

B-Engrossed House Bill 4059

Ordered by the Senate February 23
Including House Amendments dated February 10 and Senate Amendments
dated February 23

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Environment and Natural Resources for Representative Pam Marsh)

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.

Redefines "large-scale project" as "covered project" for purposes of contractor labor standards. Clarifies application of labor standards based on project's capacity rating. Clarifies good faith exception to required total work hours performed by apprentices.

Modifies requirement of when person who constructs or repowers covered project shall provide signed attestation or declaration to within 30 days from date construction begins.

Exempts contracts and subcontracts with tribal government, agent or instrumentality of Oregon Indian tribe for covered project on tribal lands from contractor labor standards.

Requires request for proposals by electric company for resource procurement subject to competitive bidding requirements and that may result in procurement of covered project to include reference to and information regarding contractor labor standards and to require successful bidder to verify provision of attestation, declaration or project labor agreement.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to large-scale project labor standards; creating new provisions; amending ORS 757.306; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 757.306 is amended to read:

6 757.306. (1) As used in this section:

7 (a) "Apprentice" and "apprenticeable occupation" have the meanings given those terms in ORS
8 660.010.

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

13 (c) "**Community solar project**" has the meaning given that term in **ORS 757.386**.

14 [(c)] (d) "Construction" includes on-site and off-site construction and fabrication and covers 30
15 days after project completion.

16 [(d)] (e) "[*Large-scale*] **Covered project**" means:

17 (A) **Except as provided in subparagraph (B) of this paragraph**, a renewable energy gener-
18 ation, sequestration or storage facility with a capacity rating of 10 megawatts or greater.

19 (B) **A community solar project with a capacity rating above three megawatts.**

20 [(e)] (f) "Minority individual" and "woman" have the meanings given those terms in ORS
21 200.005.

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 *[(f)]* **(g)** “Repower” means replacement of enough of the original generation equipment or com-
2 ponents to make an original energy generation facility equivalent to a new facility, such that at
3 least 80 percent of the fair market value of the facility derives from new generation equipment or
4 components installed as part of the replacement project.

5 *[(g)]* **(h)** “Veteran” has the meaning given that term in ORS 408.225.

6 (2) A person who constructs or repowers a *[large-scale]* **covered** project sited in this state shall,
7 *[at the time of contract finalization for development of the project or execution of a contract for delivery*
8 *of energy from the project]* **within 30 days from the date the construction begins**, provide a signed
9 attestation or declaration stating to the best of their knowledge and belief, subject to penalty of
10 perjury as described in ORS 162.065, that during all periods of construction all contractors and
11 subcontractors working on the construction or repowering project will:

12 (a)(A)(i) **Except as provided in sub-subparagraph (ii) of this subparagraph**, participate in
13 an apprenticeship program registered with the State Apprenticeship and Training Council and with
14 graduation rates equal to or higher than the national average for each respective trade in a manner
15 consistent with the respective apprenticeship training programs, such that 15 percent of the total
16 work hours on a given *[large-scale]* **covered** project is performed by *[workers]* **apprentices** in
17 apprenticeable occupations; **or**

18 **(ii) If less than 15 percent of total work hours on a given covered project is performed**
19 **by apprentices in apprenticeable occupations, demonstrate good faith with meeting the re-**
20 **quirement described in sub-subparagraph (i) of this subparagraph by providing documented**
21 **and verifiable information including:**

22 **(I) Internet addresses of employment advertisements or job announcements;**

23 **(II) Dates, times, Internet addresses and attendance lists of a prejob conference with**
24 **apprenticeship, preapprenticeship and workforce providers in construction;**

25 **(III) Contacts requesting apprentices with an apprenticeship program approved by the**
26 **Bureau of Labor and Industries including the date, time, telephone contact, electronic mail**
27 **contact and whether a response was provided within 48 hours of the request;**

28 **(IV) Contacts requesting apprentices from a union hall including the date, time, tele-**
29 **phone contact, electronic mail contact and whether a response was provided within 48 hours**
30 **of the request; and**

31 **(V) Documentation of job offers and number of job offers made to apprentices;**

32 *[(b)]* **(B)** Establish and execute a plan for outreach, recruitment and retention of women, mi-
33 nority individuals, veterans and people with disabilities to perform work under the contract, with
34 the aspirational target of having at least 15 percent of total work hours performed by individuals
35 in one or more of those groups;

36 *[(c)]* **(C)** Have policies in place that are designed to limit or prevent workplace harassment and
37 discrimination and that promote workplace diversity, equity and inclusion for communities who have
38 been underrepresented in the clean energy sector, including women, veterans and Black, Indigenous
39 and People of Color;

40 *[(d)]* **Demonstrate good faith with meeting the requirements described in paragraphs (a) to (c) of this**
41 **subsection by providing documented and verifiable information including:]**

42 *[(A)]* **Internet addresses of employment advertisements or job announcements;]**

43 *[(B)]* **Dates, times, Internet addresses and attendance lists of a prejob conference with apprentice-**
44 **ship, preapprenticeship and workforce providers in construction;]**

45 *[(C)]* **Contacts requesting workers with an apprenticeship program approved by the Bureau of Labor**

1 *and Industries including the date, time, telephone contact, email contact and whether a response was*
2 *provided within 48 hours of the request; and]*

3 [(D) *Contacts requesting workers from a union hall including the date, time, telephone contact,*
4 *email contact and whether a response was provided within 48 hours of the request;]*

5 [(e) (D) Maintain a license and good standing to perform the work and remain eligible to re-
6 ceive a contract or subcontract for public works under ORS 279C.860;

7 [(f) (E) Materially demonstrate a history of material compliance in the previous seven years,
8 or provide available history for new businesses, with the rules and other requirements of state
9 agencies with oversight regarding workers' compensation, building codes and occupational safety
10 and health;

11 [(g) (F) Materially demonstrate a history of compliance, in the previous seven years, or provide
12 available history for new businesses, with federal and state wage and hour laws; and

13 [(h) (G) Provide quarterly reporting and recordkeeping to the project owner or electric utility
14 and respond to records requests and verification[.]; **and**

15 [(3) *In addition to the requirements in subsection (2) of this section, a person constructing or re-*
16 *powering a large-scale project shall require all contractors and subcontractors working on the con-*
17 *struction or repowering project to:]*

18 **(b) If the covered project has a capacity rating of 10 megawatts or greater:**

19 [(a) (A) Pay **no less than** the [area] **prevailing** wage [standard] **rate** for an hour's work in the
20 same trade or occupation in the locality where the labor is performed. [Area] **Prevailing** wage
21 [standard] **rate** includes the calculation of wages and fringe benefits per trade and locality and will
22 be treated as standards defined in ORS 279C.800 [et seq] **to 279C.870.**

23 [(b) (B) Offer health care and retirement benefits to the employees performing the labor on the
24 project.

25 [(c) (C) Provide quarterly reporting and recordkeeping to the project owner or electric utility
26 and respond to records requests and verification.

27 [(4) (3) [A] **The** person [constructing or repowering a large-scale project] shall provide the
28 attestation or declaration and **any** good faith effort documentation described in subsection (2) of this
29 section to the State Department of Energy within 30 days from the date construction begins and
30 [provide notice of such delivery to] **shall notify** the purchaser of the project or of the energy from
31 the project **of this provision or of the provision of a project labor agreement under subsection**
32 **(4) of this section, the notice of which shall identify the signatories to the agreement.** In
33 addition to the requirements described in subsection (2) of this section, [an] **the attestation or**
34 **declaration** must include the following information:

35 (a) The megawatt capacity and physical footprint in acres of the project;

36 (b) The geographic location of the project;

37 (c) The estimated workforce requirements of the project;

38 (d) A collated list of good faith effort documentation; and

39 (e) A description of any policies in place for ensuring the person meets the requirements in this
40 section.

41 [(5)(a) (4)(a) In lieu of providing an attestation or declaration described in subsection (2) of this
42 section, [a] **the** person may provide a copy of a project labor agreement, if a project labor agreement
43 is used on the [large-scale] **covered** project and shall be exempted from the requirements described
44 in subsection (2) of this section.

45 (b) As used in this subsection, "project labor agreement" means a prehire collective bargaining

1 agreement as described in 29 U.S.C. 158(f) that establishes the terms and conditions of employment
2 for a specific construction project or contract.

3 (c) A project labor agreement may include additional provisions that:

4 (A) Prohibit discrimination based on race, national origin, religion, gender, sexual orientation,
5 political affiliation or membership in a labor organization in hiring and dispatching workers for the
6 project.

7 (B) Permit qualified contractors and subcontractors to bid for and be awarded work on the
8 project without regard to whether they are otherwise parties to a collective bargaining agreement.

9 (C) Permit and promote qualified business enterprises owned by women, minorities, veterans and
10 disadvantaged individuals without regard to whether the individuals are otherwise parties to a col-
11 lective bargaining agreement.

12 (D) Guarantee against work stoppages, strikes, lockouts and similar disruptions of the project.

13 [(6)(a)] **(5)(a)** The department shall retain an attestation or declaration filed with the department
14 in a manner consistent with the department's record retention policies.

15 (b) Notwithstanding any provisions of ORS 192.345 or 192.355, an attestation or declaration
16 provided to the department pursuant to this subsection is subject to public records disclosure and
17 the department shall provide a copy of the attestation or declaration upon request.

18 (c) An attestation or declaration filed under this section is for reporting purposes only and the
19 department may not use an attestation or declaration to investigate, regulate or enforce matters
20 addressed in the attestation or declaration.

21 **(6)(a) Nothing in this section:**

22 **(A) Applies to a contract or subcontract with a tribal government, agent or**
23 **instrumentality of an Oregon Indian tribe for a covered project located in whole or in part**
24 **on the tribe's reservation or on land held in trust by the United States for the benefit of the**
25 **tribe, unless the tribal government elects to adopt the standards in this section for the**
26 **contract or subcontract; or**

27 **(B) Affects the wage rates overseen by a tribal government, agent or instrumentality of**
28 **an Oregon Indian tribe.**

29 **(b) As used in this subsection, "Oregon Indian tribe" and "tribal government" have the**
30 **meanings given those terms in ORS 294.805.**

31 **(7) Nothing in this section:**

32 **(a) Prohibits the inclusion of labor standards in addition to those required by subsection**
33 **(2) of this section in contracts that are subject to this section; or**

34 **(b) Prohibits a person from using a project labor agreement to meet the minimum re-**
35 **quirements of subsection (2) of this section.**

36 **SECTION 2. (1) A request for proposals submitted by an electric company, as defined in**
37 **ORS 757.600, for resource procurement that is subject to competitive bidding requirements**
38 **adopted by the Public Utility Commission by rule and that may result in the procurement**
39 **of a covered project must:**

40 **(a) Include a reference to and information regarding the requirements in ORS 757.306;**
41 **and**

42 **(b) Require that a successful bidder within 30 days from the date construction begins,**
43 **provide a copy of the attestation or declaration or executed project labor agreement as re-**
44 **quired under ORS 757.306.**

45 **(2) The State Department of Energy shall, upon request from the commission, provide a**

1 **copy of the attestation or declaration or project labor agreement to the commission.**

2 **SECTION 3. This 2022 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**
4 **on its passage.**

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