

A-Engrossed
House Bill 2870

Ordered by the House April 10
Including House Amendments dated April 10

Sponsored by Representative EVANS (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.

[Permits contractors to submit] **Requires contracting agency to accept from contractors** bonds in lieu of retainage for construction projects and public improvement contracts. Specifies requirements for submitting bonds. Specifies relations between contractor and subcontractor when contractor submits bond on behalf of subcontractor.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to submitting bonds in lieu of retainage; creating new provisions; amending ORS 279C.560,
3 279C.570, 701.420 and 701.435; and declaring an emergency.

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

5 **SECTION 1.** ORS 279C.560 is amended to read:

6 279C.560. (1)(a) *[Unless a contracting agency that reserves an amount as retainage under ORS*
7 *279C.570 (7) finds in writing that accepting a bond or instrument described in paragraph (a) or (b) of*
8 *this subsection poses an extraordinary risk that is not typically associated with the bond or instrument,*
9 *the]* **A contractor may submit and a contracting agency shall accept from a contractor** in lieu
10 of withholding moneys *[from payment shall accept from a contractor]* **for all or a portion of the**
11 **retainage required under a public contract:**

12 [(a)] **(A)** Bonds, securities or other instruments of a character described in subsection (6) of this
13 section that are deposited as provided in subsection (4) of this section; or

14 [(b)] **(B)** A surety bond deposited as provided in subsection (7) of this section.

15 **(b) A surety bond that a contractor submits under this section must be executed by a**
16 **surety bonding company that is authorized to transact surety business in this state and may**
17 **not be a surety obligation of an individual.**

18 (2) A contracting agency that holds moneys as retainage under ORS 279C.570 (7) shall:

19 (a) Hold the moneys in a fund and pay the moneys to the contractor in accordance with ORS
20 279C.570; or

21 (b) At the election of the contractor, pay the moneys to the contractor in accordance with
22 subsection (4) or (5) of this section and in a manner authorized by the Director of the Oregon De-
23 partment of Administrative Services.

24 (3) If *[the]* **a contracting agency incurs additional costs as a result of the contractor's** exercise
25 of an option described in subsection (1) or (5) of this section, the contracting agency may recover
26 the **additional** costs from the contractor by reducing the final payment. As work on the contract

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 progresses, the contracting agency shall, upon demand, inform the contractor of all accrued costs.

2 (4) *[The]* **A** contractor may deposit bonds, securities or other instruments with *[the]* **a** contract-
 3 ing agency or in a *[bank or trust company]* **financial institution** for the contracting agency to hold
 4 for the contracting agency's benefit in lieu of moneys held as retainage. If *[the contracting agency*
 5 *accepts]* **a contractor or subcontractor submits** bonds, securities or other instruments *[deposited]*
 6 as provided in this subsection, the contracting agency shall reduce the moneys held as retainage in
 7 an amount equal to the value of the bonds, securities and other instruments and pay the amount of
 8 the reduction to the contractor in accordance with ORS 279C.570. Interest or earnings on the bonds,
 9 securities or other instruments shall accrue to the contractor.

10 (5) If the contractor elects, the contracting agency shall deposit the retainage as accumulated
 11 in an interest-bearing account in a bank*[, savings bank, trust company or savings association]* **or**
 12 **other financial institution** for the benefit of the contracting agency. *[When]* **If** the contracting
 13 agency is a state contracting agency, the account must be established through the State Treasurer.
 14 Earnings on the account accrue to the contractor.

15 (6) Bonds, securities and other instruments deposited or acquired in lieu of retainage, as per-
 16 mitted by this section, must be of a character approved by the Director of the Oregon Department
 17 of Administrative Services, including but not limited to:

- 18 (a) Bills, certificates, notes or bonds of the United States.
- 19 (b) Other obligations of the United States or agencies of the United States.
- 20 (c) Obligations of a corporation wholly owned by the federal government.
- 21 (d) Indebtedness of the Federal National Mortgage Association.
- 22 (e) General obligation bonds of the State of Oregon or a political subdivision of the State of
 23 Oregon.

24 (f) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.

25 (7) *[The]* **A** contractor*[, with the approval of the contracting agency,]* may deposit a surety bond
 26 for all or any portion of the amount of funds retained, or to be retained, by the contracting agency
 27 in a form *[acceptable to the contracting agency]* **that is substantially similar to the instruments**
 28 **specified in ORS 701.435.** The **surety** bond and any proceeds of the **surety** bond must be made
 29 subject to all claims and liens and in the same manner and priority as set forth for retainage under
 30 ORS 279C.550 to 279C.570 and 279C.600 to 279C.625. The contracting agency shall reduce the mon-
 31 eys the contracting agency holds as retainage in an amount equal to the value of the **surety** bond
 32 and pay the amount of the reduction to the contractor in accordance with ORS 279C.570. *[Whenever*
 33 *a contracting agency accepts a surety bond from a contractor in lieu of retainage, the contractor shall*
 34 *accept like bonds from a subcontractor or supplier from which the contractor has retainage. The con-*
 35 *tractor shall then reduce the moneys the contractor holds as retainage in an amount equal to the value*
 36 *of the bond and pay the amount of the reduction to the subcontractor or supplier.]*

37 (8)(a) **At any time before final payment on a public improvement contract, a subcon-**
 38 **tractor may request the contractor on the public improvement contract to submit a surety**
 39 **bond to the contracting agency for the portion of the contractor's retainage that pertains**
 40 **to the subcontractor. The surety bond must meet the requirements set forth in subsection**
 41 **(1)(b) of this section. If a contractor at the subcontractor's request obtains a surety bond**
 42 **under this paragraph, the contractor may withhold from payments to the subcontractor an**
 43 **amount equivalent to the portion of the surety bond premium for which the subcontractor**
 44 **is responsible.**

45 (b) **Within 30 days after a subcontractor's request under paragraph (a) of this subsection,**

1 the contractor shall provide, and the contracting agency shall accept, a surety bond that
2 meets the requirements set forth in subsection (1)(b) of this section unless:

3 (A) The contracting agency finds good cause in writing for not accepting the surety bond;

4 (B) The surety bond is not commercially available; or

5 (C) The subcontractor refuses to pay to the contractor the subcontractor's portion of the
6 surety bond premium or refuses to provide the contractor with a surety bond that meets the
7 requirements of subsection (1)(b) of this section.

8 (c) A surety bond the contractor submits under this subsection, and any proceeds from
9 the surety bond, are subject to all claims and liens and in the same manner and priority
10 specified for retainage under ORS 279C.550 to 279C.570.

11 (d) A contracting agency shall within 30 days after receiving a surety bond under this
12 subsection release to the contractor an amount the contracting agency holds as retainage
13 that is equivalent to the amount the contractor submitted as a surety bond.

14 (e) When a contracting agency accepts a surety bond in lieu of retainage from a con-
15 tractor under this section, the contractor shall accept surety bonds from subcontractors or
16 suppliers from which the contractor has withheld retainage. The contractor must within 30
17 days after receiving a surety bond from a subcontractor or supplier release to the subcon-
18 tractor or supplier the amount the contractor holds as retainage that is equivalent to the
19 amount the subcontractor or supplier submitted as the surety bond.

20 (9) A surety bond under this section must be in substantially the form specified in ORS
21 701.435 (4).

22 **SECTION 2.** ORS 279C.570 is amended to read:

23 279C.570. (1) *[It is]* The policy of the State of Oregon is that all payments due on a public im-
24 provement contract and owed by a contracting agency *[shall]* **must** be paid promptly. No contract-
25 ing agency is exempt from the provisions of this section.

26 (2) Contracting agencies shall make progress payments on the contract monthly as work
27 progresses on a public improvement contract. Payments shall be based upon estimates of work
28 completed that are approved by the contracting agency. A progress payment is not considered ac-
29 ceptance or approval of any work or waiver of any defects therein. The contracting agency shall
30 pay to the contractor interest on the progress payment, not including retainage, due the contractor.
31 The interest shall commence 30 days after receipt of the invoice from the contractor or 15 days after
32 the payment is approved by the contracting agency, whichever is the earlier date. The rate of in-
33 terest charged to the contracting agency on the amount due shall equal three times the discount
34 rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve dis-
35 trict that includes Oregon on the date that is 30 days after receipt of the invoice from the con-
36 tractor or 15 days after the payment is approved by the contracting agency, whichever is the earlier
37 date, but the rate of interest may not exceed 30 percent. *[If the contract price exceeds \$500,000, the*
38 *contracting agency shall place amounts deducted as retainage into an interest-bearing escrow account.*
39 *Interest on the retainage amount accrues from the date the payment request is approved until the date*
40 *the retainage is paid to the contractor to which it is due.]*

41 (3) Interest shall be paid automatically when payments become overdue. The contracting agency
42 shall document, calculate and pay any interest due when payment is made on the principal. Interest
43 payments shall accompany payment of net due on public improvement contracts. The contracting
44 agency may not require the contractor to petition, invoice, bill or wait additional days to receive
45 interest due.

1 (4) [*When*] **If** an invoice is filled out incorrectly, [*when*] **if** there is any defect or impropriety in
2 any submitted invoice or [*when*] **if** there is a good faith dispute, the contracting agency shall so
3 notify the contractor within 15 days stating the reason or reasons the invoice is defective or im-
4 proper or the reasons for the dispute. A defective or improper invoice, if corrected by the contractor
5 within seven days of being notified by the contracting agency, may not cause a payment to be made
6 later than specified in this section unless interest is also paid.

7 (5) If requested in writing by a first-tier subcontractor, the contractor, within 10 days after re-
8 ceiving the request, shall send to the first-tier subcontractor a copy of that portion of any invoice,
9 request for payment submitted to the contracting agency or pay document provided by the con-
10 tracting agency to the contractor specifically related to any labor or materials supplied by the
11 first-tier subcontractor.

12 (6) Payment of interest may be postponed when payment on the principal is delayed because of
13 disagreement between the contracting agency and the contractor. Whenever a contractor brings
14 formal administrative or judicial action to collect interest due under this section, the prevailing
15 party is entitled to costs and reasonable attorney fees.

16 (7) A contracting agency may reserve as retainage from any progress payment on a public im-
17 provement contract an amount not to exceed five percent of the payment. As work progresses, a
18 contracting agency may reduce the amount of the retainage and the contracting agency may elimi-
19 nate retainage on any remaining monthly contract payments after 50 percent of the work under the
20 contract is completed if, in the contracting agency's opinion, such work is progressing satisfactorily.
21 Elimination or reduction of retainage shall be allowed only upon written application by the con-
22 tractor, and the application shall include written approval of the contractor's surety. However, when
23 the contract work is 97.5 percent completed the contracting agency may, at the contracting agency's
24 discretion and without application by the contractor, reduce the retained amount to 100 percent of
25 the value of the contract work remaining to be done. Upon receipt of a written application by the
26 contractor, the contracting agency shall respond in writing within a reasonable time.

27 (8) The retainage held by a contracting agency [*shall*] **must** be included in and paid to the
28 contractor as part of the final payment of the contract price. The contracting agency shall pay to
29 the contractor interest at the rate of 1.5 percent per month on the final payment due the contractor,
30 interest to commence 30 days after the work under the contract has been completed and accepted
31 and to run until the date when the final payment is tendered to the contractor. The contractor shall
32 notify the contracting agency in writing when the contractor considers the work complete and the
33 contracting agency shall, within 15 days after receiving the written notice, either accept the work
34 or notify the contractor of work yet to be performed on the contract. If the contracting agency does
35 not, within the time allowed, notify the contractor of work yet to be performed to fulfill contractual
36 obligations, the interest provided by this subsection shall commence to run 30 days after the end
37 of the 15-day period.

38 (9)(a) The contracting agency shall pay, upon settlement or judgment in favor of the contractor
39 regarding any dispute as to the compensation due a contractor for work performed under the terms
40 of a public improvement contract, the amount due plus interest at the rate of two times the discount
41 rate, but not to exceed 30 percent, on 90-day commercial paper in effect at the Federal Reserve Bank
42 in the Federal Reserve district that includes Oregon on the date of the settlement or judgment, and
43 accruing from the later of:

44 (A) The due date of any progress payment received under the contract for the period in which
45 such work was performed; or

1 (B) Thirty days after the date on which the claim for the payment under dispute was presented
2 to the contracting agency by the contractor in writing or in accordance with applicable provisions
3 of the contract.

4 (b) Interest shall be added to and not made a part of the settlement or judgment.

5 **SECTION 3.** ORS 701.420 is amended to read:

6 701.420. (1) Partial payment is allowed and may be made on contracts for construction and home
7 improvement. An owner, contractor or subcontractor may withhold as retainage an amount equal
8 to not more than five percent of the contract price of the work completed. Partial payment allowed
9 under this subsection is not acceptance or approval of some of the work or a waiver of defects in
10 the work.

11 [(2)(a)] (2) The owner, contractor or subcontractor shall pay interest at the rate of one percent
12 per month on the final payment due the contractor or subcontractor. The interest shall commence
13 30 days after the contractor or subcontractor has completed and the owner has accepted the work
14 under the contract for construction for which the final payment is due. The interest shall run until
15 the date when final payment is tendered to the contractor or subcontractor. When the contractor
16 or subcontractor considers the work that the contractor or subcontractor is contracted to perform
17 to be complete, the contractor or subcontractor shall notify the party to whom the contractor or
18 subcontractor is responsible for performing the construction work under the contract. The party
19 shall, within 15 days after receiving the notice, either accept the work or notify the contractor or
20 subcontractor of work yet to be performed under the contract. If the party does not accept the work
21 or does not notify the contractor or subcontractor of work yet to be performed within the time al-
22 lowed, the interest required under this subsection shall commence 30 days after the end of the
23 15-day period.

24 [(b) *If the contract price exceeds \$500,000, the owner, contractor or subcontractor shall place*
25 *amounts withheld as retainage into an interest-bearing escrow account. Interest on the retainage*
26 *amount accrues from the date the payment request is approved until the date the retainage is paid to*
27 *the contractor or subcontractor to which it is due.*]

28 (3) When a contractor pays a subcontractor in full, including the amount the contractor with-
29 held as retainage, the owner with whom the contractor has the contract shall pay the contractor,
30 out of the amount that the owner withheld from the contractor as retainage, a sum equal to the
31 amount of retainage that the contractor paid the subcontractor. The contractor shall notify the
32 owner when the contractor pays a subcontractor in full under this section and the owner shall,
33 within 15 days after receiving the notice, pay the contractor the amount due the contractor under
34 this subsection. Interest on the amount due the contractor at the rate of one percent per month shall
35 commence 30 days after the owner receives notice of full payment to the subcontractor.

36 **SECTION 4.** ORS 701.435 is amended to read:

37 701.435. [(1) *When a contractor on a public contract deposits bonds, securities or other instruments*
38 *under ORS 279C.560 (4), if the subcontract price exceeds \$50,000 and constitutes more than 10 percent*
39 *of the cost of the public contract, a subcontractor on the public contract may deposit bonds, securities*
40 *or other instruments with the contractor or in a bank or trust company for the contractor to hold for*
41 *the contractor's benefit in lieu of moneys held as retainage. If the contractor accepts the bonds, secu-*
42 *rities or other instruments deposited as provided in this subsection, the contractor shall reduce the*
43 *moneys held as retainage in an amount equal to the value of the bonds, securities and other instruments*
44 *and pay the amount of the reduction to the subcontractor in accordance with ORS 701.420 and 701.430.*
45 *Interest or earnings on the bonds, securities or other instruments shall accrue to the subcontractor.*]

1 (1)(a) A contractor that performs work on a large commercial structure or under a
2 public improvement contract may submit a surety bond for all or any portion of the
3 retainage required for the large commercial structure or under the public improvement
4 contract.

5 (b) At any time before final payment for work on a large commercial structure or under
6 a public improvement contract, a subcontractor may request the contractor on the con-
7 struction project or public improvement contract to submit a surety bond to the project
8 owner and lender for the portion of the contractor's retainage that pertains to the subcon-
9 tractor. The surety bond must be from a surety bonding company that is authorized to
10 transact business this state and may not be a surety obligation of an individual. The surety
11 bond must be in substantially the form specified in subsection (4) of this section. If a con-
12 tractor at the subcontractor's request obtains a surety bond under this paragraph, the con-
13 tractor may withhold from payments to the subcontractor an amount equivalent to the
14 portion of the surety bond premium for which the subcontractor is responsible.

15 (c) Within 30 days after a subcontractor's request under paragraph (a) of this subsection,
16 the contractor shall provide and the owner and lender shall accept a surety bond that meets
17 the requirements set forth in this subsection unless:

18 (A) The surety bond is not commercially available; or

19 (B) The subcontractor refuses to pay to the contractor the subcontractor's portion of the
20 surety bond premium or refuses to provide the contractor with a surety bond that meets the
21 requirements of this subsection.

22 (d) A surety bond the contractor submits under this subsection, and any proceeds from
23 the surety bond, are subject to all claims and liens and in the same manner priority specified
24 for retainage under this section and ORS 279C.550 to 279C.570, 701.410, 701.420, 701.430 and
25 701.440.

26 (e) An owner shall within 30 days after receiving a surety bond under this subsection
27 release to the contractor an amount the owner holds as retainage that is equivalent to the
28 amount the contractor submitted as a surety bond.

29 (f) When an owner accepts a surety bond in lieu of retainage from a contractor under
30 this section, the contractor shall accept surety bonds from subcontractors or suppliers from
31 which the contractor has withheld retainage. The contractor must within 30 days after re-
32 ceiving a surety bond from a subcontractor or supplier reduce the amount the contractor
33 holds as retainage in an amount equivalent to the amount the subcontractor or supplier
34 submitted as a surety bond and shall pay the amount of the reduction to the subcontractor
35 in accordance with ORS 701.420 and 701.430.

36 (g) Interest or earnings on the surety bonds must accrue to the contractor.

37 (2) [*When a contractor on a public contract elects to have the public contracting agency deposit the*
38 *accumulated retainage in an interest-bearing account under ORS 279C.560 (5),*] **If a contractor or a**
39 **subcontractor performing work on a large commercial structure or under a public improve-**
40 **ment contract does not deposit surety bonds in lieu of retainage, the contractor may elect**
41 **to have the project owner deposit accumulated retainage in an interest-bearing account.**
42 **Subject to subsection (3) of this section, if the contractor elects to have the project owner**
43 **deposit the retainage in an interest-bearing account,** the contractor, within 30 days following
44 payment of the final amount due for construction of the **project or** public improvement, shall pay
45 to each subcontractor [*who*] **that** performed work on the construction the subcontractor's propor-

1 tional share of the interest earnings that accrued to the contractor as a result of the election. A
2 subcontractor's share of the total amount of interest earnings under this subsection [*shall*] **must** be
3 determined by the proportion that the amount of retainage withheld from the subcontractor bears
4 to the amount of retainage withheld from the contractor and the length of time the retainage was
5 withheld from the subcontractor. A share of the interest earnings shall be paid to a subcontractor
6 under this subsection only when:

7 (a) Retainage is withheld from the subcontractor for more than 60 days after the day on which
8 the first partial payment was due the subcontractor under the terms of the subcontract; and

9 (b) The amount of interest earnings due the subcontractor exceeds \$100.

10 (3) If [*the*] a contractor incurs additional costs as a result of the exercise of an option described
11 in subsection (1) or (2) of this section, the contractor may recover the **additional** costs from the
12 subcontractor by reducing the final payment. As work on the subcontract progresses, the contractor
13 shall, upon demand, inform the subcontractor of all accrued additional costs.

14 [(4) Bonds, securities and other instruments deposited or acquired in lieu of retainage, as permitted
15 by this section, must be of a character approved by the Director of the Oregon Department of Admin-
16 istrative Services, including but not limited to:]

17 [(a) Bills, certificates, notes or bonds of the United States.]

18 [(b) Other obligations of the United States or agencies of the United States.]

19 [(c) Obligations of a corporation wholly owned by the federal government.]

20 [(d) Indebtedness of the Federal National Mortgage Association.]

21 [(e) General obligation bonds of the State of Oregon or a political subdivision of the State of
22 Oregon.]

23 [(f) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.]

24 (4) **A surety bond under this section must be in substantially the following form:**

25 _____
26
27 **RETAINAGE SURETY BOND**

28
29 **KNOW ALL BY THESE PRESENTS: That _____, a _____**
30 **authorized to do business in the State of Oregon, as Principal, and _____,**
31 **Surety, a corporation organized and existing under the laws of the State of**
32 **_____ and authorized to transact the business of surety in the State of**
33 **Oregon, as Surety, are jointly and severally held and bound to _____**
34 **("Obligee") and _____ ("Owner"), and their heirs, executors, administrators,**
35 **successors and assigns in the penal sum of \$_____, plus five percent of any**
36 **increases in the contract amount that may occur because of change orders or increases in**
37 **the quantities of or that addition of any new item of work.**

38
39 **WHEREAS the Principal has executed a contract for _____ with the**
40 **Obligee; and**

41
42 **WHEREAS Oregon law allows the Obligee to withhold from the Principal the sum of five**
43 **percent from moneys the Principal earns on estimates during the progress of the work**
44 **("Earned Retained Funds"); and**
45

1 WHEREAS the Principal has requested that the Obligee or Owner accept a surety bond
2 in lieu of Earned Retained Funds as allowed under ORS 279C.560 or 701.435;

3
4 NOW, THEREFORE, this obligation is such that the Surety and the Surety's successors
5 and assigns are held and bound to Obligee and to all beneficiaries for the sum set forth in
6 the first paragraph of this retainage surety bond. This surety bond and any proceeds from
7 this surety bond are subject to all claims and liens by the Obligee against the Principal in
8 the same manner and priority as set forth for retainage under ORS 279C.550 to 279C.570,
9 701.410, 701.420, 701.430, 701.435 and 701.440, as applicable. The condition of this obligation is
10 such that if the Principal satisfies all payment obligations to any Obligee that may lawfully
11 claim against project sums due to the Principal and indemnify and hold the Obligee harmless
12 from any and all loss, costs and damages that the Obligee may sustain by release of the
13 retainage to the Principal or Surety, this obligation is null and void if the Obligee notifies the
14 Surety that the Obligee released the obligation. The obligation otherwise remains in full force
15 and effect.

16
17 IT IS HEREBY DECLARED AND AGREED that the Surety is liable under this obligation
18 as Principal. The Surety will not be discharged or released from liability for any act, omission
19 or defense of any kind or nature that would not also discharge the Principal.

20
21 IT IS HEREBY FURTHER DECLARED AND AGREED that this obligation is binding
22 upon and inures to the benefit of the Principal, the Surety, the Obligee, the Owner, the
23 lender and the beneficiaries of this obligation and their respective heirs, executors, admin-
24 istrators, successors and assigns.

25
26 SIGNED AND SEALED this _____ day of _____, 20____

27
28 Principal _____ Surety _____
29 Name _____ Name _____
30 Title _____ Title _____
31 Address _____ Address _____
32 City/State/Zip _____ City/State/Zip _____
33 Phone _____ Phone _____
34

35
36 **SECTION 5.** The amendments to ORS 279C.560, 279C.570, 701.420 and 701.435 by sections
37 1 to 4 of this 2023 Act apply to contracts into which a contractor or subcontractor enters
38 on and after the operative date specified in section 6 of this 2023 Act.

39 **SECTION 6.** (1) The amendments to ORS 279C.560, 279C.570, 701.420 and 701.435 by
40 sections 1 to 4 of this 2023 Act become operative January 1, 2024.

41 (2) The Attorney General, the Director of the Oregon Department of Administrative
42 Services, the Director of Transportation, the Construction Contractors Board and a con-
43 tracting agency that adopts rules under ORS 279A.065 or 279A.070 may adopt rules and take
44 any other action before the operative date specified in subsection (1) of this section that is
45 necessary to enable the Attorney General, the directors, the board or the contracting

1 agency, on and after the operative date specified in subsection (1) of this section, to under-
2 take and exercise all of the duties, functions and powers conferred on the Attorney General,
3 the directors, the board or the contracting agency by the amendments to ORS 279C.560,
4 279C.570, 701.420 and 701.435 by sections 1 to 4 of this 2023 Act.

5 SECTION 7. This 2023 Act being necessary for the immediate preservation of the public
6 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
7 on its passage.

8
