

SB 1575 A STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 2/29

WHAT THE MEASURE DOES:

The measure limits a public body from including a duty to defend requirement in a construction agreement with persons providing certain professional services, except to the amount of the person's proportionate fault.

REVENUE: No revenue impact

FISCAL: Has an indeterminate fiscal impact

SENATE VOTE: Ayes 24; Nays 6

Detailed Summary:

- Restricts a public body from including a duty to defend the public body in construction agreements with persons providing certain professional services, except to the extent that the professional's liability or fault is determined by adjudication, alternative dispute resolution, or settlement agreement.
- Lists applicable professionals, including a person or entity providing architecture, landscape architecture, engineering, photogrammetric mapping, transportation planning, land surveying services or related services, as these are defined in ORS 279C.100.
- Limits the duty to defend to the proportionate fault of the professional, and renders a provision unenforceable if it requires a greater duty to defend.
- Excludes design-builds.
- Applies the limit to agreements entered into or renewed on or after the measure's effective date.
- Sunsets the changes on Jan. 1, 2035.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Governmental bodies commonly have construction agreements that require contractors and subcontractors to defend the government body in the event of a lawsuit or a claim that alleges a person or property was damaged by the construction or the design of the project. A contractual duty to defend may require payment for defense counsel and other costs of defending against a lawsuit. A person who has the duty to defend another may be required to pay up front for the defense costs of not only their own alleged fault, but also the alleged fault of the government body.