

Enrolled Senate Bill 471

Sponsored by Senators BOQUIST, DEMBROW, Representative MCLAIN; Senators BURDICK, FREDERICK, MONNES ANDERSON, RILEY, TAYLOR, THOMSEN, WAGNER, Representatives BOLES, BONHAM, DRAZAN, EVANS, FAHEY, HELM, KENY-GUYER, LEIF, PILUSO, POWER, WILLIAMSON (at the request of Never Again Coalition) (Presession filed.)

CHAPTER

AN ACT

Relating to preferences in public contracting for prospective contractors that meet certain requirements with respect to procuring conflict minerals; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 279B.

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

(a) "Affiliated entity" means an entity that a prospective contractor controls, that controls the prospective contractor or that another entity controls in common with the prospective contractor.

(b) "Conflict minerals" means:

(A) Columbite-tantalite or an ore for tantalum;

(B) Cassiterite or an ore for tin;

(C) Wolframite or an ore for tungsten;

(D) Gold;

(E) A derivative of any of the minerals identified in subparagraph (A), (B), (C) or (D) of this paragraph; or

(F) Any other mineral or derivative of a mineral the extraction, sale, distribution or use of which a state contracting agency determines, based on findings that the United States Secretary of State makes, is financing conflict in the Democratic Republic of the Congo or a country that shares an internationally recognized border with the Democratic Republic of the Congo.

(2)(a) A state contracting agency in solicitation documents for a public contract shall require a prospective contractor to state in the prospective contractor's bid or proposal for the public contract:

(A) Whether and to what extent any of the materials the prospective contractor or an affiliated entity of the prospective contractor intends to use in performing the public contract are conflict minerals; and

(B) That the prospective contractor's and the affiliated entity's disclosures, policies, practices and procedures with respect to procuring conflict minerals comply with the most recent edition of the Organization for Economic Cooperation and Development's Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

(b) A prospective contractor may meet the requirement set forth in paragraph (a) of this subsection by linking or referring in a bid or proposal to a description of disclosures, policies, practices and procedures with respect to procuring conflict minerals that the prospective contractor or the affiliated entity has posted on the prospective contractor's or affiliated entity's website or has otherwise made available as an official publication that is accessible to the public.

(3) Notwithstanding provisions of law that require a state contracting agency to award a public contract to the lowest responsible bidder or to the prospective contractor that submits the best proposal or quotation, to the extent that procurement requires or will use conflict minerals, a state contracting agency shall give a preference to each prospective contractor that meets the requirements set forth in subsection (2) of this section.

SECTION 3. Section 2 of this 2019 Act applies to procurements that a state contracting agency advertises or otherwise solicits or, if the state contracting agency does not advertise or otherwise solicit the procurement, to a public contract into which the state contracting agency enters on or after the operative date specified in section 4 of this 2019 Act.

SECTION 4. (1) Section 2 of this 2019 Act becomes operative on January 1, 2021.

(2) The Attorney General, the Director of the Oregon Department of Administrative Services, the Director of Transportation and a state contracting agency that adopts rules under ORS 279A.065 or 279A.070 may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the Attorney General, the director or the state contracting agency, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the Attorney General, the director or the state contracting agency by section 2 of this 2019 Act.

SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

Passed by Senate April 16, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 30, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State