

Senate Bill 49

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for State Parks and Recreation Department)

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 from Public Contracting Code timber sales from lands that State Parks and Recreation Commission or State Parks and Recreation Department owns or manages.

Becomes operative January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to sales of forest products from state land; creating new provisions; amending ORS
3 279A.025 and 390.121; and prescribing an effective date.

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

5 **SECTION 1.** ORS 279A.025 is amended to read:

6 279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting
7 Code applies to all public contracting.

8 (2) The Public Contracting Code does not apply to:

9 (a) Contracts between a contracting agency and:

10 (A) Another contracting agency;

11 (B) The Oregon Health and Science University;

12 (C) A public university listed in ORS 352.002;

13 (D) The Oregon State Bar;

14 (E) A governmental body of another state;

15 (F) The federal government;

16 (G) An American Indian tribe or an agency of an American Indian tribe;

17 (H) A nation, or a governmental body in a nation, other than the United States; or

18 (I) An intergovernmental entity formed between or among:

19 (i) Governmental bodies of this or another state;

20 (ii) The federal government;

21 (iii) An American Indian tribe or an agency of an American Indian tribe;

22 (iv) A nation other than the United States; or

23 (v) A governmental body in a nation other than the United States;

24 (b) Agreements authorized by ORS chapter 190 or by a statute, charter provision, ordinance or
25 other authority for establishing agreements between or among governmental bodies or agencies or
26 tribal governing bodies or agencies;

27 (c) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and
28 414.145 for purposes of source selection;

29 (d) Grants;

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 (e) Contracts for professional or expert witnesses or consultants to provide services or testimony
 2 relating to existing or potential litigation or legal matters in which a public body is or may become
 3 interested;

4 (f) Acquisitions or disposals of real property or interest in real property;

5 (g) Sole-source expenditures when rates are set by law or ordinance for purposes of source se-
 6 lection;

7 (h) Contracts for the procurement or distribution of textbooks;

8 (i) Procurements by a contracting agency from an Oregon Corrections Enterprises program;

9 (j) The procurement, transportation, sale or distribution of distilled liquor, as defined in ORS
 10 471.001, or the appointment of agents under ORS 471.230 or 471.750 by the Oregon Liquor Control
 11 Commission;

12 (k) Contracts entered into under ORS chapter 180 between the Attorney General and private
 13 counsel or special legal assistants;

14 (L) Contracts for the sale of timber from lands [*owned or managed by*] **that** the State Board of
 15 Forestry, [*and*] the State Forestry Department, **the State Parks and Recreation Commission or**
 16 **the State Parks and Recreation Department owns or manages**;

17 (m) Contracts for activities necessary or convenient for the sale of timber under paragraph (L)
 18 of this subsection, either separately from or in conjunction with contracts for the sale of timber,
 19 including but not limited to activities such as timber harvesting and sorting, transporting, gravel
 20 pit development or operation, and road construction, maintenance or improvement;

21 (n) Contracts for forest protection or forest related activities, as described in ORS 477.406, by
 22 the State Forester or the State Board of Forestry;

23 (o) Contracts [*entered into by*] **that** the Housing and Community Services Department [*in exer-*
 24 *cising*] **enters into in exercising** the department's duties prescribed in ORS chapters 456 and 458,
 25 except that the department's public contracting for goods and services is subject to ORS chapter
 26 279B;

27 (p) Contracts [*entered into by*] **that** the State Treasurer [*in exercising*] **enters into in exercising**
 28 the powers of that office prescribed in ORS 178.010 to 178.090 and 276A.242 and ORS chapters 286A,
 29 287A, 289, 293, 294 and 295, including but not limited to investment contracts and agreements,
 30 banking services, clearing house services and collateralization agreements, bond documents, certif-
 31 icates of participation and other debt repayment agreements, and any associated contracts, agree-
 32 ments and documents, regardless of whether the obligations that the contracts, agreements or
 33 documents establish are general, special or limited, except that the State Treasurer's public con-
 34 tracting for goods and services is subject to ORS chapter 279B;

35 (q) Contracts, agreements or other documents entered into, issued or established in connection
 36 with:

37 (A) The issuance of obligations, as defined in ORS 286A.100 and 287A.310, of a public body;

38 (B) [*The making of*] Program loans and similar extensions or advances of funds, aid or assistance
 39 [*by*] **that** a public body **makes** to a public or private body for the purpose of carrying out, promoting
 40 or sustaining activities or programs authorized by law; or

41 (C) The investment of funds by a public body as authorized by law, and other financial trans-
 42 actions of a public body that by their character cannot practically be established under the com-
 43 petitive contractor selection procedures of ORS 279B.050 to 279B.085;

44 (r) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221,
 45 243.275, 243.291, 243.303 and 243.565;

1 (s) Contracts for employee benefit plans as provided in ORS 243.860 to 243.886; or

2 (t) Any other public contracting of a public body specifically exempted from the code by another
3 provision of law.

4 (3) The Public Contracting Code does not apply to the contracting activities of:

5 (a) The Oregon State Lottery Commission;

6 (b) The legislative department;

7 (c) The judicial department;

8 (d) Semi-independent state agencies listed in ORS 182.454, except as provided in ORS 279.835 to
9 279.855 and 279A.250 to 279A.290;

10 (e) Oregon Corrections Enterprises;

11 (f) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to
12 279A.290;

13 (g) The Travel Information Council, except as provided in ORS 279A.250 to 279A.290;

14 (h) The Oregon 529 Savings Network and the Oregon 529 Savings Board;

15 (i) The Oregon Innovation Council;

16 (j) The Oregon Utility Notification Center; or

17 (k) Any other public body specifically exempted from the code by another provision of law.

18 (4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with
19 qualified nonprofit agencies providing employment opportunities for individuals with disabilities un-
20 der ORS 279.835 to 279.855.

21 **SECTION 2.** ORS 390.121 is amended to read:

22 390.121. In carrying out its responsibilities, the State Parks and Recreation Commission may:

23 (1) Acquire by purchase, agreement, donation or by exercise of eminent domain, real property
24 or any right or interest therein deemed necessary for the operation and development of state parks,
25 roads, trails, campgrounds, picnic areas, boat ramps, nature study areas, waysides, relaxation areas,
26 visitor and interpretive centers, department management facilities, such as shops, equipment sheds,
27 office buildings, park ranger residences or other real property or any right or interest because of
28 its natural, scenic, cultural, historic or recreational value, or any other places of attraction and
29 scenic or historic value which in the judgment of the State Parks and Recreation Department will
30 contribute to the general welfare, enjoyment and pleasure of the public.

31 (2) Construct, improve, develop, manage, operate and maintain facilities and areas, including but
32 not limited to roads, trails, campgrounds, picnic areas, boat ramps and nature study areas named in
33 subsection (1) of this section.

34 (3) Sell, lease, exchange or otherwise dispose or permit use of real or personal property, in-
35 cluding equipment and materials acquired by the department, if in the opinion of the department it
36 is no longer needed, required or useful for department purposes, except that:

37 (a) Real property may be leased when such real property will not be needed for department
38 purposes during the leasing period.

39 (b) Real property used for park purposes may be donated to the United States Department of
40 Interior for the purpose of establishing a national monument when in the judgment of the depart-
41 ment such disposition would best serve the interests of this state.

42 (c) Proceeds from the sale of all surplus or unsuitable lands held for park purposes shall be de-
43 posited in the Parks Donation Trust Fund for use for park land acquisition or development. Pro-
44 ceeds from the sale of other property shall be paid by the department to the State Treasurer for
45 credit to the State Parks and Recreation Department Fund, and any interest from this fund shall

1 be credited to this fund.

2 (d)(A) Before offering forest products for sale, the department shall cause the forest products to
3 be appraised.

4 (B) If the appraised value of the forest products exceeds \$15,000, the department shall offer
5 *[them]* **the forest products** for sale by competitive bid. **A sale under this paragraph is not sub-**
6 **ject to the Public Contracting Code.** Prior to such bid offering, the department shall give notice
7 not less than once a week for three consecutive weeks by publication in one or more newspapers
8 of general circulation in the county in which the forest products are located and by such other
9 media of communication as the department deems advisable. The minimum bid price and a brief
10 statement of the terms and conditions of the sale *[shall]* **must** be in the notice.

11 (C) The notice and competitive bidding under subparagraph (B) of this paragraph *[shall not be]*
12 **are not** required if the State Parks and Recreation Director declares an emergency to exist that
13 requires the immediate removal of the timber. If an emergency has been so declared:

14 (i) The timber, regardless of value, may be sold by a negotiated price; and

15 (ii) The director shall make available for public inspection a written statement giving the rea-
16 sons for declaring the emergency.

17 (e) In the case of real property acquired by eminent domain, the prior owner of real property
18 for which sale, lease, exchange or other disposal is proposed must be given the first opportunity to
19 reacquire the property in accordance with ORS chapter 35.

20 (4) Enter into contracts deemed necessary for the construction, maintenance, operation, im-
21 provement or betterment of parks or for the accomplishment of the purposes of chapter 904, Oregon
22 Laws 1989. All contracts executed by the department shall be made in the name of this state, by and
23 through the department.

24 (5) In carrying out its duties, functions and powers under this chapter, publish guides and other
25 materials relating to recreational opportunities in this state or to any program or function admin-
26 istered by the department. The department may arrange for the sale of such publications. The price
27 of such publications shall include the cost of publishing and distributing the materials. All moneys
28 received by the department from the sale of publications shall be deposited in the State Parks and
29 Recreation Department Fund. The department may contract for the publication of the materials de-
30 scribed in this subsection, including the research, design and writing of the materials. The contract
31 may include, among other matters, provisions for advance payment or reimbursement for services
32 performed under the contract.

33 **SECTION 3. The amendments to ORS 279A.025 and 390.121 by sections 1 and 2 of this 2019**
34 **Act apply to forest product sales that occur on or after the operative date specified in sec-**
35 **tion 4 of this 2019 Act.**

36 **SECTION 4. (1) The amendments to ORS 279A.025 and 390.121 by sections 1 and 2 of this**
37 **2019 Act become operative on January 1, 2020.**

38 **(2) The State Parks and Recreation Director and the State Parks and Recreation Com-**
39 **mission may adopt rules and take any other action before the date specified in subsection (1)**
40 **of this section that is necessary to enable the director or the commission to exercise, on and**
41 **after the date specified in subsection (1) of this section, all of the duties, functions and**
42 **powers conferred on the director and the commission by the amendments to ORS 279A.025**
43 **and 390.121 by sections 1 and 2 of this 2019 Act.**

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

