

# House Bill 2664

Sponsored by Representative BUTLER

## 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**.

Exempts public school construction, reconstruction, renovation and painting projects from requirements of prevailing wage rate law if public school is used by rural school district.  
Sunsets January 2, 2013.

## A BILL FOR AN ACT

1  
2 Relating to exemptions for school districts from prevailing wage rate law; creating new provisions;  
3 and amending ORS 279C.810.

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;

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

11 (C) Staff resources of the public agency used to manage a project or to provide a principal  
12 source of supervision, coordination or oversight of a project; or

13 (D) Staff resources of the public agency used to design or inspect one or more components of  
14 a project.

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

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

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

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

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

25 (b) Projects for which no funds of a public agency are directly or indirectly used. In accordance  
26 with ORS chapter 183, the commissioner shall adopt rules to carry out the provisions of this para-  
27 graph.

28 (c) **Projects for the construction, reconstruction, major renovation or painting of a public  
29 school facility. As used in this paragraph:**

30 (A) **"Prior calendar year" means the year prior to the year in which the construction,  
31 reconstruction, major renovation or painting began for the public school facility.**

**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       **(B) “Public school facility” includes facilities used by a rural school district for classroom**  
2 **instruction, multipurpose activities, libraries or any other use associated with public educa-**  
3 **tion in preschool through grade 12, and includes facilities that may be used by more than one**  
4 **rural school district.**

5       **(C) “Rural school district” means a common or union high school district:**

6       **(i) That has territory in a county that in the prior calendar year had a population of**  
7 **50,000 or less;**

8       **(ii) That has territory in a county that in the prior calendar year had a per capita income**  
9 **for the entire year that was lower than that of two-thirds of all other counties;**

10       **(iii) That has territory in a county that in the prior calendar year had an unemployment**  
11 **rate for the entire year that was a higher rate than that of two-thirds of all other counties;**

12       **(iv) Where the average age of all public school facilities is 50 years or more; and**

13       **(v) Where 40 percent or more of the students who attend school in the district qualify**  
14 **for free or reduced price meals under the United States Department of Agriculture’s current**  
15 **Income Eligibility Guidelines.**

16       (3)(a) A public agency may not divide a public works project into more than one contract for  
17 the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

18       (b) When the commissioner determines that a public agency has divided a public works project  
19 for the purpose of avoiding compliance with ORS 279C.800 to 279C.870, the commissioner shall issue  
20 an order compelling compliance.

21       (c) In making determinations under this subsection, the commissioner shall consider:

22       (A) The physical separation of the project structures;

23       (B) The timing of the work on project phases or structures;

24       (C) The continuity of project contractors and subcontractors working on project parts or phases;  
25 and

26       (D) The manner in which the public agency and the contractors administer and implement the  
27 project.

28       **SECTION 2. The amendments to ORS 279C.810 by section 1 of this 2007 Act apply to**  
29 **public improvement contracts first advertised, or if not advertised then entered into, on or**  
30 **after the effective date of this 2007 Act.**

31       **SECTION 3.** ORS 279C.810, as amended by section 1 of this 2007 Act, is amended to read:  
32 279C.810. (1) As used in this section:

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

34       (A) Funds provided in the form of a government grant to a nonprofit organization, unless the  
35 government grant is issued for the purpose of construction;

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

37       (C) Staff resources of the public agency used to manage a project or to provide a principal  
38 source of supervision, coordination or oversight of a project; or

39       (D) Staff resources of the public agency used to design or inspect one or more components of  
40 a project.

41       (b) “Nonprofit organization” means an organization or group of organizations described in sec-  
42 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of  
43 the Internal Revenue Code.

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

45       (a) Projects for which the contract price does not exceed \$50,000. In determining the price of a

1 project, a public agency:

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

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

6 (b) Projects for which no funds of a public agency are directly or indirectly used. In accordance  
7 with ORS chapter 183, the commissioner shall adopt rules to carry out the provisions of this para-  
8 graph.

9 *[(c) Projects for the construction, reconstruction, major renovation or painting of a public school  
10 facility. As used in this paragraph:]*

11 *[(A) “Prior calendar year” means the year prior to the year in which the construction, recon-  
12 struction, major renovation or painting began for the public school facility.]*

13 *[(B) “Public school facility” includes facilities used by a rural school district for classroom in-  
14 struction, multipurpose activities, libraries or any other use associated with public education in pre-  
15 school through grade 12, and includes facilities that may be used by more than one rural school  
16 district.]*

17 *[(C) “Rural school district” means a common or union high school district:]*

18 *[(i) That has territory in a county that in the prior calendar year had a population of 50,000 or  
19 less;]*

20 *[(ii) That has territory in a county that in the prior calendar year had a per capita income for the  
21 entire year that was lower than that of two-thirds of all other counties;]*

22 *[(iii) That has territory in a county that in the prior calendar year had an unemployment rate for  
23 the entire year that was a higher rate than that of two-thirds of all other counties;]*

24 *[(iv) Where the average age of all public school facilities is 50 years or more; and]*

25 *[(v) Where 40 percent or more of the students who attend school in the district qualify for free or  
26 reduced price meals under the United States Department of Agriculture’s current Income Eligibility  
27 Guidelines.]*

28 (3)(a) A public agency may not divide a public works project into more than one contract for  
29 the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

30 (b) When the commissioner determines that a public agency has divided a public works project  
31 for the purpose of avoiding compliance with ORS 279C.800 to 279C.870, the commissioner shall issue  
32 an order compelling compliance.

33 (c) In making determinations under this subsection, the commissioner shall consider:

34 (A) The physical separation of the project structures;

35 (B) The timing of the work on project phases or structures;

36 (C) The continuity of project contractors and subcontractors working on project parts or phases;  
37 and

38 (D) The manner in which the public agency and the contractors administer and implement the  
39 project.

40 **SECTION 4. The amendments to ORS 279C.810 by section 3 of this 2007 Act become op-  
41 erative on January 2, 2013.**

42 **SECTION 5. The amendments to ORS 279C.810 by section 3 of this 2007 Act apply to  
43 public improvement contracts first advertised, or if not advertised then entered into, on or  
44 after January 2, 2013.**