



Feb. 13, 2015

Honorable Michael Dembrow, Chair
Senate Committee on Workforce
900 Court St. NE
Salem, Or 97301

RE: Senate Bill 414 enabling new lawsuits against public agencies in connection with the procurement of needed services

Dear Chair Dembrow and Members of the Workforce Committee:

The City of Beaverton is writing to express its opposition to Senate Bill 414, which would authorize individuals and bargaining units to sue local governments and other public contracting agencies if they disagreed with how the public agency analyzed and determined if the agency could perform the services sought to be procured using the agency's own personnel and resources.

Senate Bill 414 is both anti-business and anti-competitive. The bill has the potential of greatly delaying the procurement process and driving up public agencies' operating costs. While the bill does provide that in case of litigation prevailing party attorney fees will not be awarded to either party—that does not mean there is not cost associated with the litigation SB 414 allows. Moreover, the bill forces a court to substitute its judgment for that of the contracting agency, requiring de novo review of the agency's cost analysis and feasibility determinations. All totaled, SB 414 gives union headquarters far too much power to second-guess managerial decisions and block the delivery of services to the taxpayers and residents of Oregon.

For a city like Beaverton, it would impact us in many areas. For example, we spend \$762,499 for janitorial services, building security, construction services and temporary office staffing provided by qualified rehabilitation facilities (QRFs). The city currently contracts with QRFs, providing steady work for disabled persons. If this bill becomes law, we will need to reevaluate the risks associated with being second-guessed by union members in our cost analysis. Being cautious, we would be more likely to take work in house, at the expense of the disabled.

Senate Bill 414 adversely affects the public contracting process in all of the following ways:

- Establishes immediate judicial review if any employee disagrees with cost estimates;
- Allows employee or employee unions to "forum shop" by allowing them to file their lawsuit either in the county where the contracting agency is located or the Circuit Court of Marion County;
- Establishes a review standard that has never been applied to disagreements between labor and management;
- Prevents the contracting agency from proceeding ahead with the procurement process;
- Creates new avenues for the employee and employees' representatives to stop the procurement in courts;
- Gives judges powers to cancel the procurement if found in favor of the employee or exclusive representative and awards attorney fees and costs to the city;
- Prohibits a contracting agency from including the proceeds from a sale or costs incurred to replace in its cost analysis.

I respectfully urge you to oppose SB 414.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Ealy". The signature is stylized with large, sweeping loops and a long horizontal stroke at the end.

Randy Ealy
Chief Administrative Officer