

A-Engrossed
House Bill 3415

Ordered by the House April 26
Including House Amendments dated April 26

Sponsored by COMMITTEE ON GENERAL GOVERNMENT AND CONSUMER PROTECTION

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.

Requires contracting agency to pay fee to Secretary of State in amount of one-tenth of one percent of contract price for public improvement contract. Requires Secretary of State to use proceeds of fee to conduct *[random]* **or enter into contract with person to conduct, without notice**, financial, performance and compliance audits of public contracts in accordance with certain standards.

Establishes Public Contracting Audit Account in General Fund of State Treasury. Continuously appropriates moneys in account to Secretary of State for purpose of conducting audits of public contracts.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to audits of public contracts; appropriating money; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 279C.**

5 **SECTION 2. (1)(a) Except as provided in paragraph (b) or (c) of this subsection, a con-**
6 **tracting agency that awards a public contract subject to this chapter, in addition to and not**
7 **in lieu of the charges specified in ORS 297.230, shall pay a fee equivalent to one-tenth of one**
8 **percent of the contract price for the public contract from funds appropriated for the public**
9 **contract to the office of the Secretary of State at the time the contracting agency executes**
10 **the public contract. The Secretary of State shall pay the moneys received under this sub-**
11 **section to the State Treasurer for deposit in the Public Contracting Audit Account created**
12 **under section 4 of this 2011 Act.**

13 **(b) A contracting agency that uses funds for a public contract that are subject to pro-**
14 **visions under the Oregon Constitution or under state or federal law that restrict the use of**
15 **the funds may not pay the fee described in paragraph (a) of this subsection except in ac-**
16 **cordance with the restrictive provisions.**

17 **(c) If in accordance with paragraph (b) of this subsection a contracting agency does not**
18 **pay a fee under paragraph (a) of this subsection, the Secretary of State in an interagency**
19 **agreement or an intergovernmental agreement under ORS chapter 190 may require a con-**
20 **tracting agency to pay the costs for auditing a specific public contract. A contracting agency**
21 **that is a party to an interagency or intergovernmental agreement described in this para-**
22 **graph is not subject to the provisions of paragraph (a) of this subsection with respect to the**
23 **public contract that is the subject of the interagency or intergovernmental agreement.**

24 **(2)(a) The secretary shall use the moneys available in the account to conduct or enter**

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 into contracts to conduct financial, compliance and performance audits of public contracts
2 that contracting agencies award under the provisions of this chapter. The secretary shall
3 choose the subject of and conduct each audit according to standards adopted under ORS
4 297.070 and without advance notice to the contracting agency or other parties to the public
5 contract. A person that the secretary assigns or enters into a contract with to conduct the
6 audit must have substantial familiarity with and experience in public improvement con-
7 tracting and auditing.

8 (b) If the secretary finds during an audit or receives reliable information at any time
9 concerning fraud, waste, misconduct or abuse for a particular public contract, the secretary
10 may conduct a special investigation of the contracting agency or other parties to the public
11 contract and may use moneys from the account to conduct the special investigation.

12 (c) The secretary, in accordance with policies and priorities that the secretary estab-
13 lishes, each year shall allocate the amount of moneys available or projected to be available
14 in the account during the year toward conducting a regular course of audits under this sec-
15 tion.

16 (3) In addition to complying with the requirements of ORS 297.050, the secretary shall
17 publish the report for every audit conducted under this section on the secretary's website
18 and on the Oregon transparency website described in ORS 184.483.

19 (4) An appropriate committee of the Legislative Assembly may review the audit reports
20 described in subsection (3) of this section and may establish and convene a work group
21 composed of representatives from contracting agencies, contractors, the office of the Sec-
22 retary of State and other interested persons to review the audit reports and make recom-
23 mendations to the Legislative Assembly concerning the content of the audit reports and
24 public contracting practices and procedures.

25 SECTION 3. Section 4 of this 2011 Act is added to and made a part of ORS chapter 297.

26 SECTION 4. The Public Contracting Audit Account is established in the General Fund
27 of the State Treasury. All moneys in the account are continuously appropriated to the Sec-
28 retary of State for the purposes set forth in section 2 of this 2011 Act.

29 SECTION 5. This 2011 Act being necessary for the immediate preservation of the public
30 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
31 on its passage.

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