provided names and addresses and other data
 40 and multiple uses of addresses.

41 (d) Expand the authority of the secretary to review and investigate applications for reg-
 42 istration.

43 (e) Ensure appropriate enforcement and penalties for failure to provide current, accurate
 44 or valid information.

45 (3) In the study required under this section, the secretary shall assess whether the cur-

1 rent statutes and rules applicable to the secretary's business registry functions and current
2 division capacity are sufficient to ensure a business registry that is reliable and current and
3 has sufficient information to be useful for purposes of state agencies or consumers seeking
4 to verify information about businesses operating in this state.

5 (4) The secretary shall consult with the Department of Revenue, the Department of
6 Justice and the Legislative Revenue Officer in the preparation of the study and reports re-
7 quired under this section.

8 (5) The secretary shall submit reports on the findings of the study required under this
9 section, in the manner provided by ORS 192.245, and may include recommendations for leg-
10 islation, to the interim or regular committees of the Legislative Assembly related to revenue.
11 The secretary shall submit a preliminary report no later than December 31, 2026, and a final
12 report no later than the conclusion of the 2027 regular session of the Legislative Assembly.

13 SECTION 7. Section 6 of this 2026 Act is repealed on January 2, 2028.

14 SECTION 8. This 2026 Act takes effect on the 91st day after the date on which the 2026
15 regular session of the Eighty-third Legislative Assembly adjourns sine die.