

Enrolled House Bill 3646

Sponsored by Representative TRAN; Representatives ANDERSEN, MARSH, NERON, Senators PATTERSON, SOLLMAN, WEBER

CHAPTER

AN ACT

Relating to contract preferences in public procurement for employee-owned businesses; creating new provisions; amending ORS 279A.128; and prescribing an effective date.

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

SECTION 1. ORS 279A.128 is amended to read:

279A.128. (1) As used in this section, “services” means services as defined in ORS 279A.010 (1)(kk) and personal services designated under ORS 279A.055.

(2)(a) Notwithstanding provisions of law requiring a contracting agency to award a contract to the lowest responsible bidder or best proposer or provider of a quotation, a contracting agency that uses public funds to procure goods or services for a public use under ORS chapter 279B may give preference to:

(A) Procuring goods or services [*provided by*] **from one of the following sources, if the goods or services cost not more than five percent more than goods or services available from contractors other than the source:**

(i) A benefit company that is incorporated, organized, formed or created under ORS 60.754, that submits with a bid or proposal a certificate of existence issued under ORS 60.027 and has the majority of the benefit company’s regular, full-time workforce located in this state at the time the benefit company submits the bid or proposal[, *if the goods or services cost not more than five percent more than goods or services available from a contractor that is not a benefit company*]; or

(ii) **An entity in which the entity’s employees own at least 50 percent of the ownership interest in the entity directly or through an employee stock ownership plan, as defined in 26 U.S.C. 4975(e)(7), as in effect on the effective date of this 2025 Act, that the United States Internal Revenue Service recognizes as a qualified plan; or**

(B) Procuring goods that are fabricated or processed, or services that are performed, entirely within this state if the goods or services cost not more than 10 percent more than goods that are not fabricated or processed, or services that are not performed, entirely within this state.

(b) If more than one bidder or proposer qualifies for a preference described in paragraph (a) of this subsection, the contracting agency may give a further preference to a qualifying bidder or proposer that resides in or is headquartered in this state.

(c) **A contracting agency may give a preference to an entity described in paragraph (a)(A)(ii) of this subsection only if the entity submits with a bid or proposal for a public contract evidence that shows that employees of the entity own at least 50 percent of the entity’s ownership interest directly or through an employee stock ownership plan.**

[(c)] (d) The contracting agency by order may set a higher **cost** percentage than the **cost** percentages set forth in paragraph (a) of this subsection if the contracting agency, in a written determination to support the order, finds good cause to set the higher **cost** percentage and explains the contracting agency's reasons and evidence for the finding.

(3) Notwithstanding ORS 279C.320 (1), subsection (2) of this section does not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts described in ORS 279C.320 (1).

SECTION 2. The amendments to ORS 279A.128 by section 1 of this 2025 Act apply to procurements that a contracting agency advertises or solicits or, if the contracting agency does not advertise or solicit the procurement, to a public contract into which the contracting agency enters on or after the effective date of this 2025 Act.

SECTION 3. (1) The amendments to ORS 279A.128 by section 1 of this 2025 Act become operative on January 1, 2026.

(2) 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 take any 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, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Attorney General, the directors or the contracting agency by the amendments to ORS 279A.128 by section 1 of this 2025 Act.

SECTION 4. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by House April 21, 2025

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Julie Fahey, Speaker of House

Passed by Senate June 2, 2025

.....
Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

.....
Tobias Read, Secretary of State