

SB 977-1
(LC 3849)
3/22/23 (TSB/ps)

Requested by Senator JAMA

**PROPOSED AMENDMENTS TO
SENATE BILL 977**

1 In line 2 of the printed bill, after “housing” insert “; creating new pro-
2 visions; amending ORS 279C.810; and prescribing an effective date”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 279C.810 is amended to read:

5 “279C.810. (1) As used in this section:

6 “(a) ‘Funds of a public agency’ does not include:

7 “(A) Funds provided in the form of a government grant to a nonprofit
8 organization, unless the government grant is issued for the purpose of con-
9 struction, reconstruction, major renovation or painting;

10 “(B) Building and development permit fees paid or waived by the public
11 agency;

12 “(C) Tax credits or tax abatements;

13 “(D) Land that a public agency sells to a private entity at fair market
14 value;

15 “(E) The difference between:

16 “(i) The value of land that a public agency sells to a private entity as
17 determined at the time of the sale after taking into account any plan, re-
18 quirement, covenant, condition, restriction or other limitation, exclusive of
19 zoning or land use regulations, that the public agency imposes on the de-
20 velopment or use of the land; and

21 “(ii) The fair market value of the land if the land is not subject to the

1 limitations described in sub-subparagraph (i) of this subparagraph;

2 “(F) Staff resources of the public agency used to manage a project or to
3 provide a principal source of supervision, coordination or oversight of a
4 project;

5 “(G) Staff resources of the public agency used to design or inspect one
6 or more components of a project;

7 “(H) Moneys derived from the sale of bonds that are loaned by a state
8 agency to a private entity, unless the moneys will be used for a public im-
9 provement;

10 “(I) Value added to land as a consequence of a public agency’s site prep-
11 aration, demolition of real property or remediation or removal of environ-
12 mental contamination, except for value added in excess of the expenses the
13 public agency incurred in the site preparation, demolition or remediation or
14 removal when the land is sold for use in a project otherwise subject to ORS
15 279C.800 to 279C.870; or

16 “(J) Bonds, or loans from the proceeds of bonds, issued in accordance with
17 ORS chapter 289 or ORS 441.525 to 441.595, unless the bonds or loans will
18 be used for a public improvement.

19 “(b) ‘Nonprofit organization’ means an organization or group of organ-
20 izations described in section 501(c)(3) of the Internal Revenue Code that is
21 exempt from income tax under section 501(a) of the Internal Revenue Code.

22 “(2) ORS 279C.800 to 279C.870 do not apply to:

23 “(a) [*Projects*] **A project** for which the contract price does not exceed
24 \$50,000. In determining the **contract** price of a project, a public agency:

25 “(A) May not include the value of donated materials or work [*performed*
26 *on the project by*] **that** individuals volunteering to the public agency **per-**
27 **form on the project** without pay; and

28 “(B) Shall include the value of work performed by every person paid by
29 a contractor or subcontractor in any manner for the person’s work on the
30 project.

1 “(b) [*Projects*] **A project** for which [*no*] funds of a public agency are **not**
2 directly or indirectly used. In accordance with ORS chapter 183, the Com-
3 missioner of the Bureau of Labor and Industries shall adopt rules to carry
4 out the provisions of this paragraph.

5 “(c) [*Projects*] **A project**:

6 “(A) That [*are*] **is** privately owned;

7 “(B) That [*use*] **uses** funds of a private entity;

8 “(C) In which **a public agency will occupy or use** less than 25 percent
9 of the square footage of [*a*] **the** completed project [*will be occupied or used*
10 *by a public agency*]; and

11 “(D) For which less than \$750,000 of funds of a public agency are used.

12 “(d) [*Projects for*] Residential construction that [*are*] **is** privately owned
13 and [*that predominantly provide*] **at least 60 percent of which consists of**
14 affordable housing. As used in this paragraph:

15 “(A) ‘Affordable housing’ means housing that serves occupants whose in-
16 comes are no greater than 60 percent of the area median income or, if the
17 occupants are owners, whose incomes are no greater than 80 percent of the
18 area median income.

19 “[*B*] ‘Predominantly’ means 60 percent or more.]

20 “[*C*] **(B)** ‘Privately owned’ [*includes*] **means**:

21 “(i) Affordable housing provided on real property [*owned by*] **that** a public
22 agency **owns**, if the **public agency leases the** real property and related
23 structures [*are leased*] to a private entity for 50 or more years; and

24 “(ii) Affordable housing owned by a partnership, nonprofit corporation or
25 limited liability company in which a housing authority, as defined in ORS
26 456.005, is a general partner, director or managing member and the housing
27 authority is not a majority owner in the partnership, nonprofit corporation
28 or limited liability company.

29 “[*D*] **(C)** ‘Residential construction’ [*includes the construction, recon-*
30 *struction, major renovation*] **means**:

1 “(i) A project in which a public agency or a private owner converts
2 a building or development from nonresidential use to housing;

3 “(ii) The portions of a mixed-use building or development that are
4 affordable housing, if at least 60 percent of the building or develop-
5 ment consists of affordable housing;

6 “(iii) A project for constructing, reconstructing, performing a major
7 renovation of or painting [of] a single-family [houses] house or apartment
8 [buildings] building that is not more than four stories above grade plane
9 in height and furnishing all incidental items, such as site work, parking
10 areas, utilities, streets and sidewalks, [pursuant to] in accordance with the
11 United States Department of Labor’s ‘All Agency Memorandum No. 130:
12 Application of the Standard of Comparison ‘Projects of a Character Similar’
13 Under Davis-Bacon and Related Acts,’ dated March 17, 1978[. However, the
14 commissioner may consider different definitions of residential construction in
15 determining whether a project is a residential construction project for purposes
16 of this paragraph, including definitions that:]; or

17 “(iv) Other types of construction that the commissioner can con-
18 sider in determining whether a prevailing rate of wage applies to a
19 project, including types of construction that:

20 “[(i) Exist] (I) Are defined in local ordinances or codes; or

21 “[(ii)] (II) Differ, in the prevailing practice of a particular trade or oc-
22 cupation, from the United States Department of Labor’s description of resi-
23 dential construction.

24 “SECTION 2. The amendments to ORS 279C.810 by section 1 of this
25 2023 Act apply to procurements for public works that a contracting
26 agency advertises or solicits or, if the contracting agency does not
27 advertise or solicit the procurement, to contracts for public works into
28 which the contracting agency enters on or after the operative date
29 specified in section 3 of this 2023 Act.

30 “SECTION 3. (1) The amendments to ORS 279C.810 by section 1 of

1 **this 2023 Act become operative on January 1, 2024.**

2 **“(2) The Commissioner of the Bureau of Labor and Industries may**
3 **adopt rules and take any other action before the operative date speci-**
4 **fied in subsection (1) of this section that is necessary to enable the**
5 **commissioner to undertake and exercise all of the duties, functions**
6 **and powers conferred on the commissioner by the amendments to ORS**
7 **279C.810 by section 1 of this 2023 Act.**

8 **“SECTION 4. This 2023 Act takes effect on the 91st day after the**
9 **date on which the 2023 regular session of the Eighty-second Legislative**
10 **Assembly adjourns sine die.”.**

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