House Bill 3881

Sponsored by Representative BOWMAN, Senators JAMA, TAYLOR; Representatives FRAGALA, HUDSON, NELSON, Senator BROADMAN

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 as introduced. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Adds some schools to what counts as a "qualifying agency" so that a requirement to use apprentices in school construction projects will apply to those schools. Takes effect 91 days after the session ends. (Flesch Readability Score: 62.6).

Adds school districts, education service districts and public charter schools to the definition of "qualifying agency" for the purpose of applying apprenticeship requirements in connection with constructing public improvement projects. Specifies demonstrations that contractors must make to a qualifying agency as part of the qualifying agency's responsibility determination. Specifies ex-emptions for contractors that enter into project labor agreements with school districts. Takes effect on the 91st day following adjournment sine die.

1	A BILL FOR AN ACT
2	Relating to workforce requirements for public improvements constructed by educational institutions;
3	creating new provisions; amending ORS 279C.533; and prescribing an effective date.
4	Be It Enacted by the People of the State of Oregon:
5	SECTION 1. ORS 279C.533 is amended to read:
6	279C.533. (1) As used in this section:
7	(a) "Apprentice" has the meaning given that term in ORS 660.010.
8	(b) "Apprenticeable occupation" has the meaning given that term in ORS 660.010.
9	(c) "Apprenticeship agreement" has the meaning given that term in ORS 660.010.
10	(d) "Apprenticeship training program" means the total system of apprenticeship that a particular
11	local joint committee, as defined in ORS 660.010, operates, including the local joint committee's
12	registered standards and all other terms and conditions for qualifying, recruiting, selecting, em-
13	ploying and training apprentices in an apprenticeable occupation.
14	(e) "Minority individual" has the meaning given that term in ORS 200.005.
15	(f)(A) "Qualifying agency" means:
16	[(A)] (i) A state contracting agency; [and]
17	[(B)] (ii) The Higher Education Coordinating Commission[,];
18	(iii) A public university listed in ORS 352.002; [and]
19	(iv) A community college district, as defined in ORS 341.005[,];
20	(v) A school district, as defined in ORS 330.003;
21	(vi) An education service district, as defined in ORS 334.003; and
22	(vii) A public charter school, as defined in ORS 338.005, other than a virtual public char-
23	ter school, as defined in ORS 338.005.
24	(B) A commission, university, school or district listed in subparagraph (A) of this para-
25	graph is a qualifying agency only to the extent that the commission, [the] university, school or
26	[the] district uses funds paid directly or indirectly from the State Treasury for all or a portion of the

1 construction costs of a public improvement.

2 (g) "Veteran" has the meaning given that term in ORS 408.225.

3 (h) "Woman" has the meaning given that term in ORS 200.005.

4 (2)(a) A qualifying agency shall provide in each public improvement contract for which the 5 contract price exceeds \$3 million that the contractor shall:

6 [(a)] (A) Employ apprentices to perform 12 percent or more of the work hours that workers in 7 apprenticeable occupations perform for each contract on the public improvement; and

8 [(b)] (B) Require in each subcontract with a contract price of \$750,000 or more that the sub-9 contractor employ apprentices to perform 12 percent or more of the work hours that workers in 10 apprenticeable occupations perform on the subcontract.

(b) A qualifying agency shall require as part of the qualifying agency's determination of a contractor's responsibility under ORS 279C.375 that the contractor demonstrate a history during the three years before receiving an award of the public improvement contract described in paragraph (a) of this subsection or, if the contractor is a new business, during as much of the previous three years for which the contractor has an available history, of material compliance with federal and state laws that specify:

(A) Wage rates and hours of work, including requirements to pay a prevailing rate of
 wage; and

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(B) Occupational safety and health requirements.

(3) A contractor or subcontractor shall pay an apprentice for work on the public improvement
at the hourly rate to which the apprentice is entitled under an apprenticeship agreement or that the
apprenticeship training program specifies.

(4)(a) A qualifying agency shall require as a material provision of a public improvement contract that the contractor establish and implement a plan for outreach to and recruitment and retention of women, minority individuals and veterans to perform work under the public improvement contract, with an aspirational target of having individuals in one or more of these groups to compose at least 15 percent of the total number of workers who perform work under the public improvement contract. A contractor's plan for outreach, recruitment and retention must require the contractor to, at a minimum:

30 (A) Advertise employment opportunities available under the public improvement contract in 31 general circulation publications, trade association publications and publications that serve an audi-32 ence or readership that consists primarily of minority individuals, women or veterans;

(B) Follow up on the contractor's initial solicitations of interest by contacting minority individuals, women or veterans who expressed interest in or responded to the initial solicitation to determine with certainty whether the minority individual, woman or veteran is interested in the
opportunities described in subparagraph (A) of this paragraph;

(C) Provide all persons who express continued interest with adequate information about hiring
qualifications, pay rates, benefits, the expected duration of employment, work hours and other conditions of employment under the public improvement contract;

(D) Make efforts to encourage minority individuals, women and veterans to seek employment
under the public improvement contract that the contractor may reasonably expect will produce a
level of participation that meets the aspirational target described in this paragraph; and

(E) Use the services of minority community organizations, local, state, federal and tribal governments or other organizations that have recruiting, training and otherwise assisting minority individuals, women and veterans as the organization's primary purpose or mission to assist the

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1 contractor with outreach, recruitment and retention.

2 (b) A contractor shall demonstrate adequate good faith efforts to comply with the requirements 3 of paragraph (a)(A) to (E) of this subsection.

4 (c) A contractor shall require any subcontractor with which the contractor has a subcontract 5 with a contract price of \$750,000 or more to comply with the requirements set forth for the con-6 tractor in paragraph (a) of this subsection.

7 (5)(a) A contractor shall report the extent of the contractor's compliance with this section and 8 the compliance of a subcontractor described in subsection (4)(c) of this section to the qualifying 9 agency on forms, in a format and with contents the Commissioner of the Bureau of Labor and In-10 dustries specifies by rule, and at regular intervals that the qualifying agency specifies in the public 11 improvement contract.

(b) A qualifying agency shall require the contractor to submit for each contract and subcontract the report described in paragraph (a) of this subsection as part of, or as a supplement to, certified statements required under ORS 279C.845, shall require [contractors] **the contractor** to preserve the reports as provided for certified statements in ORS 279C.845 (5), may disclose the reports as provided in ORS 279C.845 (6) and may enforce a failure to submit a report as provided in ORS 279C.845 (7). The reports described in this subsection must include, at a minimum, for each contract or subcontract related to the public improvement contract:

19 (A) The name of or other identification for the public improvement project;

20 (B) The city or county in which the public improvement project is located;

21 (C) A detailed accounting of:

(i) The total number of hours of work that workers performed under each contract and subcon-tract;

(ii) The total number of hours of work that workers performed in each apprenticeable trade orcraft for each contract and subcontract on the public improvement;

(iii) The total number of hours of work that apprentices performed for each contract and sub-contract on the public improvement; and

(iv) The total number of hours of work that apprentices in each trade or craft performed foreach contract and subcontract on the public improvement; and

30 (D) The total number of workers who performed construction work and the total numbers of 31 minority individuals, women and veterans who performed construction work under the public improvement contract. A report under this subparagraph must separately list for each worker the 32worker's race, ethnicity, gender, veteran status and, as applicable, trade, craft or job category. The 33 34 Commissioner of the Bureau of Labor and Industries by rule may specify a method for identifying, 35 collecting and reporting the information required under this subparagraph, which may consist of methods the United States Equal Employment Opportunity Commission prescribes in regulations the 36 37 United States Equal Employment Opportunity Commission adopts under Title VII of the Civil Rights 38 Act of 1964, 42 U.S.C. 2000e et seq.

(6) At least 30 days before making any final payment to a contractor under a public improvement contract, a qualifying agency shall determine the extent of the contractor's compliance with the requirements in subsections (2) and (3) of this section. The qualifying agency shall base the determination on the ratio between the actual number of work hours that workers in apprenticeable occupations performed for each contract and subcontract on the public improvement and the actual number of work hours that apprentices performed for each contract and subcontract on the public improvement, as shown in reports the qualifying agency receives under subsection (5) of this section.

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(7)(a) Not later than 30 days after making a final payment to a contractor under a public im-1 provement contract, a qualifying agency shall report to the Bureau of Labor and Industries the in-2 formation the qualifying agency collected from the contractor under subsection (5) of this section, 3 together with the qualifying agency's determination under subsection (6) of this section as to 4 whether the contractor and any subcontractor met the requirements for employing and paying ap-5 prentices set forth in subsections (2) and (3) of this section. The bureau may specify the form and 6 contents of a report under this paragraph and may require the qualifying agency to also report ag-7 gregated data. 8

9 (b) Not later than January 2 of each odd-numbered year, the bureau shall report to a committee 10 of the Legislative Assembly that considers matters related to apprenticeship and apprenticeship 11 utilization on public improvement contracts the following data concerning each public improvement 12 contract and subcontract that each qualifying agency completed within the previous two years:

(A) The total number of hours of work that workers performed for each contract or subcontracton all public improvement projects;

(B) The total number of hours of work that workers performed in each apprenticeable trade and
 craft for each contract and subcontract on all public improvement projects;

17 (C) The total number of hours of work that apprentices performed for each contract and sub-18 contract on all public improvement projects;

(D) The total number of hours of work that apprentices in each apprenticeable trade or craft
 performed for each contract and subcontract on all public improvement projects;

(E) The total number of minority individuals, women and veterans who performed work on the
 public improvement projects; and

(F) Any additional information the bureau determines is necessary to carry out the purposes ofthis section.

(8)(a) A qualifying agency shall reduce the payment due under a public improvement contract to a contractor that does not meet the requirements set forth under subsections (2) and (3) of this section. The amount of the reduction must be equivalent to the difference between the total number of work hours that apprentices in apprenticeable occupations should have performed on the public improvement project to meet the requirement set forth in subsection (2) of this section less the total number of work hours that apprentices in apprenticeable occupations actually performed on the public improvement project, multiplied by \$15 per hour.

(b) The qualifying agency shall pay the amount of the reduction under paragraph (a) of this subsection to the State Treasury to the credit of the Bureau of Labor and Industries Account established under ORS 651.160. The bureau shall use the amount deposited to fund expansions of apprenticeship training programs, with a focus on programs in areas of this state where contractors did not meet the targets specified in subsection (2) of this section.

(c) A contractor, in a subcontract related to the contractor's public improvement contract, may provide to the same extent described in paragraph (a) of this subsection for a reduction in the amount due to the subcontractor if the subcontractor fails to perform the subcontract in accordance with the contractor's requirements under subsections (2) and (3) of this section. The contractor may also provide in the contract for a reduction in the amount due a subcontractor that fails to comply with subsection (4)(c) of this section.

43 (9) This section does not apply to:

44 (a) A public contract that a qualifying agency enters into under ORS 279B.080[.]; or

45 (b) A contractor that enters into a project labor agreement, as defined in 48 C.F.R.

52.222-34, as in effect on the effective date of this 2025 Act, in connection with, and as a 1 2 condition of receiving an award of, a public improvement contract for a school district, as defined in ORS 330.003, an education service district, as defined in ORS 334.003, or a public 3 charter school, as defined in ORS 338.005, other than a virtual public charter school, as de-4 fined in ORS 338.005. 5 SECTION 2. ORS 279C.533, as amended by section 2, chapter 504, Oregon Laws 2023, is 6 7 amended to read: 279C.533. (1) As used in this section: 8 9 (a) "Apprentice" has the meaning given that term in ORS 660.010. (b) "Apprenticeable occupation" has the meaning given that term in ORS 660.010. 10 11 (c) "Apprenticeship agreement" has the meaning given that term in ORS 660.010. 12 (d) "Apprenticeship training program" means the total system of apprenticeship that a particular 13 local joint committee, as defined in ORS 660.010, operates, including the local joint committee's registered standards and all other terms and conditions for qualifying, recruiting, selecting, em-14 15 ploying and training apprentices in an apprenticeable occupation. 16 (e) "Minority individual" has the meaning given that term in ORS 200.005. (f)(A) "Qualifying agency" means: 17 18 [(A)] (i) A state contracting agency; [and] [(B)] (ii) The Higher Education Coordinating Commission[,]; 19 (iii) A public university listed in ORS 352.002; [and] 20(iv) A community college district, as defined in ORS 341.005[,]; 21 22(v) A school district, as defined in ORS 330.003; 23(vi) An education service district, as defined in ORS 334.003; and (vii) A public charter school, as defined in ORS 338.005, other than a virtual public char-24 ter school, as defined in ORS 338.005. 25(B) A commission, university, school or district listed in subparagraph (A) of this para-2627graph is a qualifying agency only to the extent that the commission, [the] university, school or [the] district uses funds paid directly or indirectly from the State Treasury for all or a portion of the 28construction costs of a public improvement. 2930 (g) "Veteran" has the meaning given that term in ORS 408.225. 31 (h) "Woman" has the meaning given that term in ORS 200.005. (2)(a) A qualifying agency shall provide in each public improvement contract for which the 32contract price exceeds \$3 million that the contractor shall: 33 34 [(a)] (A) Employ apprentices to perform 15 percent or more of the work hours that workers in 35 apprenticeable occupations perform for each contract on the public improvement; and [(b)] (B) Require in each subcontract with a contract price of \$750,000 or more that the sub-36 37 contractor employ apprentices to perform 15 percent or more of the work hours that workers in 38 apprenticeable occupations perform on the subcontract. (b) A qualifying agency shall require as part of the qualifying agency's determination of 39 a contractor's responsibility under ORS 279C.375 that the contractor demonstrate a history 40 during the three years before receiving an award of the public improvement contract de-41 42scribed in paragraph (a) of this subsection or, if the contractor is a new business, during as much of the previous three years for which the contractor has an available history, of ma-43 terial compliance with federal and state laws that specify: 44 (A) Wage rates and hours of work, including requirements to pay a prevailing rate of 45

1 wage; and

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(B) Occupational safety and health requirements.

3 (3) A contractor or subcontractor shall pay an apprentice for work on the public improvement 4 at the hourly rate to which the apprentice is entitled under an apprenticeship agreement or that the 5 apprenticeship training program specifies.

6 (4)(a) A qualifying agency shall require as a material provision of a public improvement contract 7 that the contractor establish and implement a plan for outreach to and recruitment and retention 8 of women, minority individuals and veterans to perform work under the public improvement con-9 tract, with an aspirational target of having individuals in one or more of these groups to compose 10 at least 15 percent of the total number of workers who perform work under the public improvement 11 contract. A contractor's plan for outreach, recruitment and retention must require the contractor 12 to, at a minimum:

(A) Advertise employment opportunities available under the public improvement contract in
 general circulation publications, trade association publications and publications that serve an audi ence or readership that consists primarily of minority individuals, women or veterans;

(B) Follow up on the contractor's initial solicitations of interest by contacting minority individuals, women or veterans who expressed interest in or responded to the initial solicitation to determine with certainty whether the minority individual, woman or veteran is interested in the opportunities described in subparagraph (A) of this paragraph;

(C) Provide all persons who express continued interest with adequate information about hiring
 qualifications, pay rates, benefits, the expected duration of employment, work hours and other con ditions of employment under the public improvement contract;

(D) Make efforts to encourage minority individuals, women and veterans to seek employment
under the public improvement contract that the contractor may reasonably expect will produce a
level of participation that meets the aspirational target described in this paragraph; and

(E) Use the services of minority community organizations, local, state, federal and tribal governments or other organizations that have recruiting, training and otherwise assisting minority individuals, women and veterans as the organization's primary purpose or mission to assist the contractor with outreach, recruitment and retention.

(b) A contractor shall demonstrate adequate good faith efforts to comply with the requirements
 of paragraph (a)(A) to (E) of this subsection.

(c) A contractor shall require any subcontractor with which the contractor has a subcontract
with a contract price of \$750,000 or more to comply with the requirements set forth for the contractor in paragraph (a) of this subsection.

(5)(a) A contractor shall report the extent of the contractor's compliance with this section and the compliance of a subcontractor described in subsection (4)(c) of this section to the qualifying agency on forms, in a format and with contents the Commissioner of the Bureau of Labor and Industries specifies by rule, and at regular intervals that the qualifying agency specifies in the public improvement contract.

(b) A qualifying agency shall require the contractor to submit for each contract and subcontract
the report described in paragraph (a) of this subsection as part of, or as a supplement to, certified
statements required under ORS 279C.845, shall require [contractors] the contractor to preserve the
reports as provided for certified statements in ORS 279C.845 (5), may disclose the reports as provided in ORS 279C.845 (6) and may enforce a failure to submit a report as provided in ORS 279C.845
(7). The reports described in this subsection must include, at a minimum, for each contract or sub-

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1 contract related to the public improvement contract:

2 (A) The name of or other identification for the public improvement project;

3 (B) The city or county in which the public improvement project is located;

4 (C) A detailed accounting of:

5 (i) The total number of hours of work that workers performed under each contract and subcon-6 tract;

7 (ii) The total number of hours of work that workers performed in each apprenticeable trade or 8 craft for each contract and subcontract on the public improvement;

9 (iii) The total number of hours of work that apprentices performed for each contract and sub-10 contract on the public improvement; and

(iv) The total number of hours of work that apprentices in each trade or craft performed for
 each contract and subcontract on the public improvement; and

13 (D) The total number of workers who performed construction work and the total numbers of minority individuals, women and veterans who performed construction work under the public im-14 15provement contract. A report under this subparagraph must separately list for each worker the 16 worker's race, ethnicity, gender, veteran status and, as applicable, trade, craft or job category. The Commissioner of the Bureau of Labor and Industries by rule may specify a method for identifying, 17 18 collecting and reporting the information required under this subparagraph, which may consist of 19 methods the United States Equal Employment Opportunity Commission prescribes in regulations the 20United States Equal Employment Opportunity Commission adopts under Title VII of the Civil Rights 21Act of 1964, 42 U.S.C. 2000e et seq.

(6) At least 30 days before making any final payment to a contractor under a public improvement contract, a qualifying agency shall determine the extent of the contractor's compliance with the requirements in subsections (2) and (3) of this section. The qualifying agency shall base the determination on the ratio between the actual number of work hours that workers in apprenticeable occupations performed for each contract and subcontract on the public improvement and the actual number of work hours that apprentices performed for each contract and subcontract on the public improvement, as shown in reports the qualifying agency receives under subsection (5) of this section.

(7)(a) Not later than 30 days after making a final payment to a contractor under a public im-2930 provement contract, a qualifying agency shall report to the Bureau of Labor and Industries the in-31 formation the qualifying agency collected from the contractor under subsection (5) of this section, 32together with the qualifying agency's determination under subsection (6) of this section as to whether the contractor and any subcontractor met the requirements for employing and paying ap-33 34 prentices set forth in subsections (2) and (3) of this section. The bureau may specify the form and 35 contents of a report under this paragraph and may require the qualifying agency to also report ag-36 gregated data.

(b) Not later than January 2 of each odd-numbered year, the bureau shall report to a committee of the Legislative Assembly that considers matters related to apprenticeship and apprenticeship utilization on public improvement contracts the following data concerning each public improvement contract and subcontract that each qualifying agency completed within the previous two years:

(A) The total number of hours of work that workers performed for each contract or subcontracton all public improvement projects;

(B) The total number of hours of work that workers performed in each apprenticeable trade or
 craft for each contract and subcontract on all public improvement projects;

45 (C) The total number of hours of work that apprentices performed for each contract and sub-

1 contract on all public improvement projects;

2 (D) The total number of hours of work that apprentices in each apprenticeable trade or craft 3 performed for each contract and subcontract on all public improvement projects;

4 (E) The total number of minority individuals, women and veterans who performed work on the 5 public improvement projects; and

6 (F) Any additional information the bureau determines is necessary to carry out the purposes of 7 this section.

8 (8)(a) A qualifying agency shall reduce the payment due under a public improvement contract 9 to a contractor that does not meet the requirements set forth under subsections (2) and (3) of this 10 section. The amount of the reduction must be equivalent to the difference between the total number 11 of work hours that apprentices in apprenticeable occupations should have performed on the public 12 improvement project to meet the requirement set forth in subsection (2) of this section less the total 13 number of work hours that apprentices in apprenticeable occupations actually performed on the 14 public improvement project, multiplied by \$15 per hour.

(b) The qualifying agency shall pay the amount of the reduction under paragraph (a) of this subsection to the State Treasury to the credit of the Bureau of Labor and Industries Account established under ORS 651.160. The bureau shall use the amount deposited to fund expansions of apprenticeship training programs, with a focus on programs in areas of this state where contractors did not meet the targets specified in subsection (2) of this section.

(c) A contractor, in a subcontract related to the contractor's public improvement contract, may provide to the same extent described in paragraph (a) of this subsection for a reduction in the amount due to the subcontractor if the subcontractor fails to perform the subcontract in accordance with the contractor's requirements under subsections (2) and (3) of this section. The contractor may also provide in the contract for a reduction in the amount due a subcontractor that fails to comply with subsection (4)(c) of this section.

26 (9) This section does not apply to:

27 (a) A public contract that a qualifying agency enters into under ORS 279B.080[.]; or

(b) A contractor that enters into a project labor agreement, as defined in 48 C.F.R. 52.222-34, as in effect on the effective date of this 2025 Act, in connection with, and as a condition of receiving an award of, a public improvement contract for a school district, as defined in ORS 330.003, an education service district, as defined in ORS 334.003, or a public charter school, as defined in ORS 338.005, other than a virtual public charter school, as defined in ORS 338.005.

34 <u>SECTION 3.</u> The amendments to ORS 279C.533 by sections 1 and 2 of this 2025 Act apply 35 to a procurement for a public improvement that a qualifying agency solicits, or if the quali-36 fying agency does not solicit the procurement, to a public improvement contract into which 37 the qualifying agency enters on or after the operative dates specified in section 4 of this 2025 38 Act.

39 <u>SECTION 4.</u> (1) The amendments to ORS 279C.533 by sections 1 and 2 of this 2025 Act
 40 become operative on January 1, 2026.

(2) The Attorney General, the Commissioner of the Bureau of Labor and Industries, the
Director of the Oregon Department of Administrative Services, the Director of Transportation and a qualifying agency, as defined in ORS 279C.533, as amended by sections 1 and 2 of
this 2025 Act, that adopts rules under ORS 279A.065 or 279A.070, or under another provision
of law that provides for adopting rules related to public contracting, 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 commissioner, the directors or the qualifying agency, on and after the operative date specified in subsection (1) of this section, to undertake and exercise all of the duties, functions and powers conferred on the Attorney General, the commissioner, the directors or the qualifying agency under the amendments to ORS 279C.533 by sections 1 and 2 of this 2025 Act. 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.

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