

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3332**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 20 and
2 delete pages 2 and 3 and insert:

3 **“SECTION 1. Section 2 of this 2023 Act is added to and made a part**
4 **of ORS chapter 279C.**

5 **“SECTION 2. (1) As used in this section:**

6 **“(a) ‘Manufactured product’ means a preassembled item that is**
7 **made of iron or steel and that a contractor brings to a construction**
8 **project for incorporation into a public improvement or public works**
9 **or a preassembled item that is made of iron or steel and that the**
10 **Oregon Department of Administrative Services or the Department of**
11 **Transportation acquires for a public use.**

12 **“(b) ‘Produced in the United States’ means:**

13 **“(A) For iron and steel products, other than manufactured pro-**
14 **ducts, that all manufacturing processes, from the initial melting stage**
15 **through the application of coatings, occurred within the United States;**
16 **and**

17 **“(B) For manufactured products, that:**

18 **“(i) The manufacture of the product occurred within the United**
19 **States; and**

20 **“(ii) The cost of the components of the product that are mined,**
21 **produced or manufactured in the United States is more than 55 per-**

1 cent of the total cost of all components of the product, unless either
2 department by rule establishes a different standard for determining
3 the minimum amount of the product that must be manufactured
4 within the United States.

5 “(2)(a) The Oregon Department of Administrative Services and the
6 Department of Transportation shall require in each public improve-
7 ment contract or contract for public works with an estimated contract
8 price of \$250,000 or more that steel, iron, coatings for steel and iron
9 and manufactured products that a contractor purchases for or uses in
10 the public improvement or public works, and that become part of a
11 permanent structure, must be produced in the United States.

12 “(b) Each department shall, in all solicitation documents for any
13 procurement related to the public improvement contract or contract
14 for public works, note clearly and conspicuously that any public im-
15 provement contract or contract for public works that results from the
16 procurement will include the requirement set forth in paragraph (a)
17 of this subsection. Each department shall reject any bid or proposal
18 that does not affirmatively attest that the bidder or proposer read and
19 understood the requirement.

20 “(c)(A) The requirement set forth in paragraph (a) of this sub-
21 section does not apply if the Director of the Oregon Department of
22 Administrative Services or the Director of Transportation, or either
23 director’s designee, finds in writing that:

24 “(i) The requirement is inconsistent with the public interest;

25 “(ii) Steel, iron, coatings for steel and iron and manufactured pro-
26 ducts required for the public improvement or public works are not
27 produced in the United States in sufficient and reasonably available
28 quantities and with satisfactory quality; or

29 “(iii) Using steel, iron, coatings for steel and iron or manufactured
30 products produced in the United States for the public improvement or

1 the public works will increase the cost of the public improvement or
2 public works by more than 25 percent.

3 “(B) Before making a finding under subparagraph (A) of this para-
4 graph, the Director of the Oregon Department of Administrative Ser-
5 vices or the Director of Transportation, as appropriate, shall issue a
6 draft finding that includes a detailed written explanation of the basis
7 for waiving the requirement set forth in paragraph (a) of this sub-
8 section. At the earliest practicable time, the director shall give public
9 notice of the draft finding in a manner that the director determines
10 will give adequate notice to the public and to contractors that intend
11 to submit, or have submitted, bids or proposals for the public im-
12 provement or public works. The director shall allow seven calendar
13 days for public comment on the draft finding. If after considering
14 public comment the director determines to waive the requirement set
15 forth in paragraph (a) of this subsection, the director shall provide
16 public notice of the director’s finding using the same method the di-
17 rector used to provide public notice of the draft finding.

18 “(C) The director shall respond within 15 days to a request for a
19 finding described in subparagraph (A) of this paragraph by:

20 “(i) Issuing the draft finding described in subparagraph (B) of this
21 paragraph; or

22 “(ii) Asking the person that submitted the request to provide any
23 additional information the director requires to make the draft finding.

24 “(d) The director may make a finding under paragraph (c) of this
25 subsection that applies to a single public improvement contract or
26 contract for public works, to a class of public improvement contracts
27 or contracts for public works or to a class of iron or steel products,
28 coatings or manufactured products. The director shall indicate the
29 duration and applicability of the director’s finding in the document in
30 which the director waives the requirement set forth in paragraph (a)

1 of this subsection.

2 “(e) The director may review and continue, amend or rescind the
3 director’s finding at any time. If the director waives the requirement
4 set forth in paragraph (a) of this subsection for a class of public im-
5 provement contracts or contracts for public works or for a class of
6 iron or steel products, coatings or manufactured products, at least
7 every five years the director shall review and, if necessary, amend or
8 rescind the waiver. Before continuing, amending or rescinding a
9 waiver under this paragraph, the director shall provide for public no-
10 tice and comment in accordance with paragraph (c)(B) of this sub-
11 section.

12 “(f) The Director of the Oregon Department of Administrative Ser-
13 vices may delegate the director’s duties under paragraphs (c) and (d)
14 of this subsection to the head of a state contracting agency that enters
15 into a public improvement contract or contract for public works under
16 authority delegated from the Oregon Department of Administrative
17 Services.

18 “(3)(a) The Oregon Department of Administrative Services by rule
19 shall establish a technical assistance and grant program to enable
20 enterprises and businesses certified under ORS 200.055 to become fa-
21 miliar with and meet the obligations set forth in this section.

22 “(b) Before establishing the program described in paragraph (a) of
23 this subsection, the department shall submit to the Legislative As-
24 sembly a request for funding in an amount the department estimates
25 would be necessary to administer the program and provide grants. The
26 department shall deposit any moneys the department receives as
27 funding into a designated account within the department’s operating
28 account and shall keep a record of the amount and purpose of each
29 disbursement from the account.

30 “(c) A recipient of moneys from the department may not use the

1 moneys to defray expenses the recipient incurs to prepare a bid or
2 proposal in response to a procurement for a public improvement or
3 public works.

4 “(4) The requirements set forth in this section are subject to appli-
5 cable state and federal trade agreements.

6 “SECTION 3. Section 2 of this 2023 Act applies to procurements that
7 the Oregon Department of Administrative Services or the Department
8 of Transportation advertises or solicits or, if either department does
9 not advertise or solicit the procurement, to public improvement con-
10 tracts or contracts for public works into which either department en-
11 ters on or after the operative date specified in section 4 of this 2023
12 Act.

13 “SECTION 4. (1) Section 2 of this 2023 Act becomes operative on
14 January 1, 2024.

15 “(2) The Director of the Oregon Department of Administrative Ser-
16 vices and the Director of Transportation may adopt rules and take any
17 other action before the operative date specified in subsection (1) of this
18 section that is necessary to enable the directors to undertake and ex-
19 ercise all of the duties, functions and powers conferred on the direc-
20 tors by section 2 of this 2023 Act.

21 “SECTION 5. This 2023 Act takes effect on the 91st day after the
22 date on which the 2023 regular session of the Eighty-second Legislative
23 Assembly adjourns sine die.”

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