

B-Engrossed House Bill 2688

Ordered by the House June 23
Including House Amendments dated April 11 and June 23

Sponsored by Representatives HUDSON, CHOTZEN; Representatives BOWMAN, CHAICHI, DOBSON, LEVY E, MUNOZ, NERON, NGUYEN H, TRAN, WALTERS, Senator JAMA (Presession 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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Makes a certain wage apply to custom work done off-site but for a particular public works project. (Flesch Readability Score: 67.3).

Applies the prevailing rate of wage to certain off-site bespoke work fabricated, preconstructed, assembled or constructed in accordance with specifications for a particular public works. Specifies examples of such bespoke work.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the application of a prevailing rate of wage to off-site custom work for use in public works; creating new provisions; amending ORS 279C.800; and prescribing an effective date.

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

SECTION 1. ORS 279C.800 is amended to read:

279C.800. As used in ORS 279C.800 to 279C.870:

(1) "Fringe benefits" means:

(a) Contributions that a contractor or subcontractor makes irrevocably to a trustee or to a third person under a plan, fund or program; and

(b) Costs that a contractor or subcontractor may reasonably be anticipated to incur in providing the following items, except for items that federal, state or local law requires the contractor or subcontractor to provide:

(A) Benefits to workers pursuant to an enforceable written commitment to the workers to carry out a financially responsible plan or program for:

(i) Medical or hospital care;

(ii) Pensions on retirement or death; or

(iii) Compensation for injuries or illness that result from occupational activity;

(B) Insurance to provide the benefits described in subparagraph (A) of this paragraph;

(C) Unemployment benefits;

(D) Life insurance;

(E) Disability and sickness insurance or accident insurance;

(F) Vacation and holiday pay;

(G) Costs of apprenticeship or other similar programs; or

(H) Other bona fide fringe benefits.

(2) "Housing" has the meaning given that term in ORS 456.055.

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.

(3) "Locality" means the following district in which the public works, or the major portion of the public works, is to be performed:

- (a) District 1, composed of Clatsop, Columbia and Tillamook Counties;
- (b) District 2, composed of Clackamas, Multnomah and Washington Counties;
- (c) District 3, composed of Marion, Polk and Yamhill Counties;
- (d) District 4, composed of Benton, Lincoln and Linn Counties;
- (e) District 5, composed of Lane County;
- (f) District 6, composed of Douglas County;
- (g) District 7, composed of Coos and Curry Counties;
- (h) District 8, composed of Jackson and Josephine Counties;
- (i) District 9, composed of Hood River, Sherman and Wasco Counties;
- (j) District 10, composed of Crook, Deschutes and Jefferson Counties;
- (k) District 11, composed of Klamath and Lake Counties;
- (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;
- (m) District 13, composed of Baker, Union and Wallowa Counties; and
- (n) District 14, composed of Harney and Malheur Counties.

(4) "Prevailing rate of wage" means the rate of wage, including all fringe benefits, that the Commissioner of the Bureau of Labor and Industries determines in accordance with ORS 279C.815.

(5) "Public agency" means the State of Oregon or a political subdivision of the State of Oregon, or a county, city, district, authority, public corporation or public entity organized and existing under law or charter or an instrumentality of the county, city, district, authority, public corporation or public entity.

(6)(a) "Public works" includes, but is not limited to:

(A) Roads, highways, buildings, structures and improvements of all types for which a public agency contracts or carries on construction, reconstruction, major renovation, demolition, removal of hazardous waste or painting to serve the public interest;

(B) A project that uses \$750,000 or more of funds of a public agency for constructing, reconstructing, painting, demolishing, removing hazardous waste from, or performing a major renovation on, a road, highway, building, structure or improvement of any type;

(C) A project that uses funds of a private entity for constructing a privately owned road, highway, building, structure or improvement of any type in which a public agency will use or occupy 25 percent or more of the square footage of the completed project;

(D) Notwithstanding the provisions of ORS 279C.810 (2)(a), (b) and (c), a device, structure or mechanism, or a combination of devices, structures or mechanisms, that:

(i) Uses solar radiation as a source for generating heat, cooling or electrical energy; and

(ii) Is constructed or installed, with or without using funds of a public agency, on land, premises, structures or buildings that a public body, as defined in ORS 174.109, owns;

(E) Notwithstanding paragraph (b)(A) of this subsection and ORS 279C.810 (2)(b) and (c), construction, reconstruction, painting, demolition, removal of hazardous waste from, or major renovation of, a road, highway, building, structure or improvement of any type that occurs, with or without using funds of a public agency, on real property that a public university listed in ORS 352.002 owns; [or]

(F) Demolition of, or removal of hazardous waste from, a road, highway, building, structure or improvement of any type that uses \$750,000 or more in funds of a public agency, or that occurs on real property that a state agency owns, but that does not involve constructing, reconstructing, ren-

ovating or painting a road, highway, building, structure or improvement[.]; or

(G) Fabrication, assembly, preconstruction or construction that is:

(i) Bespoke;

(ii) Performed offsite;

(iii) Performed specifically for, and in accordance with the specifications of, a particular project of a type listed in subparagraphs (A) to (F) of this paragraph; and

(iv) Performed on any of the following systems or components:

(I) Mechanical systems such as heating, ventilation, air conditioning, refrigeration and other ducting or piping systems or components;

(II) Plumbing systems or components;

(III) Electrical systems or components of electrical systems that conform with the requirements of ORS 479.510 to 479.945 and the rules of the Electrical and Elevator Board;

(IV) Boiler systems or components of boiler systems;

(V) Ornamental and structural iron work;

(VI) Masonry and plaster systems or components;

(VII) Roofing, flashing and architectural panel systems or components other than glazing systems and components; or

(VIII) Mechanical insulation.

(b) "Public works" does not include:

(A) Reconstructing or renovating privately owned property that a public agency leases; or

(B) A private nonprofit entity's renovation of publicly owned real property that is more than 75 years old if:

(i) The real property is leased to the private nonprofit entity for more than 25 years;

(ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost of the renovation; and

(iii) Contracts for the renovation were advertised or, if not advertised, were entered into before July 1, 2003, but the renovation has not been completed on or before July 13, 2007.

SECTION 2. The amendments to ORS 279C.800 by section 1 of this 2025 Act apply to procurements that a contracting agency solicits, or if the contracting agency does not solicit the procurement, to public contracts that a contracting agency enters into, on or after the operative date specified in section 3 of this 2025 Act.

SECTION 3. (1) The amendments to ORS 279C.800 by section 1 of this 2025 Act become operative on July 1, 2026.

(2)(a) The Attorney General, the Director of the Oregon Department of Administrative Services, the Director of Transportation and a contracting agency that adopts rules under ORS 279A.065 or 279A.070 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 directors or the contracting agency to undertake and exercise all of the duties, functions and powers conferred on the Attorney General, the directors or the contracting agency by the amendments to ORS 279C.800 by section 1 of this 2025 Act.

(b) The Commissioner of the Bureau of Labor and Industries shall adopt rules that, among other items, specify which manufacturing and which standard inventory items are excluded from the definition of public works and the requirements for reporting off-site work, and may take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the commissioner to undertake and exercise all of

1 the duties, functions and powers conferred on the commissioner by the amendments to ORS
2 279C.800 by section 1 of this 2025 Act.

3 **SECTION 4.** Notwithstanding any other provision of law, the General Fund appropriation
4 made to the Bureau of Labor and Industries by section 1, chapter _____, Oregon Laws 2025
5 (Enrolled House Bill 5015), for the biennium beginning July 1, 2025, is increased by \$268,664
6 for training and enforcement of prevailing wage claims.

7 **SECTION 5.** This 2025 Act takes effect on the 91st day after the date on which the 2025
8 regular session of the Eighty-third Legislative Assembly adjourns sine die.
9 _____