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**Re: Written Testimony of Sarah Drescher to Members of the Senate Committee on Workforce**

Dear Chair Dembrow and members of the Senate Workforce Committee:

Senate Bill 414 fixes a loophole in Oregon's Contracting Code by providing employees and their unions with the ability to seek judicial review of a public agency's decision to outsource jobs.

Under current law, ORS 279B.030 – 279B.036, public agencies may not outsource the work of public employees unless they first perform a cost analysis or feasibility determination. These requirements, added to the Contracting Code in 2009, sought to ensure that outsourcing resulted in cost savings to taxpayers and that savings were not achieved at the expense of family wage jobs in Oregon.

But under current law, **there is no legal process** to challenge an agency's violations of the cost analysis/feasibility determinations. Because there is no legal process to challenge outsourcing violations, unions and employees have struggled to challenge unlawful decisions to outsource public jobs.

I have experienced first-hand the problems presented by this lack of legal process. In *Hicks v. Central Point School District and First*

*Student, Inc.*, Oregon Appellate Case No. A151320 (pending), a former bus driver who lost her job to outsourcing challenged the District's decision under Oregon's Declaratory Judgments Act. The District and First Student argued that the proper method for such challenging was through a writ of review process – *the exact same judicial review process proposed by this legislation*. Valuable time and resources have been spent arguing over which judicial process applies. This could be avoided if the Contracting Code provided a judicial review process.

SB 414 fixes the current law by providing a judicial review process for violations of the cost analysis/feasibility determinations. The judicial review process provided by SB 414 is the same process that is already in the Contracting Code for other violations. SB 414 simply extends that process to decisions to outsource jobs.

SB 414 ensures that if an employee or union challenges a decision to outsource jobs, the public agency is estopped from proceeding with the outsourcing until a decision is made by the court, avoiding irrevocable harm to employees and communities.

SB 414 also clarifies the existing outsourcing procedures to ensure consistency with the legislative goals of the law –fiscal responsibility and avoiding the unnecessary loss of family wage jobs in Oregon:

- Provides procedures for public agencies to obtain information necessary to perform a cost analysis before outsourcing jobs;
- Ensures public agencies update a cost analysis if new information is discovered;
- Clarifies that a cost analysis must include fluctuations in the contractor's costs and an estimate of the contractor's profit; and
- Clarifies that the cost analysis cannot include proceeds from selling or replacing long-term assets.

Without a way to challenge and remedy an agency's unlawful decision to outsource jobs, the law is an unenforceable goal. SB 414 allows the law to serve its purpose by providing an enforcement mechanism.