

Written Testimony in Support of HB 4006

February 19, 2024

To the members of the Oregon Senat Committee on Labor and Business

We write to express our support for House Bill 4006 and to supplement my prior written testimony and supportive testimony that has been submitted by others.

Specifically, I write to address the new, and surprising, opposition to this bill by the City of Portland and Multnomah County.

This bill is the product of well over two years of negotiation between various factions within the construction industry, labor, and state and local agencies, including organizations representing Oregon cities. There has been ample opportunity to participate in the bill drafting and negotiating process – indeed, the bill is the product of multiple drafts that have had the participation of all the stakeholders. Portland and Multnomah County had every opportunity to participate in that process, but for reasons unknown, chose not to.

With respect to the substance of their opposition, The language that they each object to was probably the most hotly negotiated issue of the entire bill. There is no secret that the construction community would like to have no exceptions to the rule, and that agencies would like to have as much latitude as possible. History with the current language has shown that when agencies have too much latitude, they simply ignore the law. The revisions to the current law were intended to limit agency discretion, to require agencies to make written findings as to the reasons for a rejection of a bond, and to require an agency to focus its objections to unique project attributes, such as complexity, size, duration, or other factors that may create abnormal risk to the agency if it were to release cash retainage.

The language that is in the bill was the product of multiple meetings, phone calls and draft language between public agencies, contractors and subcontractors, and their respective counsel. If the bill is changed in the manner that Portland and Multnomah County advocate, it will undue all of those negotiations, and potentially erode support for the overall bill.

Again, the opponents of this bill had ample opportunity to participate in the drafting of this bill. They did not do so, and now wish to modify important language that is the result of months of negotiations, at the last minute and without negotiation with all of the stakeholders in this bill.

The Committee should approve the bill as drafted, and as unanimously passed by the House.

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