

May 16, 2023

House Committee on Judiciary
900 Court St NE
Salem, OR 97301

Chair Kropf and Members of the Committee:

Good morning. I am Rebecca Gose, General Counsel for Oregon State University. I am here to testify in support of SB 355A on behalf of all the public universities. We were pleased to work with Senator Prozanski on this bill and see it pass unanimously in the Senate last month. SB 355A represents an appropriate process for transparency for our institutions' use of outside counsel.

For background, the use of outside counsel varies significantly across the universities. Outside counsel needs depend on the proactive initiatives undertaken by each institution pursuant to their different missions and opportunities, as well as defense needs that arise from the different nature and volume of claims that may be brought against each institution.

There are primarily four reasons that our universities engage outside counsel. The most common is where the area of expertise sought is highly specialized and where it is inefficient or infeasible to build that specialized expertise in-house. Examples of this include patent and other intellectual property registrations, FCC advice for radio stations, acquiring FDA approval of pharmaceuticals, devices, and COVID testing facilities, international operations, and immigration matters. Secondly, litigation matters take more time, resources and attorneys than is typically feasible to handle in-house. Further, universities engage outside counsel for matters in which it is advisable or required to have an independent review or opinion. Lastly, there are times that outside counsel is engaged because the work and needed timelines surpass the capacity of our offices.

When retaining and using outside counsel, we take measures to assure that the institution is receiving good value for those services. Outside counsel are selected with care, considering their expertise and its relative value. We commonly negotiate discounted rates for our institutions.

SB 355A is a technical fix to a bill which passed in 2021, [HB 2214](#) (2021 Regular Session). That bill established the requirement that universities submit annual reports to the Attorney General documenting specific parameters of how and when we use outside counsel to supplement our legal work. The bill also created the requirement that, starting in 2024, the Attorney General analyze those reports and submit a separate report to the Legislature.

SB 355A simplifies the process to make this information publicly available. This bill requires each of the public universities to report on their use of outside counsel annually and make the report available on our websites, while retaining the important exception for situations where reporting would be impossible without breaching attorney-client privilege, which is most relevant for the regional universities with fewer outside counsel matters.

Several of our universities already provide this information in our annual reports and we welcome this legislation to standardize the process. For example, [see pages 8-11 of University of Oregon's Office of the General Counsel 2022 Annual Report](#) and [pages 4-12 of the Oregon State University Office of General Counsel Annual Report FY2022](#).

Thank you again for taking the time to hear from us on SB 355A. We urge the committee to join the Senate in passing this bill.

Thank you.

