

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Provides that qualifying agency must require as material provision of public improvement contract that contractor establish and implement plan for outreach to and recruitment and retention of women, minority individuals and veterans to perform work under public improvement contract, with aspirational target of having individuals in one or more of these groups perform at least 15 percent of total work hours that workers perform under public improvement contract.

Government Unit(s) Affected:

Department of Administrative Services, Higher Education Coordinating Commission, Bureau of Labor and Industries, Department of Justice, Statewide, Construction Contractors Board, Department of Transportation

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Analysis:

HB 2649 - A requires that a qualifying agency, defined as a state contracting agency and the Higher Education Coordinating Commission including public universities, and community college districts that use funds paid from the State Treasury for construction costs, have apprentices perform 12 percent or more of the work hours for each contract of \$3 million or more. Previously, the 12 percent rate applied to a public improvement project overall. The measure also lowers the subcontract price from \$1 million, to \$750,000 or more, for which an apprentice must perform 12 percent or more of the work.

As part of public improvement contracts, a qualifying agency must require that the contractor establish and implement a plan for outreach to and recruitment and retention of women, minority individuals and veterans to perform work under the public improvement contract, with an aspirational target of having individuals in one or more of these groups to compose at least 15 percent of the total number of workers who perform work under the contract. Contractors must report on the extent of their compliance on forms created by the Bureau of Labor and Industries (BOLI) by rule, and qualifying agencies must report this information to BOLI. BOLI is to report this information to a committee of the Legislative Assembly that considers matters related to apprenticeship and apprenticeship utilization on public improvement contracts by January 2 of each odd-numbered year.

Qualifying agencies are to reduce payments to contractors that do not meet the requirements, with the amount equivalent to the difference between the total number of work hours that apprentices in apprenticeable occupations should have performed on the public improvement project to meet the 12 or 15% work requirement, minus the total number of work hours that apprentices actually performed, multiplied by \$15 per hour. These funds are to be credited to the BOLI Account to use for expansion of apprenticeship training programs. Contractors may charge subcontractors the same penalty.

The Oregon Department of Transportation is not exempt from these requirements.

This measure takes effect on 91st day after the Legislature adjourns sine die, and is operative January 1, 2024. The requirement for percent of apprentice hours worked increases to 15 percent of work as of January 1, 2027.

There is an indeterminate impact from this measure. Agencies that administer public improvement contracts anticipate that this measure will increase the costs of contracts due to the new requirements for contractors to perform outreach and reporting, and by limiting contractor participation in the bidding process, particularly in rural areas where it may be difficult to meet apprenticeship requirements - though it is not possible to quantify the amount of the increase at this time. Agencies, universities, and community colleges may need additional staffing related to reporting and ensuring that contractors meet the apprenticeship requirements, and may need to return to a future Legislative Emergency Board or Legislative Session with a request for these resources.

BOLI anticipates costs totaling \$265,823 General Fund in the 2023-25 biennium and \$213,262 General Fund in the 2025-27 biennium. The agency projects that there will be approximately 400 projects per biennium, and 500 subcontracts, that might fall under the requirements of this measure. BOLI intends to set up a database where project reporting can be done, at an estimated cost of \$65,000. The agency would also hire one new permanent, full-time Procurement and Contracts Specialist 2 (0.92 FTE in 2021-23 and 1.00 FTE in 2023-25) to perform rulemaking, coordinate with agencies, analyze contracts, and report to the legislature; as well as work on expansion of apprenticeship programs using funding provided by this measure. Total costs of this position are estimated at \$189,623 for personal services and \$11,200 for services and supplies.

It is unclear if the Procurement and Contracts Specialist 2 position could eventually be funded by contractor penalties for not meeting apprenticeship requirements, instead of General Fund, assuming this is an allowable use of funds. BOLI may also need to seek additional expenditure limitation to expend funds for expansion of apprenticeship programs as directed under this measure.

This measure warrants a subsequent referral to the Joint Committee on Ways and Means for further consideration of its impact on agency budgets.