

# House Bill 2156

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Attorney General Ellen F. Rosenblum)

## 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**.

Grants Attorney General comprehensive authority to procure or supervise procurement of goods, services and personal services related to programs under Attorney General's authority.

Becomes operative January 1, 2022.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to the procurement authority of the Attorney General; creating new provisions; amending  
3 ORS 179.040, 276A.203, 276A.223, 279A.025, 279A.050, 279A.075, 279A.165, 413.033 and 413.310;  
4 and prescribing an effective date.

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

6 **SECTION 1.** ORS 179.040 is amended to read:

7 179.040. (1) The Department of Corrections, the Department of Human Services and the Oregon  
8 Health Authority shall:

9 (a) Govern, manage and administer the affairs of the public institutions and works within their  
10 respective jurisdictions.

11 (b) Enter into contracts for the planning, erection, completion and furnishings of all new  
12 buildings or additions at their respective institutions.

13 (c) Subject to any applicable provisions of ORS 279A.125, 279A.255, 279A.275, 279A.280,  
14 279A.285, 279A.290, 279B.025, 279B.240, 279B.270, 279B.275, 279B.280 and 283.110 to 283.395, enter  
15 into contracts for the purchase of supplies for their respective institutions.

16 (d) Make and adopt rules for the guidance of the agencies and for the government of their re-  
17 spective institutions.

18 (2) The agencies, respectively, may:

19 (a) Sue and plead in all courts of law and equity.

20 (b) Subject to ORS 279A.050 [(7)] **(8)**, procure, contract for or enter into agreements for goods  
21 and services of all kinds, including personal services contracts designated under ORS 279A.055, and  
22 perform all legal acts requisite and necessary for the successful management and maintenance of the  
23 institutions within their respective jurisdictions.

24 **SECTION 2.** ORS 276A.203 is amended to read:

25 276A.203. (1) The office of the State Chief Information Officer is established in the Oregon De-  
26 partment of Administrative Services for the purpose of directing, coordinating and overseeing state  
27 information technology and telecommunications in accordance with ORS 276A.206 and other stat-  
28 utes, rules and policies that govern the state's or state agencies' budgeting, planning, acquiring,  
29 managing, overseeing and using telecommunications and information technology.

30 (2) The Governor shall appoint the State Chief Information Officer, who serves at the pleasure

**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 of the Governor. The State Chief Information Officer may adopt rules in accordance with ORS  
 2 chapter 183 to exercise and carry out the duties, functions and powers committed to the State Chief  
 3 Information Officer under ORS 276A.206 and other statutes, rules or policies that commit functions  
 4 to the State Chief Information Officer.

5 (3) The State Chief Information Officer must be a person who, by training and experience, is  
 6 well qualified to:

7 (a) Perform the duties that the Governor specifies; and

8 (b) Carry out the functions specified in ORS 276A.206 and in other statutes, rules or policies  
 9 that commit functions to the State Chief Information Officer.

10 (4)(a) The State Chief Information Officer shall:

11 (A) Serve as the Governor's chief advisor concerning information resources, information tech-  
 12 nology, information systems, geographic information systems, information systems security and tele-  
 13 communications.

14 (B) Implement and maintain an information technology governance program for the executive  
 15 department.

16 (C) Adopt rules, policies and standards for budgeting, planning, acquiring, installing, operating  
 17 and overseeing telecommunications and information technology for the executive department.

18 (D) Review and make recommendations to the Governor and the Legislative Assembly concern-  
 19 ing state agency information technology budget requests.

20 (E) Adopt plans, rules, policies and standards for the executive department concerning ge-  
 21 ographic information systems and geographic data.

22 (F) Adopt state information systems security plans, rules, policies and standards for the execu-  
 23 tive department.

24 (G) Assess state agencies each biennium to evaluate compliance with the State Chief Informa-  
 25 tion Officer's rules, policies and standards and provide results of the assessments to the Governor  
 26 and to the Joint Legislative Committee on Information Management and Technology.

27 (H) Develop and promote training programs in information technology, information systems se-  
 28 curity, geographic information systems, enterprise architecture and project and portfolio manage-  
 29 ment.

30 (I) Enhance sharing and coordination among federal, tribal, regional, state government and local  
 31 government entities in this state with respect to geographic information systems and geographic  
 32 data.

33 (J) Oversee information technology and telecommunications procurements as provided in ORS  
 34 279A.050 [(7)] (8).

35 (K) Conduct a market analysis each biennium to determine whether the state data center is the  
 36 most effective and efficient method for providing information technology and information resources  
 37 to state agencies and other users. In conducting the market analysis, the State Chief Information  
 38 Officer shall consider best practices and trends among federal, state and local government entities  
 39 and the extent to which new or emerging technologies affect how the state provides information  
 40 technology and information resources. The State Chief Information Officer shall provide the results  
 41 of the analysis to the Governor and to the Joint Legislative Committee on Information Management  
 42 and Technology and may recommend changes in the information technology and information re-  
 43 sources that the state data center provides or in methods that the state data center uses to provide  
 44 information technology and information resources.

45 (L) Identify information technology services that the State Chief Information Officer recom-

1 mends for design, delivery and management as enterprise or shared information technology services  
 2 and, each biennium, report to the Governor and the Joint Legislative Committee on Information  
 3 Management and Technology concerning the status of new enterprise or shared information tech-  
 4 nology services.

5 (M) Adopt or update each biennium an Enterprise Information Resources Management Strategy  
 6 for the state. In addition to the functions described in ORS 276A.236, the Enterprise Information  
 7 Resources Management Strategy must provide for integrating statewide technology initiatives, en-  
 8 suring compliance with information technology rules, policies and standards, promoting coordi-  
 9 nation, consolidation and alignment of information resources and technologies and effectively  
 10 managing the state's and state agencies' information technology portfolios. In developing the En-  
 11 terprise Information Resources Management Strategy, the State Chief Information Officer shall  
 12 consult with and consider advice and suggestions from the department, state agencies and local  
 13 governments, from private sector information technology experts, from the Legislative Fiscal Officer,  
 14 from the Joint Legislative Committee on Information Management and Technology or from individ-  
 15 ual members of the Legislative Assembly that the President of the Senate and the Speaker of the  
 16 House of Representatives appoint for the purpose of consulting with the State Chief Information  
 17 Officer under this subsection.

18 (N) Identify and recommend to the Governor, within the State Chief Information Officer's  
 19 biennial budget request, resources that are necessary to implement the Enterprise Information Re-  
 20 sources Management Strategy.

21 (O) Develop standards, protocols and procedures for executive department agencies to use in  
 22 searching for and identifying requested public records that are retained in electronic form and to  
 23 use in fulfilling public records requests that seek records in electronic form.

24 (b) As used in this subsection:

25 (A) "Executive department" has the meaning given that term in ORS 174.112, except that  
 26 "executive department" does not include the Secretary of State in performing the duties of the  
 27 constitutional office of Secretary of State or the State Treasurer in performing the duties of the  
 28 constitutional office of State Treasurer.

29 (B) "Geographic data" means digital data that consist of geographic or projected map coordinate  
 30 values, identification codes and associated descriptive data to locate and describe boundaries or  
 31 features on, above or below the surface of the earth, demographic data or related data.

32 (C) "Geographic information system" means hardware, software, and data for capturing, man-  
 33 aging, analyzing and displaying geographic data.

34 (D) "Information system" means computers, hardware, software, storage media, networks, oper-  
 35 ational procedures and processes used in collecting, processing, storing, sharing or distributing in-  
 36 formation within, or with any access beyond ordinary public access to, the state's shared computing  
 37 and network infrastructure.

38 (E) "State government" has the meaning given that term in ORS 174.111.

39 (5) The State Chief Information Officer may:

40 (a) Organize and reorganize the office of the State Chief Information Officer in the manner the  
 41 State Chief Information Officer considers necessary to conduct the work of the office of the State  
 42 Chief Information Officer properly.

43 (b) Divide the office of the State Chief Information Officer into administrative programs, units  
 44 or sections and appoint an individual to administer each program, unit or section that the State  
 45 Chief Information Officer establishes under this subsection. The individual the State Chief Infor-

1 mation Officer appoints serves at the pleasure of the State Chief Information Officer and must be  
 2 well qualified by technical training and experience in the functions the individual will perform. The  
 3 State Chief Information Officer's actions under this paragraph are subject to ORS chapter 240.

4 (c) Appoint subordinate officers and employees of the office of the State Chief Information Offi-  
 5 cer, prescribe the officers' and employees' duties and fix compensation for the officers and employ-  
 6 ees. The State Chief Information Officer's actions under this paragraph are subject to ORS chapter  
 7 240.

8 (d) Delegate to an employee of the office of the State Chief Information Officer or to another  
 9 individual any duty, function or power that the State Chief Information Officer may exercise or  
 10 perform under ORS 276A.206 or under other statutes, rules or policies that commit functions to the  
 11 State Chief Information Officer. For the purpose of performing an official act in the State Chief In-  
 12 formation Officer's name, the State Chief Information Officer may delegate a duty, function or power  
 13 by means of an interagency agreement, an intergovernmental agreement in accordance with ORS  
 14 chapter 190 or a contract. An official act that an individual performs in the name of the State Chief  
 15 Information Officer under a delegation from the State Chief Information Officer under this para-  
 16 graph is an official act of the State Chief Information Officer.

17 **SECTION 3.** ORS 276A.223 is amended to read:

18 276A.223. (1) As used in this section:

19 (a)(A) "Information technology initiative" means a project to develop or provide, with a state  
 20 contracting agency's or public corporation's own personnel and resources, or to obtain by means of  
 21 a procurement or set of related procurements:

22 (i) New hardware, software or services for data processing, office automation or telecommuni-  
 23 cations;

24 (ii) An overhaul, upgrade or replacement of a substantial portion of the hardware or software  
 25 in an existing data processing, office automation or telecommunications system; or

26 (iii) A substantial expansion of existing data processing, office automation or telecommuni-  
 27 cations services.

28 (B) "Information technology initiative" does not include:

29 (i) A procurement for preliminary quality assurance services or quality management services;

30 (ii) A routine update to or purchase of hardware or software within an existing data processing,  
 31 office automation or telecommunications system;

32 (iii) A renewal of an existing contract for data processing, office automation or telecommuni-  
 33 cations services under terms and conditions that are substantially the same as in the existing con-  
 34 tract; or

35 (iv) A replacement of a component of an existing data processing, office automation or tele-  
 36 communications system that is not essential for the system to function as designed or that occurs  
 37 at the end of the component's anticipated life cycle.

38 (b) "Preliminary quality assurance services" means a set of services in which a contractor pro-  
 39 vides an independent and objective review of a state contracting agency's or a public corporation's  
 40 plans, specifications, estimates, documentation, available resources and overall purpose for an in-  
 41 formation technology initiative, including services in which the contractor evaluates a proposed in-  
 42 formation technology initiative against applicable quality standards and best practices from private  
 43 industry and other sources.

44 (c) "Procurement" has the meaning given that term in ORS 279A.010.

45 (d)(A) "Public corporation" means a corporation:

1 (i) The operations of which are subject to control by this state or by an agency or  
2 instrumentality of this state, or by officers of this state or of an agency or instrumentality of this  
3 state;

4 (ii) That is organized, at least in part, to serve a public purpose; and

5 (iii) That receives public funds or other support from an entity described in sub-subparagraph  
6 (i) of this subparagraph.

7 (B) "Public corporation" does not include:

8 (i) A person or entity described in ORS 174.108 (3);

9 (ii) A city, county, local service district, school district, education service district, community  
10 college district or community college service district or a public university listed in ORS 352.002;  
11 or

12 (iii) An administrative subdivision of an entity described in sub-subparagraph (ii) of this sub-  
13 paragraph.

14 (e) "Quality management services" means a set of services in which a contractor provides an  
15 independent and objective review and evaluation of a state contracting agency's, a public  
16 corporation's or another contractor's performance with respect to an information technology initi-  
17 ative, such as services in which the contractor:

18 (A) Identifies quality standards that apply or should apply to the information technology initi-  
19 ative;

20 (B) Suggests methods and means by which the state contracting agency, the public corporation  
21 or the other contractor may meet quality standards identified in subparagraph (A) of this paragraph;

22 (C) Reviews and evaluates the state contracting agency's, the public corporation's or the other  
23 contractor's performance regularly as the information technology initiative progresses from start to  
24 finish;

25 (D) Identifies omissions or gaps in the state contracting agency's, the public corporation's or the  
26 other contractor's planning, execution, control, methodology, communication or reporting as the in-  
27 formation technology initiative progresses from start to finish;

28 (E) Identifies risks in the state contracting agency's, the public corporation's or the other  
29 contractor's plans or approach to designing, developing or implementing the information technology  
30 initiative and suggests methods to reduce, mitigate or eliminate the risks;

31 (F) Assists the state contracting agency or the public corporation in testing or otherwise eval-  
32 uating the hardware, software or services that are developed, provided or obtained as part of an  
33 information technology initiative to determine whether the hardware, software or services conform  
34 with the quality standards identified in subparagraph (A) of this paragraph;

35 (G) Advises the State Chief Information Officer, the state contracting agency or the public cor-  
36 poration as to whether the hardware, software or services that are developed, provided or obtained  
37 as part of an information technology initiative meet the contracting agency's or the public  
38 corporation's needs, specifications or expectations and otherwise enable the state contracting  
39 agency or the public corporation to achieve the objectives for the information technology initiative;  
40 or

41 (H) Identifies unsatisfactory performance and suggests methods the State Chief Information Of-  
42 ficer, the state contracting agency, the public corporation or the other contractor might use to  
43 eliminate the causes of unsatisfactory performance.

44 (f) "State contracting agency" has the meaning given that term in ORS 279A.010.

45 (2)(a) A state contracting agency or a public corporation that implements an information tech-

1 nology initiative shall obtain quality management services from a qualified contractor if the value  
 2 of the information technology initiative exceeds \$5 million, unless the State Chief Information Offi-  
 3 cer determines that the quality management services are not necessary. The State Chief Information  
 4 Officer may require quality management services for an information technology initiative the value  
 5 of which does not exceed \$5 million if the information technology initiative meets criteria or stan-  
 6 dards that the State Chief Information Officer specifies in rule or policy. The State Chief Informa-  
 7 tion Officer not later than December 31 of each year shall submit to the Legislative Fiscal Officer  
 8 a report that identifies information technology initiatives for which:

9 (A) The value exceeds \$5 million; and

10 (B) The State Chief Information Officer determines that quality management services are not  
 11 necessary.

12 (b) A state contracting agency or public corporation may, subject to ORS 279B.040, procure  
 13 preliminary quality assurance services from a contractor if the information technology initiative  
 14 meets the criteria set forth in paragraph (a) of this subsection or if the state contracting agency or  
 15 public corporation otherwise believes that the preliminary quality assurance services will enable the  
 16 contracting agency or public corporation to implement an information technology initiative suc-  
 17 cessfully.

18 (3) A state contracting agency or public corporation may not artificially divide or fragment an  
 19 information technology initiative so as to avoid the application of this section.

20 (4) Notwithstanding any procurement authority that a state contracting agency or a public  
 21 corporation has that is not subject to the authority of the Director of the Oregon Department of  
 22 Administrative Services or the State Chief Information Officer under ORS 279A.050 (2) or [(7)] (8),  
 23 the state contracting agency or public corporation is subject to the provisions of subsection (2) of  
 24 this section and shall consult with and follow the rules, policies and procedures of the State Chief  
 25 Information Officer in determining the extent of preliminary quality assurance services or quality  
 26 management services that the state contracting agency or public corporation will require for an  
 27 information technology initiative.

28 (5)(a) If a state contracting agency or a public corporation awards a contract for preliminary  
 29 quality assurance services or quality management services, the contract must provide that at the  
 30 same time a contractor provides a preliminary or final report to the contract administrator, the  
 31 contractor shall also provide a copy of the report to:

32 (A) The State Chief Information Officer;

33 (B) The Director of the Oregon Department of Administrative Services;

34 (C) The Legislative Fiscal Officer; and

35 (D) As appropriate for the specific information technology initiative, to:

36 (i) The director of the state contracting agency or, if a board or commission sets policy for the  
 37 state contracting agency, to the board or commission; or

38 (ii) The governing body of the public corporation.

39 (b) The state contracting agency or public corporation shall provide the contractor with names,  
 40 addresses and other contact information the contractor needs to comply with paragraph (a) of this  
 41 subsection.

42 (6) This section does not apply to the Secretary of State or the State Treasurer.

43 **SECTION 4.** ORS 279A.025 is amended to read:

44 279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting  
 45 Code applies to all public contracting.

- 1 (2) The Public Contracting Code does not apply to:
- 2 (a) Contracts between a contracting agency and:
- 3 (A) Another contracting agency;
- 4 (B) The Oregon Health and Science University;
- 5 (C) A public university listed in ORS 352.002;
- 6 (D) The Oregon State Bar;
- 7 (E) A governmental body of another state;
- 8 (F) The federal government;
- 9 (G) An American Indian tribe or an agency of an American Indian tribe;
- 10 (H) A nation, or a governmental body in a nation, other than the United States; or
- 11 (I) An intergovernmental entity formed between or among:
- 12 (i) Governmental bodies of this or another state;
- 13 (ii) The federal government;
- 14 (iii) An American Indian tribe or an agency of an American Indian tribe;
- 15 (iv) A nation other than the United States; or
- 16 (v) A governmental body in a nation other than the United States;
- 17 (b) Agreements authorized by ORS chapter 190 or by a statute, charter provision, ordinance or
- 18 other authority for establishing agreements between or among governmental bodies or agencies or
- 19 tribal governing bodies or agencies;
- 20 (c) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and
- 21 414.145 for purposes of source selection;
- 22 (d) Grants;
- 23 (e) Contracts for *[professional or]* expert witnesses or consultants to provide services, **profes-**
- 24 **sional services** or testimony *[relating]* **related** to existing or potential litigation or legal matters in
- 25 which a public body is or may become interested;
- 26 (f) Acquisitions or disposals of real property or interest in real property;
- 27 (g) Sole-source expenditures when rates are set by law or ordinance for purposes of source se-
- 28 lection;
- 29 (h) Contracts for the procurement or distribution of textbooks;
- 30 (i) *[Procurements by]* A contracting *[agency]* **agency's procurements** from an Oregon Cor-
- 31 rections Enterprises program;
- 32 (j) The procurement, transportation, sale or distribution of distilled liquor, as defined in ORS
- 33 471.001, or the appointment of agents under ORS 471.230 or 471.750 by the Oregon Liquor Control
- 34 Commission;
- 35 (k) Contracts *[entered into under ORS chapter 180 between]* the Attorney General **enters into**
- 36 **for goods related to existing or potential litigation or legal matters** and **with** private counsel
- 37 or special legal assistants **under ORS chapter 180**;
- 38 (L) Contracts for the sale of timber from lands that the State Board of Forestry, the State
- 39 Forestry Department, the State Parks and Recreation Commission or the State Parks and Recreation
- 40 Department owns or manages;
- 41 (m) Contracts for activities necessary or convenient for the sale of timber under paragraph (L)
- 42 of this subsection, either separately from or in conjunction with contracts for the sale of timber,
- 43 including but not limited to activities such as timber harvesting and sorting, transporting, gravel
- 44 pit development or operation, and road construction, maintenance or improvement;
- 45 (n) Contracts for forest protection or forest related activities, as described in ORS 477.406, by

1 the State Forester or the State Board of Forestry;

2 (o) Contracts that the Housing and Community Services Department enters into in exercising  
 3 the department's duties prescribed in ORS chapters 456 and 458, except that the department's public  
 4 contracting for goods and services is subject to ORS chapter 279B;

5 (p) Contracts that the State Treasurer enters into in exercising the powers of that office pre-  
 6 scribed in ORS 178.010 to 178.090 and 276A.242 and ORS chapters 286A, 287A, 289, 293, 294 and 295,  
 7 including but not limited to investment contracts and agreements, banking services, clearing house  
 8 services and collateralization agreements, bond documents, certificates of participation and other  
 9 debt repayment agreements, and any associated contracts, agreements and documents, regardless of  
 10 whether the obligations that the contracts, agreements or documents establish are general, special  
 11 or limited, except that the State Treasurer's public contracting for goods and services is subject to  
 12 ORS chapter 279B;

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

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

16 (B) Program loans and similar extensions or advances of funds, aid or assistance that a public  
 17 body makes to a public or private body for the purpose of carrying out, promoting or sustaining  
 18 activities or programs authorized by law; or

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

22 (r) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221,  
 23 243.275, 243.291, 243.303 and 243.565;

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

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

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

28 (a) The Oregon State Lottery Commission;

29 (b) The legislative department;

30 (c) The judicial department;

31 (d) Semi-independent state agencies listed in ORS 182.454, except as provided in ORS 279.835 to  
 32 279.855 and 279A.250 to 279A.290;

33 (e) Oregon Corrections Enterprises;

34 (f) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to  
 35 279A.290;

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

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

38 (i) The Oregon Innovation Council;

39 (j) The Oregon Utility Notification Center; or

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

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

44 **SECTION 5.** ORS 279A.050 is amended to read:

45 279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting



1 agency shall exercise all of the contracting agency's procurement authority in accordance with the  
 2 provisions of the Public Contracting Code.

3 (b) If a contracting agency has authority under this section to carry out functions described in  
 4 this section, or has authority to make procurements under a provision of law other than the Public  
 5 Contracting Code, the contracting agency need not exercise the contracting agency's authority in  
 6 accordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the  
 7 contract or contracting agency.

8 (2)(a) Except as otherwise provided in paragraph (b) of this subsection and the Public Con-  
 9 tracting Code, for state agencies the Director of the Oregon Department of Administrative Services  
 10 has *[all the]* **comprehensive** authority *[available]* to carry out the provisions of the Public Con-  
 11 tracting Code.

12 (b) Except as otherwise provided in the Public Contracting Code, for state agencies the director  
 13 may delegate to the State Chief Information Officer the authority to procure or supervise the pro-  
 14 curement of all goods, services and personal services related to information technology and tele-  
 15 communications for state contracting agencies. This paragraph does not apply to contracts under  
 16 which the contractor delivers to the state agency information technology products or services inci-  
 17 dentally in performing a personal services contract described in ORS chapter 279C or a construction  
 18 contract described in ORS chapter 279C.

19 (3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation  
 20 has *[all the]* **comprehensive** authority *[available]* to:

21 (a) Procure or supervise the procurement of all services and personal services to construct, ac-  
 22 quire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking  
 23 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

24 (b) Procure or supervise the procurement of all goods, services, public improvements and per-  
 25 sonal services that relate to operating, maintaining or constructing highways, bridges and other  
 26 transportation facilities that are subject to the authority of the Department of Transportation; and

27 (c) Establish standards for, prescribe forms for and conduct the prequalification of prospective  
 28 bidders on public improvement contracts that relate to operating, maintaining or constructing  
 29 highways, bridges and other transportation facilities that are subject to the authority of the De-  
 30 partment of Transportation.

31 (4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has *[all*  
 32 *the]* **comprehensive** authority to procure or supervise the procurement of goods, services and per-  
 33 sonal services related to programs under the authority of the Secretary of State.

34 (5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has *[all*  
 35 *the]* **comprehensive** authority to procure or supervise the procurement of goods, services and per-  
 36 sonal services related to programs under the authority of the State Treasurer.

37 **(6) Except as otherwise provided in the Public Contracting Code, the Attorney General**  
 38 **has comprehensive authority to procure or supervise the procurement of goods, services and**  
 39 **personal services related to programs under the authority of the Attorney General.**

40 *[(6)]* (7) The state agencies listed in this subsection have *[all the]* **comprehensive** authority to  
 41 do the following in accordance with the Public Contracting Code:

42 (a) The Department of Human Services to procure or supervise the procurement of goods, ser-  
 43 vices and personal services under ORS 179.040 for the department's institutions and the procurement  
 44 of goods, services and personal services for constructing, demolishing, exchanging, maintaining, op-  
 45 erating and equipping housing for the purpose of providing care to individuals with intellectual

1 disabilities or other developmental disabilities, subject to applicable provisions of ORS 427.335;

2 (b) The Oregon Health Authority to procure or supervise the procurement of goods, services and  
3 personal services under ORS 179.040 and construction materials, equipment and supplies for the  
4 authority's institutions and the procurement of goods, services, personal services, construction ma-  
5 terials, equipment and supplies for constructing, demolishing, exchanging, maintaining, operating  
6 and equipping housing for individuals with chronic mental illness, subject to applicable provisions  
7 of ORS 426.504;

8 (c) The State Department of Fish and Wildlife to procure or supervise the procurement of con-  
9 struction materials, equipment, supplies, services and personal services for public improvements,  
10 public works or ordinary construction described in ORS 279C.320 that is subject to the authority  
11 of the State Department of Fish and Wildlife;

12 (d) The State Parks and Recreation Department to procure or supervise the procurement of all  
13 goods, services, public improvements and personal services related to state parks;

14 (e) The Oregon Department of Aviation to procure or supervise the procurement of construction  
15 materials, equipment, supplies, services and personal services for public improvements, public works  
16 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon  
17 Department of Aviation;

18 (f) The Oregon Business Development Department to procure or supervise the procurement of  
19 all goods, services, personal services and public improvements related to *[its]* **the department's**  
20 foreign trade offices operating outside the state;

21 (g) The Housing and Community Services Department to procure or supervise the procurement  
22 of goods, services and personal services as provided in ORS 279A.025 (2)(o);

23 (h) The Department of Corrections to procure or supervise the procurement of construction  
24 materials, equipment, supplies, services and personal services for public improvements, public works  
25 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-  
26 ment of Corrections;

27 (i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,  
28 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, ser-  
29 vices and personal services under ORS 179.040 for *[its]* **the department's** institutions;

30 (j) The Department of Veterans' Affairs to procure or supervise the procurement of real estate  
31 broker and principal real estate broker services related to programs under the department's au-  
32 thority;

33 (k) The Oregon Military Department to procure or supervise the procurement of construction  
34 materials, equipment, supplies, services and personal services for public improvements, public works  
35 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon  
36 Military Department;

37 (L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085  
38 and 329.485 and the federal Every Student Succeeds Act (P.L. 114-95, 129 Stat. 1802), to procure or  
39 supervise the procurement of goods, services, personal services and information technology related  
40 to student assessment; and

41 (m) Any state agency to conduct a procurement when the agency is specifically authorized **to**  
42 **enter into a contract** by any provision of law other than the Public Contracting Code *[to enter into*  
43 *a contract]*.

44 *[(7)(a)]* **(8)(a)** Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon  
45 Department of Administrative Services has exclusive authority, unless the director delegates the

1 authority, to procure or supervise the procurement of all price agreements on behalf of the state  
 2 agencies identified in subsection [(6)] (7) of this section under which more than one state agency  
 3 may order goods, services or personal services.

4 (b) The director may delegate to the State Chief Information Officer the exclusive authority to  
 5 procure or supervise the procurement of all price agreements related to information technology and  
 6 telecommunications on behalf of the state agencies identified in subsection [(6)] (7) of this section.  
 7 Notwithstanding any authority that a state agency may have under subsection (3) or [(6)] (7) of this  
 8 section, the state agency may not establish a price agreement or enter into a contract for goods,  
 9 services or personal services without the approval of the director or the State Chief Information  
 10 Officer if the director or the State Chief Information Officer has established a price agreement for  
 11 the goods, services or personal services.

12 (c) The State Chief Information Officer may review any solicitation document for procuring in-  
 13 formation technology or telecommunications that a state agency intends to issue before the state  
 14 agency issues the solicitation document and may require the state agency to name the State Chief  
 15 Information Officer as a third-party beneficiary with full authority to enforce the terms and condi-  
 16 tions of any public contract for information technology or telecommunications. The State Chief In-  
 17 formation Officer must approve a state agency's procurement for information technology or  
 18 telecommunications if the procurement has an anticipated contract price of \$1 million or more. The  
 19 State Chief Information Officer may require the state agency to name the State Chief Information  
 20 Officer as the contracting party on behalf of the State of Oregon in a procurement for information  
 21 technology or telecommunications that has an anticipated contract price of \$1 million or more.

22 **SECTION 6.** ORS 279A.075 is amended to read:

23 279A.075. (1) Unless otherwise provided in the Public Contracting Code, a person or agency that  
 24 has an authority under the code may delegate and subdelegate the exercise of the authority in whole  
 25 or in part. Notwithstanding delegations of authority under this section, the code and rules adopted  
 26 under the code govern a person's or agency's exercise of the delegated authority.

27 (2) The Secretary of State, State Treasurer, Director of the Oregon Department of Administra-  
 28 tive Services, State Chief Information Officer and Director of Transportation and other heads of  
 29 state agencies with specific limited authority identified in ORS 279A.050 [(6)] (7) may delegate au-  
 30 thority to contract for and manage public contracts for their offices or agencies. The State Chief  
 31 Information Officer may require the Director of the Oregon Department of Administrative Services  
 32 to obtain the State Chief Information Officer's review and approval before the director delegates  
 33 authority to a state contracting agency to conduct a procurement for information technology or  
 34 telecommunications.

35 **SECTION 7.** ORS 279A.165 is amended to read:

36 279A.165. (1) The Oregon Department of Administrative Services, before the beginning of each  
 37 odd-numbered year regular legislative session, shall provide to an appropriate committee of the  
 38 Legislative Assembly that considers questions related to public contracting a report that contains  
 39 information about special procurements conducted under the provisions of ORS 279B.085 by state  
 40 contracting agencies that are subject to the authority of the department under ORS 279A.050 (2) and  
 41 [(7)] (8). The information must include, at a minimum:

42 (a) The name of each state contracting agency that conducted a procurement under the pro-  
 43 visions;

44 (b) The number of procurements the state contracting agency conducted under the provisions  
 45 and the number of contracts the state contracting agency awarded under the provisions;

1 (c) A summary of the reasons that the state contracting agency decided to conduct the pro-  
 2 curement under the provisions;

3 (d) A descriptive summary of the procurement procedure the state contracting agency used to  
 4 conduct the procurement, noting whether the procedure was competitive or not and listing the  
 5 number of bids or proposals the state contracting agency received if the procedure was competitive;

6 (e) The contract price or estimated contract price for each contract the state contracting agency  
 7 awarded under the provisions; and

8 (f) A summary of the protests or other responses the state contracting agency received in re-  
 9 sponse to the decision to conduct the procurement under the provisions, and a summary of the dis-  
 10 position of the protests or other responses.

11 (2) A state contracting agency subject to the authority of the department under ORS 279A.050  
 12 (2) and [(7)] (8) shall maintain records that enable the state contracting agency to calculate or  
 13 otherwise determine and provide to the department the information described in subsection (1) of  
 14 this section. The state contracting agency shall maintain the records for the purposes described  
 15 under this section and may not use the information for evaluating proposals or invitations to bid  
 16 that the state contracting agency receives in response to a solicitation for a procurement.

17 (3) This section does not apply to the Secretary of State or the State Treasurer.

18 **SECTION 8.** ORS 413.033 is amended to read:

19 413.033. (1) The Oregon Health Authority is under the supervision and control of a director, who  
 20 is responsible for performing the duties, functions and powers of the authority.

21 (2) The Governor shall appoint the Director of the Oregon Health Authority, who holds office  
 22 at the pleasure of the Governor. The appointment of the director is subject to confirmation by the  
 23 Senate in the manner provided by ORS 171.562 and 171.565.

24 (3) In addition to the procurement authority granted by ORS 279A.050 [(6)(b)] (7)(b) and except  
 25 as provided in ORS 279A.050 [(7)] (8), the director has all powers necessary to effectively and ex-  
 26 peditiously carry out the duties, functions and powers vested in the authority by ORS 413.032.

27 (4) The director shall have the power to obtain such other services as the director considers  
 28 necessary or desirable, including participation in organizations of state insurance supervisory offi-  
 29 cials and appointment of advisory committees. A member of an advisory committee so appointed may  
 30 not receive compensation for services as a member, but, subject to any other applicable law regu-  
 31 lating travel and other expenses of state officers, shall receive actual and necessary travel and other  
 32 expenses incurred in performing official duties.

33 (5) The director may apply for, receive and accept grants, gifts or other payments, including  
 34 property or services from any governmental or other public or private person, and may make ar-  
 35 rangement to use the receipts, including for undertaking special studies and other projects that re-  
 36 late to the costs of health care, access to health care, public health and health care reform.

37 **SECTION 9.** ORS 413.310 is amended to read:

38 413.310. (1) The Oregon Health Authority shall establish and maintain the Oregon Health In-  
 39 formation Technology program to:

40 (a) Support the Oregon Integrated and Coordinated Health Care Delivery System established by  
 41 ORS 414.570;

42 (b) Facilitate the exchange and sharing of electronic health-related information;

43 (c) Support improved health outcomes in this state;

44 (d) Promote accountability and transparency; and

45 (e) Support new payment models for coordinated care organizations and health systems.

1 (2) The authority may engage in activities necessary to become accredited or certified as a  
 2 provider of health information technology and take actions associated with providing health infor-  
 3 mation technology.

4 (3) Subject to ORS 279A.050 [(7)] (8), the authority may enter into agreements with other entities  
 5 that provide health information technology to carry out the objectives of the Oregon Health Infor-  
 6 mation Technology program.

7 (4) The authority may establish and enforce standards for connecting to and using the Oregon  
 8 Health Information Technology program, including standards for interoperability, privacy and secu-  
 9 rity.

10 (5) The authority may conduct or participate in activities to enable and promote the secure  
 11 transmission of electronic health information between users of different health information technol-  
 12 ogy systems, including activities in other states. The activities may include, but are not limited to,  
 13 participating in organizations or associations that manage and enforce agreements to abide by a  
 14 common set of standards, policies and practices applicable to health information technology systems.

15 (6) The authority may, by rule, impose fees on entities or individuals that use the program's  
 16 services in order to pay the cost of administering the Oregon Health Information Technology pro-  
 17 gram.

18 (7) The authority may initiate one or more partnerships or participate in new or existing  
 19 collaboratives to establish and carry out the Oregon Health Information Technology program's ob-  
 20 jectives. The authority's participation may include, but is not limited to:

21 (a) Participating as a voting member in the governing body of a partnership or collaborative  
 22 that provides health information technology services;

23 (b) Paying dues or providing funding to partnerships or collaboratives;

24 (c) Entering into agreements, subject to ORS 279A.050 [(7)] (8), with partnerships or  
 25 collaboratives with respect to participation and funding in order to establish the role of the au-  
 26 thority and protect the interests of this state when the partnerships or collaboratives provide health  
 27 information technology services; or

28 (d) Transferring the implementation or management of one or more services offered by the  
 29 Oregon Health Information Technology program to a partnership or collaborative.

30 (8) At least once each calendar year the authority shall report to the Legislative Assembly, in  
 31 the manner provided in ORS 192.245, on the status of the Oregon Health Information Technology  
 32 program.

33 **SECTION 10. The amendments to ORS 179.040, 276A.203, 276A.223, 279A.025, 279A.050,**  
 34 **279A.075, 279A.165, 413.033 and 413.310 by sections 1 to 9 of this 2021 Act apply to procure-**  
 35 **ments that a contracting agency advertises or otherwise solicits or, if the contracting agency**  
 36 **does not advertise or otherwise solicit the procurement, to public contracts into which the**  
 37 **contracting agency enters on or after the operative date specified in section 11 of this 2021**  
 38 **Act.**

39 **SECTION 11. (1) The amendments to ORS 179.040, 276A.203, 276A.223, 279A.025, 279A.050,**  
 40 **279A.075, 279A.165, 413.033 and 413.310 by sections 1 to 9 of this 2021 Act become operative**  
 41 **on January 1, 2022.**

42 (2) The Attorney General may adopt rules and take any other action before the operative  
 43 date specified in subsection (1) of this section that is necessary to enable the Attorney  
 44 General to undertake or exercise, on and after the operative date specified in subsection (1)  
 45 of this section, all of the duties, functions and powers conferred on the Attorney General by

1 the amendments to ORS 279A.025 and 279A.050 by sections 4 and 5 of this 2021 Act.

2 SECTION 12. This 2021 Act takes effect on the 91st day after the date on which the 2021  
3 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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