

Testimony in Support of SB 1575-A

Sent to the House Committee on Rules

Good morning, Chair Fahey, Vice Chair Kropf and Helfrich and members of the House Rules Committee. For the record, my name is Richard Roché representing Parametrix, a consulting company with 750 employee owners providing engineering, environmental, and survey services for public and private clients. We have office throughout the western United States, including 150 employee owners in our Portland, Bend, and Eugene offices. We have been in business in Oregon since 1989. I am writing today to strongly support Senate Bill 1575-A.

Important facts about SB 1575-A:

- This is a compromise bill. We've worked with construction contractors, local and state government, and numerous professional organizations to reach this compromise.
- This has been a 4-year negotiation process. The pandemic wasn't conducive to a quality discussion and last session it passed from Senate Judiciary on a 5-0 vote but died in Ways and Means in the rush to adjournment.
- The Senate added a sunset provision. While we think this is a very straightforward bill, opponents continue to suggest great misunderstanding and nefarious intentions. The sunset will ensure our goals and visions are met or the law will revert back.
- 20 states have adopted this bill in the past decade. Oregon should join them.
- 24-6 Senate floor vote was strong, bipartisan, with floor comments in support from both sides of the aisle. No Senators spoke in opposition.
- This isn't about shirking responsibility – it's about ensuring fairness, so everyone is paying their own way and adequately protected by their insurance.

Below is a specific example of how the current duty to defend language in many public contracts unfairly hurts firms:

Parametrix was hired by a government agency to review a developer's permit application to build a subdivision. The review did not include a design check of the engineer who did the work for the developer; and we were not the engineer of record for this project. The review was to merely make sure that the engineer used the proper standards when the design was done. A year later, an adjacent landowner of the subdivision, whose property was already classified as a wetland, sued the government agency claiming that their land was being flooded and that the agency was negligent in approving the developer's permit for the subdivision. The agency looked at our contract, seeing that it had duty to defend and indemnify language, then called us and demanded we defend them.

The agency never claimed that Parametrix did anything wrong; they said they did not care if we were negligent, defend means defend. We declined to defend the agency, and for more than a year we were involved with the claim. We estimated that it would have cost us \$400K to go to trial to prove we were not negligent, so we prudently mediated the claim and settled for \$40K and incurred \$100K legal costs.



This type of unfair language is in approximately 70 percent of our contracts with public agencies. Parametrix always attempts to remove the language from the contracts, but public agencies typically tell us to accept it, or someone else will. We have walked away from contracts because of the language. However, many SBE firms do not have the ability to decline work based on unfair contract terms.

We respectfully ask this committee to support SB 1575-A.

Thank you for your service and I'm happy to be a resource if you have additional questions.

Sincerely,

Parametrix

A handwritten signature in blue ink, appearing to read "Richard Roché".

Richard Roché, RG, LHG

Senior Vice President

