



February 8, 2024

Senator Floyd Prozanski, Chair, D-Eugene

Via email: [Sen.FloydProzanski@OregonLegislature.gov](mailto:Sen.FloydProzanski@OregonLegislature.gov)

Regarding: Testimony to the Senate Committee on Judiciary in Support of SB 1575

Dear Senator Prozanski:

Good afternoon Chair Prozanski, Vice Chair Thatcher, and members of the Senate Committee on Judiciary. For the record, my name is Mark Leece representing PBS Engineering and Environmental Inc. We have been in business in Oregon since 1984 and employ 120 engineering and design professionals in the State of Oregon. I am writing today to strongly support Senate Bill 1575.

Oregon's engineers, architects and land surveyors care deeply about our communities, which is why we invest in our local economy, creating jobs and housing for Oregonians. Right now, we are being forced into unfair contracting practices called "duty to defend" clauses, which require us to pay the legal expenses for those involved in construction projects even before fault is determined. This is detrimental to all design firms but especially women, minority, veteran owned and emerging small businesses. Because engineers, architects and land surveyors are being forced to shoulder the legal liability and legal expense without any insurance to cover this onerous clause, not all Oregon firms are participating in public agency projects. This problem persists and also includes low-income public housing to help address Oregon's homelessness crisis and its associated infrastructure.

Our firm's experience with duty to defend has led to assumption of overly burdensome risk for uninsurable potential claims to defend our clients. In assuming many different public contracts that require us as engineers and surveyors to provide defense of claims (for which we cannot insure) this puts an undue burden and risk on our business. What we value most out of this proposed legislation is a balanced fairness in contracting and fair distribution of legal defense costs.

We respectfully ask this committee to support SB 1575. Passing this bill would eliminate bad and unfair contract practices and ensure everyone involved in a project pays their fair share of legal expenses. This isn't about shirking responsibility – it's about ensuring fairness, so everyone is paying their own way and adequately protected by their insurance.

Thank you for your service and we are happy to be a resource if you have additional questions.

Thank you.

Sincerely,

Mark Leece, PE  
Chief Operating Officer