

LC 222  
2022 Regular Session  
12/29/21 (CPA/ps)

# D R A F T

## SUMMARY

Redefines “large-scale project” for purposes of contractor labor standards. Clarifies application of labor standards based on project’s capacity rating. Clarifies good faith exception to required total work hours performed by apprentices.

Exempts contracts and subcontracts with tribal government, agent or instrumentality of Oregon Indian tribe for large-scale project on tribal lands from contractor labor standards.

Requires request for proposals by electric company for resource procurement subject to competitive bidding requirements and contractor labor standards to include reference to and information regarding labor standards and to require successful bidder to verify provision of attestation, declaration or project labor agreement.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to large-scale project labor standards; creating new provisions;  
2 amending ORS 757.306; and declaring an emergency.

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

5 **SECTION 1.** ORS 757.306 is amended to read:

6 757.306. (1) As used in this section:

7 (a) “Apprentice” and “apprenticeable occupation” have the meanings  
8 given those terms in ORS 660.010.

9 (b) “Apprenticeship training program” means the total system of appren-  
10 ticeship that a particular local joint committee, as defined in ORS 660.010,  
11 operates, including the local joint committee’s registered standards and all  
12 other terms and conditions for qualifying, recruiting, selecting, employing  
13 and training apprentices in an apprenticeable occupation.

**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       (c) "Construction" includes on-site and off-site construction and fabri-  
2 cation and covers 30 days after project completion.

3       (d) "Large-scale project" means:

4           **(A) Except as provided in subparagraph (B) of this paragraph,** a  
5 renewable energy generation, sequestration or storage facility with a capac-  
6 ity rating of [10] **two** megawatts or greater.

7           **(B) A community solar facility with a capacity rating of three  
8 megawatts or greater.**

9       (e) "Minority individual" and "woman" have the meanings given those  
10 terms in ORS 200.005.

11       (f) "Repower" means replacement of enough of the original generation  
12 equipment or components to make an original energy generation facility  
13 equivalent to a new facility, such that at least 80 percent of the fair market  
14 value of the facility derives from new generation equipment or components  
15 installed as part of the replacement project.

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

17       (2) A person who constructs or repowers a large-scale project sited in this  
18 state shall, at the time of contract finalization for development of the project  
19 or execution of a contract for delivery of energy from the project, provide a  
20 signed attestation or declaration stating to the best of their knowledge and  
21 belief, subject to penalty of perjury as described in ORS 162.065, that during  
22 all periods of construction all contractors and subcontractors working on the  
23 construction or repowering project will:

24           **(a)(A)(i) Except as provided in sub subparagraph (ii) of this subpar-**  
25 **agraph,** participate in an apprenticeship program registered with the State  
26 Apprenticeship and Training Council and with graduation rates equal to or  
27 higher than the national average for each respective trade in a manner  
28 consistent with the respective apprenticeship training programs, such that  
29 15 percent of the total work hours on a given large-scale project is performed  
30 by [workers] **apprentices** in apprenticeable occupations; **or**

31           **(ii) If less than 15 percent of total work hours on a given large-scale**

1 project is performed by apprentices in apprenticeable occupations,  
2 demonstrate good faith with meeting the requirement described in  
3 sub subparagraph (i) of this subparagraph by providing documented  
4 and verifiable information including:

5 (I) Internet addresses of employment advertisements or job an-  
6 nouncements;

7 (II) Dates, times, Internet addresses and attendance lists of a prejob  
8 conference with apprenticeship, preapprenticeship and workforce pro-  
9 viders in construction;

10 (III) Contacts requesting apprentices with an apprenticeship pro-  
11 gram approved by the Bureau of Labor and Industries including the  
12 date, time, telephone contact, electronic mail contact and whether a  
13 response was provided within 48 hours of the request;

14 (IV) Contacts requesting apprentices from a union hall including  
15 the date, time, telephone contact, electronic mail contact and whether  
16 a response was provided within 48 hours of the request; and

17 (V) Documentation of job offers and number of job offers made to  
18 apprentices;

19 [(b)] (B) Establish and execute a plan for outreach, recruitment and re-  
20 tention of women, minority individuals, veterans and people with disabilities  
21 to perform work under the contract, with the aspirational target of having  
22 at least 15 percent of total work hours performed by individuals in one or  
23 more of those groups;

24 [(c)] (C) Have policies in place that are designed to limit or prevent  
25 workplace harassment and discrimination and that promote workplace di-  
26 versity, equity and inclusion for communities who have been underrepre-  
27 sented in the clean energy sector, including women, veterans and Black,  
28 Indigenous and People of Color;

29 [(d)] Demonstrate good faith with meeting the requirements described in  
30 paragraphs (a) to (c) of this subsection by providing documented and verifiable  
31 information including:]

1       [(A) Internet addresses of employment advertisements or job announcements;]

3       [(B) Dates, times, Internet addresses and attendance lists of a prejob conference with apprenticeship, preapprenticeship and workforce providers in 4 construction;]

6       [(C) Contacts requesting workers with an apprenticeship program approved 7 by the Bureau of Labor and Industries including the date, time, telephone 8 contact, email contact and whether a response was provided within 48 hours 9 of the request; and]

10      [(D) Contacts requesting workers from a union hall including the date, 11 time, telephone contact, email contact and whether a response was provided 12 within 48 hours of the request;]

13      [(e)] **(D)** Maintain a license and good standing to perform the work and 14 remain eligible to receive a contract or subcontract for public works under 15 ORS 279C.860;

16      [(f)] **(E)** Materially demonstrate a history of material compliance in the 17 previous seven years, or provide available history for new businesses, with 18 the rules and other requirements of state agencies with oversight regarding 19 workers' compensation, building codes and occupational safety and health;

20      [(g)] **(F)** Materially demonstrate a history of compliance, in the previous 21 seven years, or provide available history for new businesses, with federal and 22 state wage and hour laws; and

23      [(h)] **(G)** Provide quarterly reporting and recordkeeping to the project 24 owner or electric utility and respond to records requests and verification[.];

25      **and**

26      [(3) In addition to the requirements in subsection (2) of this section, a person 27 constructing or repowering a large-scale project shall require all contractors 28 and subcontractors working on the construction or repowering project 29 to:]

30      **(b) If the large-scale project has a capacity rating of 10 megawatts 31 or greater:**

1        [(a)] **(A)** Pay the [area] **prevailing** wage [*standard*] **rate** for an hour's  
2 work in the same trade or occupation in the locality where the labor is  
3 performed. [Area] **Prevailing** wage [*standard*] **rate** includes the calculation  
4 of wages and fringe benefits per trade and locality and will be treated as  
5 standards defined in ORS 279C.800 [*et seq*] **to 279C.870.**

6        [(b)] **(B)** Offer health care and retirement benefits to the employees per-  
7 forming the labor on the project.

8        [(c)] **(C)** Provide quarterly reporting and recordkeeping to the project  
9 owner or electric utility and respond to records requests and verification.

10      [(4)] **(3)** [A] **The** person [*constructing or repowering a large-scale project*]  
11 shall provide the attestation or declaration and **any** good faith effort doc-  
12 umentation described in subsection (2) of this section to the State Depart-  
13 ment of Energy within 30 days from the date construction begins and provide  
14 notice of such delivery to the purchaser of the project or of the energy from  
15 the project. In addition to the requirements described in subsection (2) of this  
16 section, [an] **the** attestation **or declaration** must include the following in-  
17 formation:

- 18        (a) The megawatt capacity and physical footprint in acres of the project;
- 19        (b) The geographic location of the project;
- 20        (c) The estimated workforce requirements of the project;
- 21        (d) A collated list of good faith effort documentation; and
- 22        (e) A description of any policies in place for ensuring the person meets  
23 the requirements in this section.

24      [(5)(a)] **(4)(a)** In lieu of providing an attestation or declaration described  
25 in subsection (2) of this section, [a] **the** person may provide a copy of a  
26 project labor agreement, if a project labor agreement is used on the large-  
27 scale project and shall be exempted from the requirements described in sub-  
28 section (2) of this section.

29      (b) As used in this subsection, "project labor agreement" means a prehire  
30 collective bargaining agreement as described in 29 U.S.C. 158(f) that estab-  
31 lishes the terms and conditions of employment for a specific construction

1 project or contract.

2 (c) A project labor agreement may include additional provisions that:

3 (A) Prohibit discrimination based on race, national origin, religion,  
4 gender, sexual orientation, political affiliation or membership in a labor or-  
5 ganization in hiring and dispatching workers for the project.

6 (B) Permit qualified contractors and subcontractors to bid for and be  
7 awarded work on the project without regard to whether they are otherwise  
8 parties to a collective bargaining agreement.

9 (C) Permit and promote qualified business enterprises owned by women,  
10 minorities, veterans and disadvantaged individuals without regard to  
11 whether the individuals are otherwise parties to a collective bargaining  
12 agreement.

13 (D) Guarantee against work stoppages, strikes, lockouts and similar dis-  
14 ruptions of the project.

15 [(6)(a)] (5)(a) The department shall retain an attestation or declaration  
16 filed with the department in a manner consistent with the department's re-  
17 cord retention policies.

18 (b) Notwithstanding any provisions of ORS 192.345 or 192.355, an  
19 attestation or declaration provided to the department pursuant to this sub-  
20 section is subject to public records disclosure and the department shall pro-  
21 vide a copy of the attestation or declaration upon request.

22 (c) An attestation or declaration filed under this section is for reporting  
23 purposes only and the department may not use an attestation or declaration  
24 to investigate, regulate or enforce matters addressed in the attestation or  
25 declaration.

26 **(6)(a) Nothing in this section:**

27 (A) Applies to a contract or subcontract with a tribal government,  
28 agent or instrumentality of an Oregon Indian tribe for a large-scale  
29 project located in whole or in part on the tribe's reservation or on land  
30 held in trust by the United States for the benefit of the tribe, unless  
31 the tribal government elects to adopt the standards in this section for

1 the contract or subcontract; or

2 (B) Affects the wage rates overseen by a tribal government, agent  
3 or instrumentality of an Oregon Indian tribe.

4 (b) As used in this subsection, "Oregon Indian tribe" and "tribal  
5 government" have the meanings given those terms in ORS 294.805.

6 **SECTION 2.** (1) A request for proposals submitted by an electric  
7 company, as defined in ORS 757.600, for resource procurement that is  
8 subject to competitive bidding requirements adopted by the Public  
9 Utility Commission and the requirements in ORS 757.306 must:

10 (a) Include a reference to and information regarding the require-  
11 ments in ORS 757.306; and

12 (b) Require that a successful bidder verify within 30 days of contract  
13 finalization for development of a project or execution of a contract for  
14 delivery of energy from a project that the bidder has provided an  
15 attestation or declaration or executed a project labor agreement as  
16 required under ORS 757.306.

17 (2) The State Department of Energy shall, upon request from the  
18 commission, provide a copy of the attestation or declaration or project  
19 labor agreement to the commission.

20 (3) The commission shall adopt rules to implement the provisions  
21 of this section.

22 **SECTION 3.** This 2022 Act being necessary for the immediate pres-  
23 ervation of the public peace, health and safety, an emergency is de-  
24 clared to exist, and this 2022 Act takes effect on its passage.

25 \_\_\_\_\_