

# Senate Bill 990

Sponsored by Senator ANDERSON

## 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: Says that cities or counties with smaller populations do not need to pay the prevailing rate of wage for public projects. (Flesch Readability Score: 60.6).

Amends the definition of "public agency" to include only certain public bodies and other entities with statewide operations or jurisdiction, incorporated cities with a population of 2,500 or more and counties with a population of 300,000 or more. Exempts public bodies that are not public agencies from requiring contractors to pay a prevailing rate of wage on construction projects.

## A BILL FOR AN ACT

1  
2 Relating to exempting certain jurisdictions within the state from the requirement to pay a prevailing  
3 rate of wage; creating new provisions; and amending ORS 279C.800 and 279C.810.

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

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

6 279C.800. As used in ORS 279C.800 to 279C.870:

7 (1) "Fringe benefits" means:

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

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

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

15 (i) Medical or hospital care;

16 (ii) Pensions on retirement or death; or

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

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

19 (C) Unemployment benefits;

20 (D) Life insurance;

21 (E) Disability and sickness insurance or accident insurance;

22 (F) Vacation and holiday pay;

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

24 (H) Other bona fide fringe benefits.

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

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

28 (a) District 1, composed of Clatsop, Columbia and Tillamook Counties;

**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.

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

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

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

20 (5) "Public agency" means:

21 (a) The State of Oregon;

22 (b) A state agency, state contracting agency or other agency, authority or  
 23 instrumentality of the State of Oregon;

24 (c) The legislative department, as defined in ORS 174.114, and the judicial department,  
 25 as defined in ORS 174.113;

26 (d) A public corporation, board, commission, intergovernmental entity or other entity  
 27 that is organized, chartered or incorporated under the laws of this state if the operations  
 28 or jurisdiction of the corporation, board, commission or entity extends beyond the boundaries  
 29 of a single county of this state;

30 (e) A public university listed in ORS 352.002; and

31 (f) A contracting agency in, or a local contract review board of:

32 (A) An incorporated city with a population of 2,500 or more; or

33 (B) A county with a population of 300,000 or more.

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

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

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

41 (C) A project that uses funds of a private entity for constructing a privately owned road, high-  
 42 way, building, structure or improvement of any type in which a public agency will use or occupy  
 43 25 percent or more of the square footage of the completed project;

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

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

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

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

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

13 (b) "Public works" does not include:

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

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

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

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

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

22 **SECTION 2.** ORS 279C.810 is amended to read:

23 279C.810. (1) As used in this section:

24 (a) "Funds of a public agency" does not include:

25 (A) Funds provided in the form of a government grant to a nonprofit organization, unless the  
26 government grant is issued for the purpose of construction, reconstruction, major renovation or  
27 painting;

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

29 (C) Tax credits or tax abatements;

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

31 (E) The difference between:

32 (i) The value of land that a public agency sells to a private entity as determined at the time of  
33 the sale after taking into account any plan, requirement, covenant, condition, restriction or other  
34 limitation, exclusive of zoning or land use regulations, that the public agency imposes on the de-  
35 velopment or use of the land; and

36 (ii) The fair market value of the land if the land is not subject to the limitations described in  
37 sub-subparagraph (i) of this subparagraph;

38 (F) Staff resources of the public agency used to manage a project or to provide a principal  
39 source of supervision, coordination or oversight of a project;

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

42 (H) Moneys derived from the sale of bonds that are loaned by a state agency to a private entity,  
43 unless the moneys will be used for a public improvement;

44 (I) Value added to land as a consequence of a public agency's site preparation, demolition of real  
45 property or remediation or removal of environmental contamination, except for value added in ex-

1 cess of the expenses the public agency incurred in the site preparation, demolition or remediation  
 2 or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870;  
 3 or

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

6 (b) “Nonprofit organization” means an organization or group of organizations described in sec-  
 7 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of  
 8 the Internal Revenue Code.

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

10 (a) **A project by, for or on behalf of a public body, or an agency or instrumentality of a**  
 11 **public body, that is not a public agency.**

12 [(a)] (b) [Projects] **A project** for which the contract price does not exceed \$50,000. In determin-  
 13 ing the price of a project, a public agency:

14 (A) May not include the value of donated materials or work performed on the project by indi-  
 15 viduals volunteering to the public agency without pay; and

16 (B) Shall include the value of work performed by every person paid by a contractor or subcon-  
 17 tractor in any manner for the person’s work on the project.

18 [(b)] (c) [Projects] **A project** for which [no] funds of a public agency are **not** directly or indi-  
 19 rectly used. In accordance with ORS chapter 183, the Commissioner of the Bureau of Labor and  
 20 Industries shall adopt rules to carry out the provisions of this paragraph.

21 [(c)] (d) [Projects] **A project**:

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

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

24 (C) In which less than 25 percent of the square footage of [a] **the** completed project will be oc-  
 25 cupied or used by a public agency; and

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

27 [(d)] (e) [Projects] **A project** for residential construction that [are] **is** privately owned and that  
 28 predominantly [provide] **provides** affordable housing. As used in this paragraph:

29 (A) “Affordable housing” means housing that serves occupants whose incomes are no greater  
 30 than 60 percent of the area median income or, if the occupants are owners, whose incomes are no  
 31 greater than 80 percent of the area median income.

32 (B) “Predominantly” means 60 percent or more.

33 (C) “Privately owned” [includes] **means**:

34 (i) Affordable housing provided on real property owned by a public agency if the real property  
 35 and related structures are leased to a private entity for 50 or more years; and

36 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-  
 37 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or  
 38 managing member and the housing authority is not a majority owner in the partnership, nonprofit  
 39 corporation or limited liability company.

40 (D) “Residential construction” [includes] **means** the construction, reconstruction, major reno-  
 41 vation or painting of single-family houses or apartment buildings not more than four stories in  
 42 height and all incidental items, such as site work, parking areas, utilities, streets and sidewalks,  
 43 pursuant to the United States Department of Labor’s “All Agency Memorandum No. 130: Applica-  
 44 tion of the Standard of Comparison “Projects of a Character Similar” Under Davis-Bacon and Re-  
 45 lated Acts,” dated March 17, 1978. However, the commissioner may consider different definitions of

1 residential construction in determining whether a project is a residential construction project for  
2 purposes of this paragraph, including definitions that:

3 (i) Exist in local ordinances or codes; or

4 (ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States  
5 Department of Labor's description of residential construction.

6 **SECTION 3. The amendments to ORS 279C.800 and 279C.810 by sections 1 and 2 of this**  
7 **2025 Act apply to construction projects that a public body, or an agency or instrumentality**  
8 **of a public body, solicits or advertises, or if the public body, agency or instrumentality does**  
9 **not solicit or advertise the construction project, to a contract for the construction project**  
10 **into which the public body, agency or instrumentality enters on or after the effective date**  
11 **of this 2025 Act.**

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