

# House Bill 4059

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Environment and Natural Resources for Representative Pam Marsh)

## 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**.

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  
2 Relating to large-scale project labor standards; creating new provisions; amending ORS 757.306; and  
3 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 given those terms in ORS  
8 660.010.

9 (b) "Apprenticeship training program" means the total system of apprenticeship that a particular  
10 local joint committee, as defined in ORS 660.010, operates, including the local joint committee's  
11 registered standards and all other terms and conditions for qualifying, recruiting, selecting, em-  
12 ploying and training apprentices in an apprenticeable occupation.

13 (c) "Construction" includes on-site and off-site construction and fabrication and covers 30 days  
14 after project completion.

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

16 **(A) Except as provided in subparagraph (B) of this paragraph**, a renewable energy gener-  
17 ation, sequestration or storage facility with a capacity rating of [10] **two** megawatts or greater.

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

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

20 (f) "Repower" means replacement of enough of the original generation equipment or components  
21 to make an original energy generation facility equivalent to a new facility, such that at least 80  
22 percent of the fair market value of the facility derives from new generation equipment or compo-  
23 nents installed as part of the replacement project.

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

25 (2) A person who constructs or repowers a large-scale project sited in this state shall, at the  
26 time of contract finalization for development of the project or execution of a contract for delivery

**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 of energy from the project, provide a signed attestation or declaration stating to the best of their  
 2 knowledge and belief, subject to penalty of perjury as described in ORS 162.065, that during all pe-  
 3 riods of construction all contractors and subcontractors working on the construction or repowering  
 4 project will:

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

11 **(ii) If less than 15 percent of total work hours on a given large-scale project is performed**  
 12 **by apprentices in apprenticeable occupations, demonstrate good faith with meeting the re-**  
 13 **quirement described in sub-subparagraph (i) of this subparagraph by providing documented**  
 14 **and verifiable information including:**

15 **(I) Internet addresses of employment advertisements or job announcements;**

16 **(II) Dates, times, Internet addresses and attendance lists of a prejob conference with**  
 17 **apprenticeship, preapprenticeship and workforce providers in construction;**

18 **(III) Contacts requesting apprentices with an apprenticeship program approved by the**  
 19 **Bureau of Labor and Industries including the date, time, telephone contact, electronic mail**  
 20 **contact and whether a response was provided within 48 hours of the request;**

21 **(IV) Contacts requesting apprentices from a union hall including the date, time, tele-**  
 22 **phone contact, electronic mail contact and whether a response was provided within 48 hours**  
 23 **of the request; and**

24 **(V) Documentation of job offers and number of job offers made to apprentices;**

25 *[(b)]* **(B) Establish and execute a plan for outreach, recruitment and retention of women, mi-**  
 26 **nority individuals, veterans and people with disabilities to perform work under the contract, with**  
 27 **the aspirational target of having at least 15 percent of total work hours performed by individuals**  
 28 **in one or more of those groups;**

29 *[(c)]* **(C) Have policies in place that are designed to limit or prevent workplace harassment and**  
 30 **discrimination and that promote workplace diversity, equity and inclusion for communities who have**  
 31 **been underrepresented in the clean energy sector, including women, veterans and Black, Indigenous**  
 32 **and People of Color;**

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

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

36 *[(B) Dates, times, Internet addresses and attendance lists of a prejob conference with apprentice-*  
 37 *ship, preapprenticeship and workforce providers in construction;]*

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

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

43 *[(e)]* **(D) Maintain a license and good standing to perform the work and remain eligible to re-**  
 44 **ceive a contract or subcontract for public works under ORS 279C.860;**

45 *[(f)]* **(E) Materially demonstrate a history of material compliance in the previous seven years,**

1 or provide available history for new businesses, with the rules and other requirements of state  
 2 agencies with oversight regarding workers' compensation, building codes and occupational safety  
 3 and health;

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

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

8 [(3) *In addition to the requirements in subsection (2) of this section, a person constructing or re-*  
 9 *powering a large-scale project shall require all contractors and subcontractors working on the con-*  
 10 *struction or repowering project to:]*

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

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

16 [(b)] **(B)** Offer health care and retirement benefits to the employees performing the labor on the  
 17 project.

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

20 [(4)] **(3)** [A] **The** person [constructing or repowering a large-scale project] shall provide the  
 21 attestation or declaration and **any** good faith effort documentation described in subsection (2) of this  
 22 section to the State Department of Energy within 30 days from the date construction begins and  
 23 provide notice of such delivery to the purchaser of the project or of the energy from the project. In  
 24 addition to the requirements described in subsection (2) of this section, [an] **the attestation or**  
 25 **declaration** must include the following information:

26 (a) The megawatt capacity and physical footprint in acres of the project;

27 (b) The geographic location of the project;

28 (c) The estimated workforce requirements of the project;

29 (d) A collated list of good faith effort documentation; and

30 (e) A description of any policies in place for ensuring the person meets the requirements in this  
 31 section.

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

36 (b) As used in this subsection, "project labor agreement" means a prehire collective bargaining  
 37 agreement as described in 29 U.S.C. 158(f) that establishes the terms and conditions of employment  
 38 for a specific construction project or contract.

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

40 (A) Prohibit discrimination based on race, national origin, religion, gender, sexual orientation,  
 41 political affiliation or membership in a labor organization in hiring and dispatching workers for the  
 42 project.

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

45 (C) Permit and promote qualified business enterprises owned by women, minorities, veterans and

1 disadvantaged individuals without regard to whether the individuals are otherwise parties to a col-  
2 lective bargaining agreement.

3 (D) Guarantee against work stoppages, strikes, lockouts and similar disruptions of the project.

4 [(6)(a)] (5)(a) The department shall retain an attestation or declaration filed with the department  
5 in a manner consistent with the department's record retention policies.

6 (b) Notwithstanding any provisions of ORS 192.345 or 192.355, an attestation or declaration  
7 provided to the department pursuant to this subsection is subject to public records disclosure and  
8 the department shall provide a copy of the attestation or declaration upon request.

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

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

13 (A) **Applies to a contract or subcontract with a tribal government, agent or**  
14 **instrumentality of an Oregon Indian tribe for a large-scale project located in whole or in part**  
15 **on the tribe's reservation or on land held in trust by the United States for the benefit of the**  
16 **tribe, unless the tribal government elects to adopt the standards in this section for the**  
17 **contract or subcontract; or**

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

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

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

25 (a) **Include a reference to and information regarding the requirements in ORS 757.306;**  
26 **and**

27 (b) **Require that a successful bidder verify within 30 days of contract finalization for de-**  
28 **velopment of a project or execution of a contract for delivery of energy from a project that**  
29 **the bidder has provided an attestation or declaration or executed a project labor agreement**  
30 **as required under ORS 757.306.**

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

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

34 **SECTION 3. This 2022 Act being necessary for the immediate preservation of the public**  
35 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**  
36 **on its passage.**

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