

DRAFT

SUMMARY

Requires state contracting agency that awards public improvement contract with contract price of more than \$5 million to require contractor to employ apprentices to perform 10 percent of work hours on public improvement that workers in apprenticeable occupations perform. Increases apprentice employment requirement to 12 percent in 2020. Exempts Department of Transportation from requirement.

Provides that state contracting agency shall pay contractor for imputed costs that contractor incurs in complying with requirement.

Specifies reporting requirements for contractor and requires contractor to repay amounts that state contracting agency pays in excess of amount due contractor.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to incentives for increasing apprentice utilization on public improvements for state contracting agencies; and declaring an emergency.

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

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 279C.

SECTION 2. (1) As used in this section:

(a) “Apprentice” has the meaning given that term in ORS 660.010.

(b) “Apprenticeable occupation” has the meaning given that term in ORS 660.010.

(c) “Apprenticeship agreement” has the meaning given that term in ORS 660.010.

(d) “Apprenticeship training program” means the total system or

1 apprenticeship that a particular local joint committee, as defined in
2 ORS 660.010, operates, including the local joint committee's registered
3 standards and all other terms and conditions for qualifying, recruiting,
4 selecting, employing and training apprentices in an apprenticeable
5 occupation.

6 (2) A state contracting agency shall:

7 (a) Require in each public improvement contract for which the
8 contract price exceeds \$5 million that the contractor employ appren-
9 tices to perform 10 percent of the work hours that workers in
10 apprenticeable occupations perform on the public improvement.

11 (b) Provide in the public improvement contract that, subject to
12 subsection (4) of this section, the state contracting agency will pay the
13 contractor at a rate of \$20 per hour for imputed costs the contractor
14 incurs in having apprentices perform work on the public improvement.

15 (3) A contractor or subcontractor shall pay an apprentice for work
16 on the public improvement at the hourly rate to which the apprentice
17 is entitled under an apprenticeship agreement or that the apprentice-
18 ship training program specifies.

19 (4) A state contracting agency shall provide in the public improve-
20 ment contract that the state contracting agency will pay a contractor
21 at the rate specified in subsection (2)(b) of this section for the total
22 number of work hours that apprentices perform on a public improve-
23 ment.

24 (5) Subject to the terms of the public improvement contract, a
25 contractor on a public improvement may decide the locations in
26 which, the types of work for which and other details concerning how
27 the contractor employs apprentices for work on the public improve-
28 ment. The contractor may meet the requirement set forth in sub-
29 section (2)(a) of this section by requiring one or more subcontractors
30 to employ apprentices for work on the public improvement.

31 (6) A contractor shall report the extent of the contractor's compli-

ance with this section to the state contracting agency on forms, with contents the state contracting agency specifies by rule, and at regular intervals that the state contracting agency specifies in the public improvement contract. The forms and the contents that the state contracting agency specifies must include, at a minimum, a report in which the contractor provides a detailed accounting of the total number of work hours each month and the cumulative total number of work hours since the public improvement contract term began in which:

(a) Workers in apprenticeable occupations performed work on the public improvement; and

(b) Apprentices performed work on the public improvement.

(7) Subject to subsection (8) of this section, a state contracting agency may pay a contractor for the contractor's imputed costs in complying with the requirement in subsection (2)(a) of this section in regular installments or periodically during the term of the public improvement contract if the contractor requests regular installment payments or periodic payments.

(8)(a) At least 30 days before making any final payment to a contractor under a public improvement contract, a state contracting agency shall determine the extent of the contractor's compliance with the requirement in subsection (2)(a) of this section. The state contracting agency shall base the determination on the ratio between the actual number of work hours that workers in apprenticeable occupations performed on the public improvement and the actual number of work hours that apprentices performed on the public improvement, as shown in reports that the state contracting agency receives under subsection (6) of this section.

(b) The state contracting agency, in accordance with the limitations set forth in subsection (4) of this section, shall pay the contractor at the rate specified for the contractor's imputed costs in subsection

1 (2)(b) of this section only for work hours that apprentices performed
2 on the public improvement.

3 (c) If the state contracting agency pays the contractor for the
4 contractor's imputed costs of complying with the requirement in sub-
5 section (2)(a) of this section in regular installments or at periodic in-
6 tervals, the state contracting agency shall make the determination
7 required under paragraph (a) of this subsection before each scheduled
8 payment of the imputed costs and shall pay the contractor at the rate
9 specified for the contractor's imputed costs in subsection (2)(b) of this
10 section only for work hours that apprentices performed on the public
11 improvement in the interval since the previous scheduled payment.

12 (d) If a state contracting agency previously paid a contractor an
13 amount that exceeds the amount due the contractor under paragraph
14 (b) or (c) of this subsection, the state contracting agency shall notify
15 the contractor immediately and require the contractor to repay the
16 excess amount within 30 days after receiving the notice.

17 (9) A state contracting agency by rule shall specify a procedure
18 under which a contractor may dispute the state contracting agency's
19 determination under subsection (8)(a) of this section.

20 (10) This section does not apply to the Department of Transporta-
21 tion or to a public improvement contract that a contractor enters into
22 with the department.

23 **SECTION 3.** Section 2 of this 2015 Act is amended to read:

24 **Sec. 2.** (1) As used in this section:

25 (a) "Apprentice" has the meaning given that term in ORS 660.010.

26 (b) "Apprenticeable occupation" has the meaning given that term in ORS
27 660.010.

28 (c) "Apprenticeship agreement" has the meaning given that term in ORS
29 660.010.

30 (d) "Apprenticeship training program" means the total system or appren-
31 ticeship that a particular local joint committee, as defined in ORS 660.010,

operates, including the local joint committee's registered standards and all other terms and conditions for qualifying, recruiting, selecting, employing and training apprentices in an apprenticeable occupation.

(2) A state contracting agency shall:

(a) Require in each public improvement contract for which the contract price exceeds \$5 million that the contractor employ apprentices to perform [10] **12** percent of the work hours that workers in apprenticeable occupations perform on the public improvement.

(b) Provide in the public improvement contract that, subject to subsection (4) of this section, the state contracting agency will pay the contractor at a rate of \$20 per hour for imputed costs the contractor incurs in having apprentices perform work on the public improvement.

(3) A contractor or subcontractor shall pay an apprentice for work on the public improvement at the hourly rate to which the apprentice is entitled under an apprenticeship agreement or that the apprenticeship training program specifies.

(4) A state contracting agency shall provide in the public improvement contract that the state contracting agency will pay a contractor at the rate specified in subsection (2)(b) of this section for the total number of work hours that apprentices perform on a public improvement.

(5) Subject to the terms of the public improvement contract, a contractor on a public improvement may decide the locations in which, the types of work for which and other details concerning how the contractor employs apprentices for work on the public improvement. The contractor may meet the requirement set forth in subsection (2)(a) of this section by requiring one or more subcontractors to employ apprentices for work on the public improvement.

(6) A contractor shall report the extent of the contractor's compliance with this section to the state contracting agency on forms, with contents the state contracting agency specifies by rule, and at regular intervals that the state contracting agency specifies in the public improvement contract. The

forms and the contents that the state contracting agency specifies must include, at a minimum, a report in which the contractor provides a detailed accounting of the total number of work hours each month and the cumulative total number of work hours since the public improvement contract term began in which:

(a) Workers in apprenticeable occupations performed work on the public improvement; and

(b) Apprentices performed work on the public improvement.

(7) Subject to subsection (8) of this section, a state contracting agency may pay a contractor for the contractor's imputed costs in complying with the requirement in subsection (2)(a) of this section in regular installments or periodically during the term of the public improvement contract if the contractor requests regular installment payments or periodic payments.

(8)(a) At least 30 days before making any final payment to a contractor under a public improvement contract, a state contracting agency shall determine the extent of the contractor's compliance with the requirement in subsection (2)(a) of this section. The state contracting agency shall base the determination on the ratio between the actual number of work hours that workers in apprenticeable occupations performed on the public improvement and the actual number of work hours that apprentices performed on the public improvement, as shown in reports that the state contracting agency receives under subsection (6) of this section.

(b) The state contracting agency, in accordance with the limitations set forth in subsection (4) of this section, shall pay the contractor at the rate specified for the contractor's imputed costs in subsection (2)(b) of this section only for work hours that apprentices performed on the public improvement.

(c) If the state contracting agency pays the contractor for the contractor's imputed costs of complying with the requirement in subsection (2)(a) of this section in regular installments or at periodic intervals, the state contracting agency shall make the determination required under paragraph (a) of this subsection before each scheduled payment of the imputed costs and shall pay

1 the contractor at the rate specified for the contractor's imputed costs in
2 subsection (2)(b) of this section only for work hours that apprentices per-
3 formed on the public improvement in the interval since the previous sched-
4 uled payment.

5 (d) If a state contracting agency previously paid a contractor an amount
6 that exceeds the amount due the contractor under paragraph (b) or (c) of this
7 subsection, the state contracting agency shall notify the contractor imme-
8 diately and require the contractor to repay the excess amount within 30 days
9 after receiving the notice.

10 (9) A state contracting agency by rule shall specify a procedure under
11 which a contractor may dispute the state contracting agency's determination
12 under subsection (8)(a) of this section.

13 (10) This section does not apply to the Department of Transportation or
14 to a public improvement contract that a contractor enters into with the de-
15 partment.

16 **SECTION 4. (1) Section 2 of this 2015 Act applies to public im-**
17 **provement contracts that a state contracting agency other than the**
18 **Department of Transportation first advertises or otherwise solicits or,**
19 **if the state contracting agency does not advertise or solicit the public**
20 **improvement contract, to public improvement contracts that the state**
21 **contracting agency enters into on or after the operative date specified**
22 **in section 5 (1) of this 2015 Act.**

23 **(2) The amendments to section 2 of this 2015 Act by section 3 of this**
24 **2015 Act apply to public improvement contracts that a state contract-**
25 **ing agency other than the Department of Transportation first adver-**
26 **tises or otherwise solicits or, if the state contracting agency does not**
27 **advertise or solicit the public improvement contract, to public im-**
28 **provement contracts that the state contracting agency enters into on**
29 **or after the operative date specified in section 5 (2) of this 2015 Act.**

30 **SECTION 5. (1) Section 2 of this 2015 Act becomes operative Janu-**
31 **ary 1, 2016.**

1 **(2) The amendments to section 2 of this 2015 Act by section 3 of this**
2 **2015 Act become operative January 1, 2020.**

3 **(3) The Attorney General, the Director of the Oregon Department**
4 **of Administrative Services or a state contracting agency that adopts**
5 **rules under ORS 279A.065 may take any action before the operative**
6 **date specified in subsection (1) of this section that is necessary to en-**
7 **able the Attorney General, the director or the state contracting agency**
8 **to exercise, on and after the operative date specified in subsection (1)**
9 **of this section, all of the duties, functions and powers conferred on the**
10 **Attorney General, the director or the state contracting agency by**
11 **section 2 of this 2015 Act.**

12 **SECTION 6.** **This 2015 Act being necessary for the immediate pres-**
13 **ervation of the public peace, health and safety, an emergency is de-**
14 **clared to exist, and this 2015 Act takes effect on its passage.**