

HB 2649 A STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 04/03/23

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 6-5-0-0

Yeas: 6 - Grayber, Holvey, Hudson, Nelson, Nosse, Sosa

Nays: 5 - Boshart Davis, Elmer, Osborne, Owens, Scharf

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Erin Seiler, LPRO Analyst

Meeting Dates: 2/15, 3/29, 4/3

WHAT THE MEASURE DOES:

Defines qualifying agency (QA) as state contracting agency, Oregon Department of Transportation, Higher Education Coordinating Commission, public university, and community college district, to the extent that the commission, the university, or the district uses public funds for construction costs of public improvement project. Requires QA on public improvement project of \$3 million or more to require each contractor to employ apprentices to perform 12 percent or more of work hours that workers in apprenticeable occupations perform; requires each subcontractor, with contract price of \$750,000 or more, to employ apprentices to perform 12 percent or more of work hours that workers in apprenticeable occupations perform on public improvement; and requires each contractor and subcontractor establish and implement plan for outreach to and recruitment and retention of women, minority individuals, and veterans to perform work. Sets aspirational target and minimum requirements for outreach plan. Requires demonstration of adequate good faith effort to comply with requirements related to outreach, recruitment and retention plan for women, minority individuals, and veterans to perform under public improvement contract.

Requires contractor and subcontractor report to qualifying agency (QA) for purposes of determining compliance with apprenticeship utilization requirements and workforce diversity aspirational targets. Specifies content of report. Requires report for each contract and subcontract contain name of public improvement project; location of project; detailed accounting of total hours of work that the workers performed under each contract and subcontract; total number of hours of work that workers performed in each apprenticeable trade or craft for each contract and subcontract on public improvement; total number of hours of work that apprentices performed for each contract and subcontract on the public improvement; and total number of hours of work that apprentices in each trade or craft performed for each contract and subcontract on the public improvement.

Requires QA to reduce payment to contractor, and permits contractor to reduce payment to subcontractor, under public improvement contract, when contractor or subcontractor does not meet 12 percent or more apprenticeship utilization requirement. Amount of reduction is to be equivalent to difference between total number of work hours that apprentices in apprenticeable occupations should have performed on public improvement project minus total number of work hours that apprentices worked on public improvement project, multiplied by \$15 per hour. Amount of reduction in payment is paid to the Bureau of Labor and Industries (BOLI) to expand apprenticeship training programs, with a focus on programs in areas of this state where contractors did not meet apprenticeship utilization requirements. QA must report to BOLI no later than 30 days after making final payment to contractor, information collected from contractor and subcontractor, as well as determination whether contractor or subcontractor met apprenticeship utilization requirements and diversity goals. Requires BOLI to develop forms for contractors and subcontractor to report to QAs for purpose of apprentice and diversity

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requirement. BOLI must report to Legislative Assembly by January 2 of every odd-numbered year on each public improvement contract and subcontract within last two years. Specifies content of report. Increases apprentice utilization requirement on public improvement projects from 12 to 15 percent of all work hours performed on public improvement on January 1, 2027. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Apprentice utilization requirements to help meet demand in workforce
- Impact of apprenticeship on building equitable and diverse workforce
- Workforce shortage in the construction industry
- Impact of changes to apprenticeship utilization requirements on contractor
- Removal of exemption for Oregon Department of Transportation
- Challenges of finding apprentices in rural area
- Ability of contractor to recoup costs from subcontractor
- Reward exceeding apprenticeship utilization goal

EFFECT OF AMENDMENT:

Requires each subcontract with contract price of \$750,000 or more to employ apprentices to perform 12 percent or more of work hours. Requires contractor demonstrate adequate good faith effort to comply with requirements related to plan for outreach, recruitment, and retention of women, minority individuals and veterans to perform under public improvement contract. Requires each contractor and subcontractor on public improvement project to meet apprenticeship utilization requirements and workforce diversity goals. Requires contractor and subcontractor report to qualifying agency (QA) for purposes of determining compliance with apprenticeship utilization requirements and workforce diversity goals. Specifies content of report. Requires report for each contract and subcontract contain name of public improvement project; location of project; detailed accounting of total hours of work that the workers performed under each contract and subcontract; total number of hours of work that workers performed in each apprenticeable trade or craft for each contract and subcontract on public improvement; total number of hours of work that apprentices performed for each contract and subcontract on the public improvement; and total number of hours of work that apprentices in each trade or craft performed for each contract and subcontract on the public improvement. Requires QA to reduce payment to contractor, and permits contractor to reduce payment to subcontractor, under public improvement contract, when contractor or subcontractor does not meet 12 percent or more apprenticeship utilization requirement. Amount of reduction is to be equivalent to difference between total number of work hours that apprentices in apprenticeable occupations should have performed on the public improvement project less total number of work hours that apprentices actually performed on public improvement project, multiplied by \$15 per hour. Amount of reduction in payment is paid to the Bureau of Labor and Industries (BOLI) to expand apprenticeship training programs, with a focus on programs in areas of this state where contractors did not meet apprenticeship utilization requirements. Requires BOLI to develop forms for contractors and subcontractor to report to QAs for purpose of apprentice and diversity requirement and for QA to report to BOLI. Requires QA report to BOLI no later than 30 days after making final payment, information collected from contractor and subcontractor, as well as determination whether contractor or subcontractor met apprenticeship utilization requirements and diversity goals. Requires BOLI report to the Legislative Assembly on each public improvement contract and subcontract within last two years. Specifies contents of report. Increases apprenticeship utilization requirement to 15 percent or more on January 2027.

BACKGROUND:

ORS 279C.533 requires that a state contracting agency include in a contract for a public improvement project that is over \$3 million that the contractor must employ apprentices to perform 12 percent of the work hours that workers in apprenticeable occupations perform on the public improvement and subcontract for which the contract price exceeds the lesser of \$1 million or 25 percent of the price of the contract that the subcontractor employ apprentices to perform 12 percent of the work hours that workers in apprenticeable occupations perform

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on the subcontract. Oregon Department of Transportation and emergency procurements are exempt from apprenticeship utilization requirement. House Bill 2649 A expands the apprenticeship utilization requirement to include Oregon Department of Transportation, Higher Education Coordinating Commission (HECC), a public university, and a community college district to the extent that HECC, the university or the district uses public funds for the construction costs of a public improvement project.

In House Bill 3011, 2021, the Legislative Assembly established diversity requirements for contractors and subcontractors on certain projects funded with money from American Rescue Plan Act of 2021. The requirements set forth in ORS 279A.803 required the establishment and execution of a plan for outreach, recruitment and retention of women, minority individuals, and veterans to perform work under the contract, with the aspirational target of having at least 15 percent of total work hours performed by individuals in one or more of those groups. HB 2649 A expands apprenticeship utilization and workforce diversity requirements. The measures requires a Qualifying Agency on a public improvement project of \$3 million or more to require each contractor to employ apprentices to perform 12 percent or more of work hours that workers in apprenticeable occupations perform; requires each subcontractor, with contract price of \$750,000 or more, to employ apprentices to perform 12 percent or more of work hours that workers in apprenticeable occupations perform on public improvement; and requires each contractor and subcontractor to establish and implement plan for outreach to and recruitment and retention of women, minority individuals, and veterans to perform work.