

Requested by Representative ELMER

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 426**

1 On page 1 of the printed A-engrossed bill, delete lines 6 through 14 and
2 delete pages 2 through 5 and insert:

3 **“SECTION 2. (1) As used in this section and section 3 of this 2025
4 Act:**

5 **“(a) ‘Authorized third party representative’ means a third party
6 that is authorized by an unrepresented employee to assert the rights
7 of the unrepresented employee.**

8 **“(b) ‘Construction contract’ means an express or implied agree-
9 ment:**

10 **“(A) For the construction, reconstruction, alteration, maintenance,
11 moving or demolition of any building, structure or improvement.**

12 **“(B) Relating to the excavation of or other development of or im-
13 provement to land.**

14 **“(c) ‘Construction trade labor organization’ means a bona fide labor
15 organization that represents employees in the building and con-
16 struction trades.**

17 **“(d) ‘Direct contractor’ means:**

18 **“(A) Any person, including a construction manager, joint venture
19 or any combination thereof, the person’s successors, heirs or assigns,
20 that enters into a construction contract with an owner.**

21 **“(B) An owner that enters into a construction contract with more**

1 than one contractor or subcontractor, if such contract relates to real
2 property other than property for which the owner could claim the
3 homestead exemption under ORS 307.286 or that is otherwise used as
4 the owner's principal dwelling.

5 “(e) ‘Fringe benefit contributions’ means the amount of compen-
6 sation that accompanies or is in addition to an employee’s regular
7 salary or wages, including, but not limited to, payments made to
8 profit-sharing plans, retirement or pension plans, medical insurance,
9 severance pay or holiday, vacation or sick leave plans, but does not
10 include the benefit payments from such plans.

11 “(f) ‘Labor organization’ means an organization, agency or an em-
12 ployee representation committee or plan, in which employees partic-
13 ipate and which exists, in whole or in part, for the purpose of dealing
14 with employers concerning grievances, labor disputes, wages, rates of
15 pay, hours of employment or work conditions.

16 “(g)(A) ‘Owner’ means any person, firm, partnership, corporation,
17 association, company, organization or other entity, or any combina-
18 tion thereof, with an ownership interest, whether the interest or estate
19 is in fee, as vendee under a contract to purchase, as lessee or another
20 interest or estate less than fee that causes:

21 “(i) A building, structure or improvement, new or existing, to be
22 constructed, reconstructed, erected, altered, remodeled, repaired,
23 maintained, moved or demolished; or

24 “(ii) Land to be excavated or otherwise developed or improved.

25 “(B) ‘Owner’ does not mean:

26 “(i) A public agency, as defined in ORS 279C.800; or

27 “(ii) A financial institution that acquires ownership of a property
28 through foreclosure or a deed in lieu of foreclosure, provided that the
29 financial institution does not undertake, contract for or direct con-
30 struction work beyond activities necessary to preserve or secure the

1 **property.**

2 **“(h) ‘Subcontractor’ means any person that may or may not have**
3 **direct privity with a direct contractor but that is a party to an express**
4 **or implied contract with a direct contractor or with a direct**
5 **contractor’s subcontractors at any tier to perform any portion of work**
6 **within the scope of the direct contractor’s construction contract with**
7 **an owner.**

8 **“(i) ‘Unrepresented employee’ means an employee of a direct con-**
9 **tractor or subcontractor who is:**

10 **“(A) Not represented by a construction trade labor organization**
11 **that has established itself or its affiliates as the collective bargaining**
12 **representative for persons performing work on a project; and**

13 **“(B) Not covered by a collective bargaining agreement that:**

14 **“(i) Contains a grievance procedure that results in a final and**
15 **binding decision; and**

16 **“(ii) Provides a mechanism for recovering unpaid wages and fringe**
17 **benefit contributions on behalf of the employees covered by the**
18 **agreement.**

19 **“(2) A direct contractor that enters into a construction contract**
20 **with a subcontractor shall be jointly and severally liable with the**
21 **subcontractor for any unpaid wages, including fringe benefit contri-**
22 **butions and penalties, owed to any unrepresented employee of the**
23 **subcontractor at any tier for labor performed on a project within the**
24 **scope of the construction contract.**

25 **“(3)(a) Any of the following persons may bring a civil action against**
26 **a direct contractor or a subcontractor in any court of competent ju-**
27 **risdiction to recover unpaid wages, including fringe benefit contribu-**
28 **tions, interest and penalty wages, damages, attorney fees and costs**
29 **incurred in connection with the action:**

30 **“(A) An unrepresented employee.**

1 **“(B) An authorized third party representative.**

2 **“(b) Notwithstanding ORS chapter 180, the Attorney General may**
3 **accept the assignment of claims under this subsection, bring civil**
4 **actions in the name of the State of Oregon on assigned claims and**
5 **recover costs as provided in this section. The Attorney General may**
6 **adopt rules to implement this paragraph.**

7 **“(c)(A) Prior to commencing a civil action against a direct con-**
8 **tractor under this subsection, a person must send written notice of the**
9 **alleged violation by first-class certified mail to the direct contractor**
10 **that sets forth the alleged violation and the nature of the claim and**
11 **states that the direct contractor has 21 calendar days from the certi-**
12 **fied delivery date to correct the alleged violation. Such notice does not**
13 **operate to limit the liability of the direct contractor or preclude a**
14 **person from subsequently amending a complaint after the action is**
15 **commenced to include additional parties to the action.**

16 **“(B) A civil action may not be:**

17 **“(i) Initiated until after the time period under subparagraph (A) of**
18 **this paragraph has expired.**

19 **“(ii) Brought against a direct contractor if the direct contractor has**
20 **corrected the alleged violation within the specified time period under**
21 **subparagraph (A) of this paragraph.**

22 **“(d) A civil action under this subsection to recover unpaid wages**
23 **must be commenced within two years from the date on which the**
24 **wages and fringe benefit contributions became due.**

25 **“(4) Any agreement to waive or release a direct contractor or to**
26 **indemnify a direct contractor for liability assigned under this section**
27 **is invalid.**

28 **“(5) Nothing in this section impairs the right of a direct contractor**
29 **to bring an action against a subcontractor to seek recovery of actual**
30 **and liquidated damages for the amounts paid by the direct contractor**

1 for unpaid wages, including fringe benefit contributions, interest and
2 penalty wages, damages, attorney fees and incurred costs associated
3 with an action brought under this section.

4 “(6) Nothing in this section is intended to diminish the rights,
5 privileges or remedies of an employee under a collective bargaining
6 agreement.

7 “(7) The Commissioner of the Bureau of Labor and Industries may
8 adopt any rules necessary to implement the provisions of this section.

9 **“SECTION 3. (1) Any subcontractor with which a direct contractor**
10 **has entered into a contract to perform a portion of a construction**
11 **project shall provide the following records to the direct contractor**
12 **upon the request of the direct contractor:**

13 “(a) Certified payroll reports, that, at a minimum, include sufficient
14 information for the direct contractor to determine whether a subcon-
15 tractor has paid in full all wages earned by unrepresented employees
16 who performed work on the project as part of the employees’ total
17 compensation.

18 “(b) The name, address and phone number of a contact for the
19 subcontractor.

20 “(c) The names of all workers who performed work on the con-
21 struction project and notation of whether each worker is paid or
22 classified as an employee or independent contractor.

23 “(d) The name of any subcontractor with which the first-tier sub-
24 contractor contracts.

25 “(e) The anticipated contract start date and scheduled duration of
26 work.

27 “(f) An affidavit that attests to whether the subcontractor or any
28 of the subcontractor’s current principals have, within the preceding
29 five years, participated in any civil, administrative or criminal pro-
30 ceeding involving a violation of any law providing for payment of

1 wages or imposing a criminal penalty for the violation and the out-
2 come of the proceeding, including damages, fees or penalty amounts
3 paid to workers or a government agency, if any.

4 “(2) A subcontractor shall provide the records described in sub-
5 section (1) of this section to an authorized third party representative
6 only to the extent that the information contained in the records per-
7 tains specifically to the employee on whose behalf the authorized third
8 party representative is acting and to whatever extent that the sub-
9 contractor would be lawfully required to disclose such records to the
10 employee if the employee was acting on the employee’s own behalf
11 under ORS 652.750.

12 “(3) A subcontractor’s failure to comply with subsection (1) of this
13 section does not relieve a direct contractor of the liability prescribed
14 by section 2 of this 2025 Act.

15 “(4) Nothing in this section shall alter a direct contractor’s obli-
16 gation to timely pay a subcontractor under ORS chapter 701, except
17 that a direct contractor may withhold payment to a subcontractor:

18 “(a)(A) Because of the subcontractor’s failure to comply with the
19 request for records under subsection (1) of this section; and

20 “(B) In an amount and to the extent that the direct contractor has
21 paid, on behalf of the subcontractor, wages owed to the employees of
22 the subcontractor; or

23 “(b) In an amount and to the extent that the direct contractor has
24 paid, on behalf of the subcontractor, wages owed to the employees of
25 the subcontractor.

26 “(5) A direct contractor or subcontractor may not disclose per-
27 sonally identifying information about workers who perform work on
28 a construction project except to the extent necessary to comply with
29 federal or state laws.

30 “(6) As used in this section, ‘principal’ means a person, including

1 an owner or a direct contractor, that commissions a construction
2 project and that is responsible for the project's scope, standards and
3 objectives.

4 **SECTION 4. Sections 2 and 3 of this 2025 Act apply to labor per-**
5 **formed by workers on a project for a direct contractor or subcontrac-**
6 **tor on or after the effective date of this 2025 Act."**

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