



February 5, 2014

Chair – Rep. Margaret Doherty	Rep. Greg Matthews
Vice Chair – Rep. Brent Barton	Rep. Kim Thatcher
Vice Chair – Rep. Bill Kennemer	Rep. Jim Thompson
Rep. Shemia Fagan	Rep. Jim Weidner
Rep. Tim Freeman	Rep. Brad Witt
Rep. Paul Holvey	

Re: Opposition to House Bill 4119

Dear Chair Doherty and Committee Members:

My name is Matt Michel and I am the General Manager of Canby Utility. Canby Utility is a municipal electric and water utility formed under the City Charter of Canby and governed by a five-member Board of Directors appointed by the Mayor of Canby and confirmed by the City Council. We are funded solely through rates, fees and charges and not subsidized by property taxes or the City's general fund. In fact, we contribute to the city's general fund payments in lieu of taxes. Our mission is to keep lights and power always ready and clean water always available as a fiscally responsible community-owned business. Because our customer-owners, through the Board, set utility policies we are directly accountable to those we serve.

Canby Utility is also a member of the Oregon Municipal Electric Utility Association (OMEU). I am the Past President of OMEU (2013) and while the details of my comments stem from my experiences at Canby Utility, these comments as a whole represent the interests of OMEU. OMEU members serve the communities of Ashland, Bandon, Canby, Cascade Locks, Drain, Forest Grove, Hermiston, McMinnville, Milton-Freewater, Monmouth, and Springfield. We are small-to-medium sized municipal utilities. OMEU formed to perform several activities including the following.

- Secure cooperation among Oregon municipal electric utilities in resolving issues
- Provide means for member utilities to exchange ideas, experiences and obtain expert advice
- Collect, compile and distribute information about administration and operation of publicly owned electric utilities
- Promote legislation that is beneficial to municipal electric utility customers and oppose legislation that would be detrimental to such customers
- Promote harmony of action among municipally owned electric utilities in matters that affect the rights and liabilities of such utilities

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I appreciate the opportunity today to express OMEU's opposition to House Bill 4119. HB 4119 is effectively the same as Senate Bill 644 which was introduced and failed in the 2013 legislative session. <https://olis.leg.state.or.us/liz/2013R1/Measures/Overview/SB644>

What has changed is the tone: Where SB 644 said we "may not" use pricing to select a contractor for projects under \$100,000, now HB 4119 says we can use pricing but "only after" we have selected the contractor. It is wordplay: under either bill we, smaller municipal utilities, would need to engage more contractors to run the QBS negotiation process. The current competitive bid process for smaller projects works for OMEU members and so we do not support HB 4119.

OMEU continues to coordinate with League of Oregon Cities, the Association of Counties, Special Districts of Oregon, Oregon Public Ports Association, and the Eugene Water and Electric Board as well as others to oppose this bill. <https://olis.leg.state.or.us/liz/2014R1/Measures/Overview/HB4119>

Qualifications Based Selection (QBS) Overview

HB 4119 seeks to modify Oregon's version of Qualifications Based Selection (QBS) contracting law for certain professional services by extending the QBS process to projects valued under \$100,000 in professional services for a project. For your convenience, what follows is a brief history of QBS law in the United States.

Congress enacted the Brooks Act (Public Law 92-582), also known as Qualifications Based Selection (QBS), on October 18, 1972. Under QBS procurement procedures, price quotations are not a consideration in the first phase of the selection process. Instead, after public solicitation for architect and engineer (A/E) services and submission of proposals, evaluations are made based on selection committee criteria, and a short-list is developed of those to be interviewed. After interviews with the firms, the selection committee ranks the most qualified firms and then begins negotiations on price with the top ranked firm.

The aim is to avoid reliance on low-bid choices that had proven in past projects to often be of lower quality. Choosing design services based on cost may lead to confinement of ideas, costly changes and delays along the way and higher priced, less sustainable projects in the long run. Hiring the most qualified professional design services provider at a reasonable price is the best way of ensuring public dollars lead to final constructed projects that are completed on time and on budget.¹

Oregon Legislative History

In 1997, the state of Oregon followed the lead of the federal government and began using QBS to procure the services of design professionals. In 2001, the American Institute of Architects and the American Council of Engineering Companies worked to expand the use of QBS to certain local government projects (based on size and state funding), but the policy had a sunset date². In 2005, the Oregon Legislature removed the sunset date. In 2011 House Bill 3316 amended QBS law to apply to all local and special government projects, including schools, within certain price parameters.

¹ <http://www.aia-oregon.org/2011/05/qbs-update-hb-3316.html>

² House Bill 3804 (2001)

Summary of Concerns

OMEU's assessment is that HB 4119 (like its predecessor SB 644) is a solution looking for a problem.

Mandating a QBS negotiating process for small public agencies like OMEU's members on smaller projects takes additional time and money for lean, local operations to execute without extra staff or more contractors to run the QBS process. As such, the QBS process will cost smaller public agencies more money in the contracting process.

Please oppose HB 4119 and allow contracting agencies to inquire about price on small projects under \$100,000 where direct appointment is currently allowed.

Respectfully submitted,



Matt Michel
General Manager
Canby Utility