

SB 420 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

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Meeting Dates: 3/16, 4/1, 4/13

WHAT THE MEASURE DOES:

Permits local contract review board or local contracting agency to enact or adopt measure to designate certain public improvement contracts as community benefit contracts. Establishes that community benefit contracts must include terms requiring contractor to qualify as apprentice training agent, employ apprentices to perform specified percentage of apprenticeable work hours, provide health care coverage for each worker that meets standards adopted by the contracting agency, and meet any other requirements adopted by local government. Specifies duties of local contract review board or local contracting agency before advertising, soliciting, or awarding community benefit contract. Establishes that agreement to terms of community benefit contract is part of process of determining lowest responsible bidder. Permits contracting agency to prequalify bidders or proposers to submit bids or proposals for community benefit contracts. Becomes operative for community benefit contracts advertised or entered into on or after January 1, 2022. Takes effect on 91st day following adjournment *sine die*.

REVENUE: no impact

FISCAL: statement not yet issued

ISSUES DISCUSSED:

- Experience implementing community benefits for construction procurements in Lane County
- Competing legal advice on whether or not the least-cost policy prohibits local adoption of community benefit standards
- Potential impact of community benefit requirements on bidders
- Potential impact of community benefit requirements on construction costs

EFFECT OF AMENDMENT:

-1 Removes requirement for bidder provide health care coverage for each worker that meets standards adopted by the contracting agency. Requires bidder to provide employer-paid family health insurance.

-2 Replaces the measure. Permits local contract review board or local contracting agency to enact or adopt measure to designate certain public improvement contracts as community benefit contracts. Requires contracting agency in advertisement or solicitation for bids for community benefit contract to clearly state provisions to which contractor is subject and to receive signed statement from bidder or proposer acknowledging and agreeing to be bound by requirements. Becomes operative for community benefit contracts advertised or entered into on or after January 1, 2022. Takes effect on 91st day following adjournment *sine die*.

BACKGROUND:

Oregon's public contracting code governs contracting activities (ORS 279A), the procurement of goods and services (ORS 279B), and the procurement of construction and related services (ORS 279C). The code applies to all public bodies authorized to conduct procurements, including all bodies of state government, local government, and special government. Construction services must be procured based on competitive bidding with the contracting agency making "every effort to construct public improvements at the least cost to the contracting agency." ORS 279C.305 (2019). Contracting agency violation of the least-cost policy is enforceable by complaint to the Commissioner of the Bureau of Labor and Industries.

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The code allows contracting agencies to adopt by ordinance a requirement for bidders for public improvement contracts to prequalify by submitting an application to the agency for specified types of projects. If the contracting agency finds the applicant is qualified, it must provide the applicant with notice that states the nature and type of contracts that the applicant is qualified to bid on the period of time for which the qualification is valid.

Senate Bill 420 amends the public contracting code to allow local government contracting agencies to adopt by ordinance the authority to designate a public improvement contract as a "community benefit contract." Community benefit contracts must include terms and conditions that require the contractor to qualify as an apprentice training agent, employ apprentices to perform a specified percentage of work hours in apprenticeable occupations, provide health benefits for each worker, and meet any other requirements established by the contracting agency. Advertisements and solicitations for bids must clearly state the procurement is for a community benefit project, and contracting agencies may require bidders to prequalify for public improvement contracts. If enacted, the measure would apply to procurement contracts designated as a community benefit contract advertised or entered into on or after January 1, 2022.