

**Enrolled**  
**House Bill 2649**

Sponsored by Representative HOLVEY, Senator MANNING JR, Representative RUIZ; Representatives ANDERSEN, EVANS, GAMBA, HUDSON, NATHANSON, PHAM K, REYNOLDS, SOSA, Senators DEMBROW, PATTERSON (Presession filed.)

CHAPTER .....

AN ACT

Relating to workforce requirements; creating new provisions; amending ORS 279C.533; and prescribing an effective date.

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

**SECTION 1.** ORS 279C.533 is amended to read:

279C.533. (1) As used in this section:

- (a) "Apprentice" has the meaning given that term in ORS 660.010.
- (b) "Apprenticeable occupation" has the meaning given that term in ORS 660.010.
- (c) "Apprenticeship agreement" has the meaning given that term in ORS 660.010.
- (d) "Apprenticeship training program" means the total system of apprenticeship that a particular local joint committee, as defined in ORS 660.010, operates, including the local joint committee's registered standards and all other terms and conditions for qualifying, recruiting, selecting, employing and training apprentices in an apprenticeable occupation.
- (e) "**Minority individual**" has the meaning given that term in ORS 200.005.
- (f) "**Qualifying agency**" means:
  - (A) **A state contracting agency; and**
  - (B) **The Higher Education Coordinating Commission, a public university listed in ORS 352.002 and a community college district, as defined in ORS 341.005, to the extent that the commission, the university or the district uses funds paid directly or indirectly from the State Treasury for all or a portion of the construction costs of a public improvement.**
- (g) "**Veteran**" has the meaning given that term in ORS 408.225.
- (h) "**Woman**" has the meaning given that term in ORS 200.005.

(2) A [state contracting] **qualifying** agency shall provide in each public improvement contract for which the contract price exceeds \$3 million that the contractor shall:

- (a) Employ apprentices to perform 12 percent **or more** of the work hours that workers in apprenticeable occupations perform **for each contract** on the public improvement; and
- (b) Require in each subcontract [for which the contract price exceeds the lesser of \$1 million or 25 percent of the price of the contract] **with a contract price of \$750,000 or more** that the subcontractor employ apprentices to perform 12 percent **or more** of the work hours that workers in apprenticeable occupations perform on the subcontract.

(3) A contractor or subcontractor shall pay an apprentice for work on the public improvement at the hourly rate to which the apprentice is entitled under an apprenticeship agreement or that the apprenticeship training program specifies.

*[(4) Subject to the terms of the public improvement contract, a contractor on a public improvement may decide the locations in which, the types of work for which and other details concerning how the contractor employs apprentices for work on the public improvement. The contractor may meet the requirement set forth in subsection (2) of this section by requiring one or more subcontractors to employ apprentices for work on the public improvement.]*

**(4)(a) A qualifying agency shall require as a material provision of a public improvement contract 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 public improvement contract. A contractor's plan for outreach, recruitment and retention must require the contractor to, at a minimum:**

**(A) Advertise employment opportunities available under the public improvement contract in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minority individuals, women or veterans;**

**(B) Follow up on the contractor's initial solicitations of interest by contacting minority individuals, women or veterans who expressed interest in or responded to the initial solicitation to determine with certainty whether the minority individual, woman or veteran is interested in the opportunities described in subparagraph (A) of this paragraph;**

**(C) Provide all persons who express continued interest with adequate information about hiring qualifications, pay rates, benefits, the expected duration of employment, work hours and other conditions of employment under the public improvement contract;**

**(D) Make efforts to encourage minority individuals, women and veterans to seek employment under the public improvement contract that the contractor may reasonably expect will produce a level of participation that meets the aspirational target described in this paragraph; and**

**(E) Use the services of minority community organizations, local, state, federal and tribal governments or other organizations that have recruiting, training and otherwise assisting minority individuals, women and veterans as the organization's primary purpose or mission to assist the contractor with outreach, recruitment and retention.**

**(b) A contractor shall demonstrate adequate good faith efforts to comply with the requirements of paragraph (a) of this subsection.**

**(c) A contractor shall require any subcontractor with which the contractor has a subcontract with a contract price of \$750,000 or more to comply with the requirements set forth for the contractor in paragraph (a) of this subsection.**

*[(5)] (5)(a) A contractor shall report the extent of the contractor's compliance with this section and the compliance of a subcontractor described in subsection (4)(c) of this section to the [state contracting] qualifying agency on forms, in a format and with contents the [state contracting agency] Commissioner of the Bureau of Labor and Industries specifies by rule, and at regular intervals that the [state contracting] qualifying agency specifies in the public improvement contract. [The forms and the contents that the state contracting agency specifies must include, at a minimum, a report in which the contractor provides a detailed accounting of the total number of work hours each month and the cumulative total number of work hours since the public improvement contract term began in which:]*

*[(a) Workers in apprenticeable occupations performed work on the public improvement; and]*

*[(b) Apprentices performed work on the public improvement.]*

**(b) A qualifying agency shall require the contractor to submit for each contract and subcontract the report described in paragraph (a) of this subsection as part of, or as a supplement to, certified statements required under ORS 279C.845, shall require contractors to preserve the reports as provided for certified statements in ORS 279C.845 (5), may disclose the reports as provided in ORS 279C.845 (6) and may enforce a failure to submit a report as**

provided in ORS 279C.845 (7). The reports described in this subsection must include, at a minimum, for each contract or subcontract related to the public improvement contract:

- (A) The name of or other identification for the public improvement project;
- (B) The city or county in which the public improvement project is located;
- (C) A detailed accounting of:

(i) The total number of hours of work that workers performed under each contract and subcontract;

(ii) The total number of hours of work that workers performed in each apprenticeable trade or craft for each contract and subcontract on the public improvement;

(iii) The total number of hours of work that apprentices performed for each contract and subcontract on the public improvement; and

(iv) The total number of hours of work that apprentices in each trade or craft performed for each contract and subcontract on the public improvement; and

(D) The total number of workers who performed construction work and the total numbers of minority individuals, women and veterans who performed construction work under the public improvement contract. A report under this subparagraph must separately list for each worker the worker's race, ethnicity, gender, veteran status and, as applicable, trade, craft or job category. The Commissioner of the Bureau of Labor and Industries by rule may specify a method for identifying, collecting and reporting the information required under this subparagraph, which may consist of methods the United States Equal Employment Opportunity Commission prescribes in regulations the United States Equal Employment Opportunity Commission adopts under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.

(6) At least 30 days before making any final payment to a contractor under a public improvement contract, a *[state contracting]* **qualifying** agency shall determine the extent of the contractor's compliance with the *[requirement]* **requirements** in *[subsection (2)]* **subsections (2) and (3)** of this section. The *[state contracting]* **qualifying** agency shall base the determination on the ratio between the actual number of work hours that workers in apprenticeable occupations performed **for each contract and subcontract** on the public improvement and the actual number of work hours that apprentices performed **for each contract and subcontract** on the public improvement, as shown in reports the *[state contracting]* **qualifying** agency receives under subsection (5) of this section.

(7)(a) **Not later than 30 days after making a final payment to a contractor under a public improvement contract, a qualifying agency shall report to the Bureau of Labor and Industries the information the qualifying agency collected from the contractor under subsection (5) of this section, together with the qualifying agency's determination under subsection (6) of this section as to whether the contractor and any subcontractor met the requirements for employing and paying apprentices set forth in subsections (2) and (3) of this section. The bureau may specify the form and contents of a report under this paragraph and may require the qualifying agency to also report aggregated data.**

(b) **Not later than January 2 of each odd-numbered year, the bureau shall report to a committee of the Legislative Assembly that considers matters related to apprenticeship and apprenticeship utilization on public improvement contracts the following data concerning each public improvement contract and subcontract that each qualifying agency completed within the previous two years:**

(A) **The total number of hours of work that workers performed for each contract or subcontract on all public improvement projects;**

(B) **The total number of hours of work that workers performed in each apprenticeable trade and craft for each contract and subcontract on all public improvement projects;**

(C) **The total number of hours of work that apprentices performed for each contract and subcontract on all public improvement projects;**

(D) **The total number of hours of work that apprentices in each apprenticeable trade or craft performed for each contract and subcontract on all public improvement projects;**

(E) The total number of minority individuals, women and veterans who performed work on the public improvement projects; and

(F) Any additional information the bureau determines is necessary to carry out the purposes of this section.

(8)(a) A qualifying agency shall reduce the payment due under a public improvement contract to a contractor that does not meet the requirements set forth under subsections (2) and (3) of this section. The amount of the reduction must be 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 requirement set forth in subsection (2) of this section less the total number of work hours that apprentices in apprenticeable occupations actually performed on the public improvement project, multiplied by \$15 per hour.

(b) The qualifying agency shall pay the amount of the reduction under paragraph (a) of this subsection to the State Treasury to the credit of the Bureau of Labor and Industries Account established under ORS 651.160. The bureau shall use the amount deposited to fund expansions of apprenticeship training programs, with a focus on programs in areas of this state where contractors did not meet the targets specified in subsection (2) of this section.

(c) A contractor, in a subcontract related to the contractor's public improvement contract, may provide to the same extent described in paragraph (a) of this subsection for a reduction in the amount due to the subcontractor if the subcontractor fails to perform the subcontract in accordance with the contractor's requirements under subsections (2) and (3) of this section. The contractor may also provide in the contract for a reduction in the amount due a subcontractor that fails to comply with subsection (4)(c) of this section.

[7] (9) This section does not apply to[.]

[a] *The Department of Transportation or a public improvement contract that a contractor enters into with the department; or*

[b] a public contract that a [state contracting] **qualifying** agency enters into under ORS 279B.080.

**SECTION 2.** ORS 279C.533, as amended by section 1 of this 2023 Act, is amended to read:

279C.533. (1) As used in this section:

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

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

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

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

(e) "Minority individual" has the meaning given that term in ORS 200.005.

(f) "Qualifying agency" means:

(A) A state contracting agency; and

(B) The Higher Education Coordinating Commission, a public university listed in ORS 352.002 and a community college district, as defined in ORS 341.005, to the extent that the commission, the university or the district uses funds paid directly or indirectly from the State Treasury for all or a portion of the construction costs of a public improvement.

(g) "Veteran" has the meaning given that term in ORS 408.225.

(h) "Woman" has the meaning given that term in ORS 200.005.

(2) A qualifying agency shall provide in each public improvement contract for which the contract price exceeds \$3 million that the contractor shall:

(a) Employ apprentices to perform [12] **15** percent or more of the work hours that workers in apprenticeable occupations perform for each contract on the public improvement; and

(b) Require in each subcontract with a contract price of \$750,000 or more that the subcontractor employ apprentices to perform [12] **15** percent or more of the work hours that workers in apprenticeable occupations perform on the subcontract;

(3) A contractor or subcontractor shall pay an apprentice for work on the public improvement at the hourly rate to which the apprentice is entitled under an apprenticeship agreement or that the apprenticeship training program specifies.

(4)(a) A qualifying agency shall require as a material provision of a public improvement contract 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 public improvement contract. A contractor's plan for outreach, recruitment and retention must require the contractor to, at a minimum:

(A) Advertise employment opportunities available under the public improvement contract in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minority individuals, women or veterans;

(B) Follow up on the contractor's initial solicitations of interest by contacting minority individuals, women or veterans who expressed interest in or responded to the initial solicitation to determine with certainty whether the minority individual, woman or veteran is interested in the opportunities described in subparagraph (A) of this paragraph;

(C) Provide all persons who express continued interest with adequate information about hiring qualifications, pay rates, benefits, the expected duration of employment, work hours and other conditions of employment under the public improvement contract;

(D) Make efforts to encourage minority individuals, women and veterans to seek employment under the public improvement contract that the contractor may reasonably expect will produce a level of participation that meets the aspirational target described in this paragraph; and

(E) Use the services of minority community organizations, local, state, federal and tribal governments or other organizations that have recruiting, training and otherwise assisting minority individuals, women and veterans as the organization's primary purpose or mission to assist the contractor with outreach, recruitment and retention.

(b) A contractor shall demonstrate adequate good faith efforts to comply with the requirements of paragraph (a) of this subsection.

(c) A contractor shall require any subcontractor with which the contractor has a subcontract with a contract price of \$750,000 or more to comply with the requirements set forth for the contractor in paragraph (a) of this subsection.

(5)(a) A contractor shall report the extent of the contractor's compliance with this section and the compliance of a subcontractor described in subsection (4)(c) of this section to the qualifying agency on forms, in a format and with contents the Commissioner of the Bureau of Labor and Industries specifies by rule, and at regular intervals that the qualifying agency specifies in the public improvement contract.

(b) A qualifying agency shall require the contractor to submit for each contract and subcontract the report described in paragraph (a) of this subsection as part of, or as a supplement to, certified statements required under ORS 279C.845, shall require contractors to preserve the reports as provided for certified statements in ORS 279C.845 (5), may disclose the reports as provided in ORS 279C.845 (6) and may enforce a failure to submit a report as provided in ORS 279C.845 (7). The reports described in this subsection must include, at a minimum, for each contract or subcontract related to the public improvement contract:

(A) The name of or other identification for the public improvement project;

(B) The city or county in which the public improvement project is located;

(C) A detailed accounting of:

(i) The total number of hours of work that workers performed under each contract and subcontract;

(ii) The total number of hours of work that workers performed in each apprenticeable trade or craft for each contract and subcontract on the public improvement;

(iii) The total number of hours of work that apprentices performed for each contract and subcontract on the public improvement; and

(iv) The total number of hours of work that apprentices in each trade or craft performed for each contract and subcontract on the public improvement; and

(D) The total number of workers who performed construction work and the total numbers of minority individuals, women and veterans who performed construction work under the public improvement contract. A report under this subparagraph must separately list for each worker the worker's race, ethnicity, gender, veteran status and, as applicable, trade, craft or job category. The Commissioner of the Bureau of Labor and Industries by rule may specify a method for identifying, collecting and reporting the information required under this subparagraph, which may consist of methods the United States Equal Employment Opportunity Commission prescribes in regulations the United States Equal Employment Opportunity Commission adopts under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.

(6) At least 30 days before making any final payment to a contractor under a public improvement contract, a qualifying agency shall determine the extent of the contractor's compliance with the requirements in subsections (2) and (3) of this section. The qualifying agency shall base the determination on the ratio between the actual number of work hours that workers in apprenticeable occupations performed for each contract and subcontract on the public improvement and the actual number of work hours that apprentices performed for each contract and subcontract on the public improvement, as shown in reports the qualifying agency receives under subsection (5) of this section.

(7)(a) Not later than 30 days after making a final payment to a contractor under a public improvement contract, a qualifying agency shall report to the Bureau of Labor and Industries the information the qualifying agency collected from the contractor under subsection (5) of this section, together with the qualifying agency's determination under subsection (6) of this section as to whether the contractor and any subcontractor met the requirements for employing and paying apprentices set forth in subsections (2) and (3) of this section. The bureau may specify the form and contents of a report under this paragraph and may require the qualifying agency to also report aggregated data.

(b) Not later than January 2 of each odd-numbered year, the bureau shall report to a committee of the Legislative Assembly that considers matters related to apprenticeship and apprenticeship utilization on public improvement contracts the following data concerning each public improvement contract and subcontract that each qualifying agency completed within the previous two years:

(A) The total number of hours of work that workers performed for each contract or subcontract on all public improvement projects;

(B) The total number of hours of work that workers performed in each apprenticeable trade or craft for each contract and subcontract on all public improvement projects;

(C) The total number of hours of work that apprentices performed for each contract and subcontract on all public improvement projects;

(D) The total number of hours of work that apprentices in each apprenticeable trade or craft performed for each contract and subcontract on all public improvement projects;

(E) The total number of minority individuals, women and veterans who performed work on the public improvement projects; and

(F) Any additional information the bureau determines is necessary to carry out the purposes of this section.

(8)(a) A qualifying agency shall reduce the payment due under a public improvement contract to a contractor that does not meet the requirements set forth under subsections (2) and (3) of this section. The amount of the reduction must be 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 requirement set forth in subsection (2) of this section less the total

number of work hours that apprentices in apprenticeable occupations actually performed on the public improvement project, multiplied by \$15 per hour.

(b) The qualifying agency shall pay the amount of the reduction under paragraph (a) of this subsection to the State Treasury to the credit of the Bureau of Labor and Industries Account established under ORS 651.160. The bureau shall use the amount deposited to fund expansions of apprenticeship training programs, with a focus on programs in areas of this state where contractors did not meet the targets specified in subsection (2) of this section.

(c) A contractor, in a subcontract related to the contractor's public improvement contract, may provide to the same extent described in paragraph (a) of this subsection for a reduction in the amount due to the subcontractor if the subcontractor fails to perform the subcontract in accordance with the contractor's requirements under subsections (2) and (3) of this section. The contractor may also provide in the contract for a reduction in the amount due a subcontractor that fails to comply with subsection (4)(c) of this section.

(9) This section does not apply to a public contract that a qualifying agency enters into under ORS 279B.080.

**SECTION 3.** Notwithstanding any other provision of law, the General Fund appropriation made to the Bureau of Labor and Industries by section 1, chapter \_\_, Oregon Laws 2023 (Enrolled Senate Bill 5515), for the biennium beginning July 1, 2023, for implementation and staffing costs, is increased by \$258,239 for the expansion of the apprenticeship utilization requirements for public improvement projects.

**SECTION 4.** The amendments to ORS 279C.533 by section 1 of this 2023 Act apply to procurements that a qualifying agency advertises or otherwise solicits or, if the qualifying agency does not advertise or otherwise solicit the procurement, to public improvement contracts into which the qualifying agency enters on and after the operative date specified in section 4 (1) of this 2023 Act.

**SECTION 5.** (1) The amendments to ORS 279C.533 by section 1 of this 2023 Act become operative on January 1, 2024.

(2) The amendments to ORS 279C.533 by section 2 of this 2023 Act become operative on January 1, 2027.

(3) The Attorney General, the Commissioner of the Bureau of Labor and Industries, the Director of the Oregon Department of Administrative Services, the Director of Transportation and a qualifying agency, as defined in section 1 of this 2023 Act, that adopts rules under ORS 279A.065 or 279A.070, or under another provision of law that provides for adopting rules related to public contracting, may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the Attorney General, the commissioner, the directors or the qualifying agency, on and after the operative date specified in subsection (1) of this section, to undertake and exercise all of the duties, functions and powers conferred on the Attorney General, the commissioner, the directors or the qualifying agency under the amendments to ORS 279C.533 by section 1 of this 2023 Act.

**SECTION 6.** This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

**Passed by House June 13, 2023**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate June 22, 2023**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

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Secretary of State