

Senate Bill 577

Sponsored by Senator DEMBROW, Representative HOLVEY (Pre-session filed.)

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**.

Specifies contract price at which apprentice utilization requirements apply to qualified contracts with institutions of higher education and school districts.

Requires contractors and subcontractors on qualified contracts to employ apprentices for 15 percent of work hours that workers in apprenticeable occupations perform under qualified contracts, to provide workers with health insurance and retirement benefits and to make good-faith efforts to encourage minority individuals, women, economically disadvantaged individuals, socially disadvantaged individuals and service-disabled veterans to become apprentices with contractor or subcontractor with aspirational goal of employing minority individuals, women, economically disadvantaged individuals, socially disadvantaged individuals and service-disabled veterans to perform 15 percent of work hours performed by apprentices in apprenticeable occupations under qualified contracts. Specifies actions that constitute good-faith efforts.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to requirements for employing workers under qualified contracts with educational insti-
3 tutions; creating new provisions; amending ORS 350.379; and prescribing an effective date.

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

5 **SECTION 1.** ORS 350.379 is amended to read:

6 350.379. (1) As used in this section:

7 (a) "Apprentice" has the meaning given that term in ORS 660.010.

8 (b) "Apprenticeable occupation" has the meaning given that term in ORS 660.010.

9 (c) "Apprenticeship agreement" has the meaning given that term in ORS 660.010.

10 (d) "Apprenticeship training program" means the total system of apprenticeship that a
11 particular local joint committee, as defined in ORS 660.010, operates, including the local joint
12 committee's registered standards and all other terms and conditions for qualifying, recruit-
13 ing, selecting, employing and training apprentices in an apprenticeable occupation.

14 [(b)] (e) "Community college" means a community college as defined in ORS 341.005 or a com-
15 munity college district as defined in ORS 341.005.

16 (f) "Economically disadvantaged individual" has the meaning given that term in ORS
17 200.005.

18 [(c)] (g) "Institution of higher education" means a public university listed in ORS 352.002, a
19 community college or the Oregon Health and Science University.

20 [(d)] (h) "Minority individual" has the meaning given that term in ORS 200.005.

21 [(e)] (i) "Qualified contracts":

22 (A) Means contracts that:

23 (i) Are for improvements to real property;

24 (ii) Have a [cost] **contract price** that, at the time the contract is executed, is estimated to be
25 greater than [*\$8 million*] **\$200,000**; and

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 (iii) Are to be paid, in whole or in part, from proceeds of bonds issued by the State of Oregon.

2 (B) Does not include contracts for purchase or installation of specialty medical or research
 3 equipment or any necessary related personal property or fixtures sold or installed by a vendor of
 4 such equipment.

5 **(j) “Service-disabled veteran” has the meaning given that term in ORS 200.005.**

6 **(k) “Socially disadvantaged individual” has the meaning given that term in ORS 200.005.**

7 *[(f)]* **(L) “Woman” has the meaning given that term in ORS 200.005.**

8 (2) An institution of higher education may not award a qualified contract to a prospective con-
 9 tractor unless the prospective contractor is a training agent as defined in ORS 660.010.

10 (3) Except as provided in subsection *[(5)]* **(9)** of this section, an institution of higher education,
 11 in all qualified contracts, shall require contractors to:

12 (a) Award each subcontract with an estimated cost of at least \$200,000 only to a subcontractor
 13 who is a training agent as defined in ORS 660.010[;].

14 *[(b) Establish and execute a plan for outreach, recruitment and retention of women and minority*
 15 *individuals to perform work under the contract; and]*

16 *[(c) Require any subcontractors engaged by the contractors to abide by the requirements set forth*
 17 *in paragraph (b) of this subsection.]*

18 **(b) Provide in all subcontracts the contractor awards for work under a qualified contract**
 19 **in which the contract price for the subcontract exceeds \$200,000 that the subcontractor**
 20 **undertake the duties set forth in paragraphs (c) to (e) of this subsection.**

21 **(c) Provide health insurance and retirement benefits to workers the contractor or sub-**
 22 **contractor employs.**

23 **(d) Employ apprentices to perform 15 percent of the work hours that workers in**
 24 **apprenticeable occupations perform under the qualified contract.**

25 **(e) Make good-faith efforts to encourage minority individuals, women, economically dis-**
 26 **advantaged individuals, socially disadvantaged individuals and service-disabled veterans to**
 27 **become apprentices, with the aspirational goal of employing minority individuals, women,**
 28 **economically disadvantaged individuals, socially disadvantaged individuals and service-**
 29 **disabled veterans for 15 percent of the work hours described in paragraph (d) of this sub-**
 30 **section. For the purposes of this paragraph, a contractor or subcontractor makes a**
 31 **good-faith effort if the contractor or subcontractor, at a minimum, and without engaging in**
 32 **superficial or pro forma actions:**

33 **(A) Advertises apprenticeship opportunities available with the contractor or subcontrac-**
 34 **tor in general circulation publications, trade association publications, social media websites**
 35 **and other printed and electronic publications that serve an audience or readership that**
 36 **consists primarily of minorities, women, service-disabled veterans, economically disadvan-**
 37 **tagged individuals and socially disadvantaged individuals;**

38 **(B) Provides written notice of apprenticeship opportunities available with the contractor**
 39 **or subcontractor directly to apprenticeship programs in the local area in which work under**
 40 **the qualified contract will occur;**

41 **(C) Follows up on the contractor’s or subcontractor’s initial solicitations of interest by**
 42 **contacting individuals who responded to the advertisements described in subparagraph (A)**
 43 **of this paragraph or who otherwise expressed interest in becoming an apprentice to deter-**
 44 **mine with certainty whether the individual is interested in the opportunity;**

45 **(D) Advises and assists interested individuals in completing any required application**

1 materials or certifications or in providing any other needed evidence of the individual's
2 qualifications to become an apprentice with the contractor or subcontractor; and

3 (E) Uses the services of minority community organizations, minority contractor groups,
4 local, state and federal minority business assistance offices and other organizations that
5 provide assistance in recruiting minority individuals, women, economically disadvantaged
6 individuals, socially disadvantaged individuals or service-disabled veterans into any of the
7 trades or occupations that the contractor or subcontractor employs.

8 (4) A contractor or subcontractor shall pay an apprentice for work under a qualified
9 contract at the hourly rate to which the apprentice is entitled under an apprenticeship
10 agreement or that the apprenticeship training program specifies.

11 (5) Subject to the terms of a qualified contract, a contractor may decide the locations in
12 which, the types of work for which and other details concerning how the contractor employs
13 apprentices for work under the qualified contract. The contractor may meet the require-
14 ments set forth in subsection (3) of this section by requiring one or more subcontractors to
15 employ apprentices for work under the qualified contract unless the subcontractors must
16 also comply with the provisions of subsection (3) of this section.

17 (6) A contractor shall report the extent of the contractor's compliance with this section
18 to the institution of higher education that is a party to the qualified contract on forms, with
19 contents the institution of higher education specifies by rule, and at regular intervals that
20 the institution of higher education specifies in the qualified contract. The forms and the
21 contents that the institution of higher education specifies must include, at a minimum, a
22 report in which the contractor provides a detailed accounting of the total number of work
23 hours each month and the cumulative total number of work hours since the qualified con-
24 tract term began in which:

25 (a) Workers in apprenticeable occupations performed work under the qualified contract;

26 (b) Apprentices performed work under the qualified contract; and

27 (c) Minority individuals, women, economically disadvantaged individuals, socially disad-
28 vantaged individuals and service-disabled veterans performed work under the qualified con-
29 tract.

30 (7) At least 30 days before making any final payment to a contractor under a qualified
31 contract, an institution of higher education shall determine the extent of the contractor's
32 compliance with the requirements set forth in subsection (3) of this section. The institution
33 of higher education shall base the determination on the ratio between the actual number of
34 work hours that workers in apprenticeable occupations performed under the qualified con-
35 tract and the actual number of work hours that apprentices performed under the qualified
36 contract, as shown in reports the institution of higher education receives under subsection
37 (6) of this section.

38 [(4)] (8) On or before February 1 of each year, institutions of higher education with ongoing
39 qualified contracts shall report to the Joint Committee on Ways and Means or Joint Interim Com-
40 mittee on Ways and Means on:

41 (a) The amount of work performed by apprentices, [*women and minority individuals*] **minority**
42 **individuals, women, economically disadvantaged individuals, socially disadvantaged individ-**
43 **uals and service-disabled veterans** under qualified contracts[,] and

44 (b) The types and costs of health insurance and retirement benefits that contractors and
45 subcontractors provided to workers under qualified contracts.

1 [(5)] (9) The requirements of subsection (3) of this section do not apply to a qualified contract
 2 if the institution of higher education determines that compliance with the requirements would, with
 3 respect to the qualified contract:

- 4 (a) Cause unreasonable expense or delay; or
- 5 (b) Limit the pool of bidders to fewer than three.

6 **SECTION 2. Section 3 of this 2021 Act is added to and made a part of ORS 327.300 to**
 7 **327.320.**

8 **SECTION 3. (1) As used in this section:**

- 9 (a) “Apprentice” has the meaning given that term in ORS 660.010.
- 10 (b) “Apprenticeable occupation” has the meaning given that term in ORS 660.010.
- 11 (c) “Apprenticeship agreement” has the meaning given that term in ORS 660.010.

12 (d) “Apprenticeship training program” means the total system of apprenticeship that a
 13 particular local joint committee, as defined in ORS 660.010, operates, including the local joint
 14 committee’s registered standards and all other terms and conditions for qualifying, recruit-
 15 ing, selecting, employing and training apprentices in an apprenticeable occupation.

16 (e) “Economically disadvantaged individual” has the meaning given that term in ORS
 17 200.005.

18 (f) “Minority individual” has the meaning given that term in ORS 200.005.

19 (g) “Qualified contract” means a public contract to construct or maintain a public school
 20 facility, as defined in ORS 327.300:

21 (A) In which the contract price at the time the contract is executed is estimated exceed
 22 \$200,000; and

23 (B) For which the school district receives a grant from the School Facility Improvement
 24 Fund.

- 25 (h) “School district” has the meaning given that term in ORS 327.300.
- 26 (i) “Service-disabled veteran” has the meaning given that term in ORS 200.005.
- 27 (j) “Socially disadvantaged individual” has the meaning given that term in ORS 200.005.
- 28 (k) “Woman” has the meaning given that term in ORS 200.005.

29 (2) A school district may not award a qualified contract to a prospective contractor un-
 30 less the prospective contractor is a training agent as defined in ORS 660.010.

31 (3) Except as provided in subsection (9) of this section, a school district, in all qualified
 32 contracts, shall require contractors to:

33 (a) Award each subcontract with an estimated cost of at least \$200,000 only to a sub-
 34 contractor who is a training agent as defined in ORS 660.010.

35 (b) Provide in all subcontracts the contractor awards for work under a qualified contract
 36 in which the contract price for the subcontract exceeds \$200,000 that the subcontractor
 37 undertake the duties set forth in paragraphs (c) to (e) of this subsection.

38 (c) Provide health insurance and retirement benefits to workers the contractor or sub-
 39 contractor employs.

40 (d) Employ apprentices to perform 15 percent of the work hours that workers in
 41 apprenticeable occupations perform under the qualified contract.

42 (e) Make good-faith efforts to encourage minority individuals, women, economically dis-
 43 advantaged individuals, socially disadvantaged individuals and service-disabled veterans to
 44 become apprentices, with the aspirational goal of employing minority individuals, women,
 45 economically disadvantaged individuals, socially disadvantaged individuals and service-

1 disabled veterans for 15 percent of the work hours described in paragraph (d) of this sub-
2 section. For the purposes of this paragraph, a contractor or subcontractor makes a
3 good-faith effort if the contractor or subcontractor, at a minimum, and without engaging in
4 superficial or pro forma actions:

5 (A) Advertises apprenticeship opportunities available with the contractor or subcontrac-
6 tor in general circulation publications, trade association publications, social media websites
7 and other printed and electronic publications that serve an audience or readership that
8 consists primarily of minorities, women, service-disabled veterans, economically disadvan-
9 tagged individuals and socially disadvantaged individuals;

10 (B) Provides written notice of apprenticeship opportunities available with the contractor
11 or subcontractor directly to apprenticeship programs in the local area in which work under
12 the qualified contract will occur;

13 (C) Follows up on the contractor's or subcontractor's initial solicitations of interest by
14 contacting individuals who responded to the advertisements described in subparagraph (A)
15 of this paragraph or who otherwise expressed interest in becoming an apprentice to deter-
16 mine with certainty whether the individual is interested in the opportunity;

17 (D) Advises and assists interested individuals in completing any required application
18 materials or certifications or in providing any other needed evidence of the individual's
19 qualifications to become an apprentice with the contractor or subcontractor; and

20 (E) Uses the services of minority community organizations, minority contractor groups,
21 local, state and federal minority business assistance offices and other organizations that
22 provide assistance in recruiting minority individuals, women, economically disadvantaged
23 individuals, socially disadvantaged individuals or service-disabled veterans into any of the
24 trades or occupations that the contractor or subcontractor employs.

25 (4) A contractor or subcontractor shall pay an apprentice for work under a qualified
26 contract at the hourly rate to which the apprentice is entitled under an apprenticeship
27 agreement or that the apprenticeship training program specifies.

28 (5) Subject to the terms of a qualified contract, a contractor may decide the locations in
29 which, the types of work for which and other details concerning how the contractor employs
30 apprentices for work under the qualified contract. The contractor may meet the require-
31 ments set forth in subsection (3) of this section by requiring one or more subcontractors to
32 employ apprentices for work under the qualified contract unless the subcontractors must
33 also comply with the provisions of subsection (3) of this section.

34 (6) A contractor shall report the extent of the contractor's compliance with this section
35 to the school district that is a party to the qualified contract on forms, with contents the
36 school district specifies, and at regular intervals that the school district specifies in the
37 qualified contract. The forms and the contents that the school district specifies must include,
38 at a minimum, a report in which the contractor provides a detailed accounting of the total
39 number of work hours each month and the cumulative total number of work hours since the
40 qualified contract term began in which:

41 (a) Workers in apprenticeable occupations performed work under the qualified contract;

42 (b) Apprentices performed work under the qualified contract; and

43 (c) Minority individuals, women, economically disadvantaged individuals, socially disad-
44 vantaged individuals and service-disabled veterans performed work under the qualified con-
45 tract.

1 (7) At least 30 days before making any final payment to a contractor under a qualified
 2 contract, a school district shall determine the extent of the contractor's compliance with the
 3 requirements set forth in subsection (3) of this section. The school district shall base the
 4 determination on the ratio between the actual number of work hours that workers in
 5 apprenticeable occupations performed under the qualified contract and the actual number
 6 of work hours that apprentices performed under the qualified contract, as shown in reports
 7 the school district receives under subsection (6) of this section.

8 (8) On or before February 1 of each year, school districts with ongoing qualified contracts
 9 shall report to the Joint Committee on Ways and Means or Joint Interim Committee on
 10 Ways and Means on:

11 (a) The amount of work performed by apprentices, minority individuals, women, eco-
 12 nomically disadvantaged individuals, socially disadvantaged individuals and service-disabled
 13 veterans under qualified contracts; and

14 (b) The types and costs of health insurance and retirement benefits that contractors and
 15 subcontractors provided to workers under qualified contracts.

16 (9) The requirements of subsection (3) of this section do not apply to a qualified contract
 17 if the school district determines that compliance with the requirements would, with respect
 18 to the qualified contract:

19 (a) Cause unreasonable expense or delay; or

20 (b) Limit the pool of bidders to fewer than three.

21 **SECTION 4.** Section 3 of this 2021 Act and the amendments to ORS 350.379 by section 1
 22 of this 2021 Act apply to qualified contracts, as defined in section 3 of this 2021 Act and ORS
 23 350.379, that an institution of higher education, as defined in ORS 350.379, or a school dis-
 24 trict, as defined in ORS 327.300, advertises or otherwise solicits or, if the institution of higher
 25 education or the school district does not advertise or solicit the qualified contract, to quali-
 26 fied contracts into which the institution of higher education or the school district enters on
 27 and after the operative date specified in section 5 of this 2021 Act.

28 **SECTION 5.** (1) Section 3 of this 2021 Act and the amendments to ORS 350.379 by section
 29 1 of this 2021 Act become operative on January 1, 2022.

30 (2) An institution of higher education, as defined in ORS 350.379, and a school district,
 31 as defined in ORS 327.300, may take any action before the operative date specified in sub-
 32 section (1) of this section that is necessary to enable the institution of higher education or
 33 the school district, on and after the operative date specified in subsection (1) of this section,
 34 to undertake or exercise all of the duties, functions and powers conferred on the institution
 35 of higher education or the school district by section 3 of this 2021 Act or the amendments
 36 to ORS 350.379 by section 1 of this 2021 Act.

37 **SECTION 6.** This 2021 Act takes effect on the 91st day after the date on which the 2021
 38 regular session of the Eighty-first Legislative Assembly adjourns sine die.