

**SB 420 B STAFF MEASURE SUMMARY****Carrier:** Rep. Grayber**House Committee On Business and Labor****Action Date:** 05/26/21**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 7-4-0-0**Yeas:** 7 - Bynum, Clem, Evans, Fahey, Grayber, Holvey, Witt**Nays:** 4 - Bonham, Boshart Davis, Breese-Iverson, Post**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** Jan Nordlund, LPRO Analyst**Meeting Dates:** 5/17, 5/26**WHAT THE MEASURE DOES:**

Permits public contracting agency or local contract review board to designate certain public improvement contracts as community benefit contracts. Establishes that community benefit contracts may include terms and conditions such as a requirement that contractor qualify as apprentice training agent, employ apprentices to perform specified percentage of apprenticeable work hours, provide employer-paid family health insurance, and meet any other requirements adopted by local government. Specifies duties of contracting agency and local contract review board regarding 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*.

**ISSUES DISCUSSED:**

- Opportunity to increase apprenticeship utilization
- Experience of Lane County setting additional requirements on bidders
- Whether state contracting agencies should also have authority to designate community benefit contracts; impact of not extending to state contracting agencies
- Clarity that will be provided by codifying in statute the option to set additional requirements of contractors
- Permissive nature of the bill and amendment
- Interest in tracking results
- Concern that no statutory restrictions are placed on what can be required of contractors bidding on community benefit contract

**EFFECT OF AMENDMENT:**

Clarifies that community benefit contract *may* include, but need not be limited to, the four specified elements. Adds state contracting agencies to those allowed to designate public improvement contracts as community benefit contracts.

**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. In general, the contracting agency must award the contract to lowest responsible bidder. The contracting agency must evaluate the bidder against a list of requirements described in ORS 279C.375; the list

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includes such items as workers' compensation coverage, status of any required licenses, disclosure of first-tier subcontractors, and satisfactory records of integrity and performance.

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 and the period of time for which the qualification is valid.

Senate Bill 420 B amends the public contracting code to allow contracting agencies and local review boards to designate a public improvement contract as a "community benefit contract." Community benefit contracts may include terms as conditions such as a requirement that the contractor qualify as an apprentice training agent, employ apprentices to perform a specified percentage of work hours in apprenticeable occupations, provide employer-paid family 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.