

House Bill 2677

Sponsored by Representative NOSSE (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**.

Prohibits state contracting agency from entering public contract with contract price that exceeds \$100,000 with contractor that discriminates in providing benefits against employee or employee's dependent on basis of employee's or dependent's actual or perceived gender identity, including identification as transgendered.

Becomes operative on January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to public contracts with contractors that discriminate in providing employee benefits; and
3 prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 279A.**

6 **SECTION 2. (1) A state contracting agency may not enter into a public contract with a
7 contract price that exceeds \$100,000 with a contractor that, in providing benefits to the
8 contractor's employees, discriminates on the basis of an employee's actual or perceived
9 gender identity, or the actual or perceived gender identity of an employee's dependent, in-
10 cluding, but not limited to, the employee's or dependent's identification as transgendered.**

11 **(2) A contractor that enters into a contract with a state contracting agency shall treat
12 an employee's request for benefits or any documentation the contractor receives from an
13 employee or applicant for employment as confidential to the maximum extent of the law or
14 the requirements of the contractor's insurance provider.**

15 **(3) A state contracting agency that conducts a procurement under the conditions de-
16 scribed in this section may waive the requirement set forth in subsection (1) of this section
17 only under these circumstances:**

18 **(a) Only one prospective contractor responded to a solicitation for the procurement;**

19 **(b) The state contracting agency must enter into a public contract under ORS 279B.080
20 or under other circumstances that constitute an emergency that endangers public health,
21 safety or welfare, or that requires providing essential services such as water, power, gas and
22 other utilities, and a contractor that does not discriminate as described in subsection (1) of
23 this section is not available; or**

24 **(c) The terms of a grant or agreement contravene the requirement set forth in sub-
25 section (1) of this section, if the state contracting agency has attempted in good faith to
26 change the terms of the grant or agreement.**

27 **(4) A contractor, in providing benefits, does not discriminate as described in subsection
28 (1) of this section:**

29 **(a) By reason of paying the actual cost of providing a benefit to an employee or a de-**

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 pendent; or

2 (b) By failing to provide a certain benefit after making a good faith, reasonable effort to
3 provide the benefit.

4 (5)(a) Every public contract must require a contractor that is a party to the public con-
5 tract to certify that the contractor does not discriminate as described in subsection (1) of
6 this section.

7 (b) A contractor that certifies falsely that the contractor does not discriminate as de-
8 scribed in subsection (1) of this section is subject to:

9 (A) Termination under the terms of the public contract or any of the remedies for breach
10 or default that are specified in the public contract; and

11 (B) Debarment as provided in ORS 279B.130 or disqualification as provided in ORS
12 279C.440.

13 (6) Any person may complain to a state contracting agency that a contractor is dis-
14 criminating as described in subsection (1) of this section. The state contracting agency shall
15 investigate the complaint and take action as provided in subsection (5) of this section if the
16 state contracting agency finds that substantial evidence supports the complaint.

17 SECTION 3. Section 2 of this 2017 Act applies to procurements that a state contracting
18 agency advertises or otherwise solicits or, if the state contracting agency does not advertise
19 or solicit the procurement, to public contracts that the state contracting agency enters on
20 or after the operative date specified in section 4 of this 2017 Act.

21 SECTION 4. (1) Section 2 of this 2017 Act becomes operative on January 1, 2018.

22 (2) The Attorney General, the Director of the Oregon Department of Administrative
23 Services, the Director of Transportation and a state contracting agency that adopts rules
24 under ORS 279A.065 may adopt rules and take any other action that is necessary to enable
25 the Attorney General, the director or the state contracting agency, on and after the opera-
26 tive date specified in subsection (1) of this section, to exercise all of the duties, functions and
27 powers conferred on the Attorney General, the director or the state contracting agency by
28 section 2 of this 2017 Act.

29 SECTION 5. This 2017 Act takes effect on the 91st day after the date on which the 2017
30 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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