

Submitter: Jerry Linder  
On Behalf Of: Oregon ACWA  
Committee: House Committee On Rules  
Measure: SB1575

February 29,

2024

Chair Fahey

Vice-Chairs Helfrich, Kropf and Members of the Rules Committee

Subject: ACWA Comments on SB 1575 A

The Oregon Association of Clean Water Agencies (ACWA) appreciates the opportunity to provide comments in opposition to 1575 A. ACWA is a not-for-profit organization of Oregon's wastewater treatment and stormwater management utilities, along with associated professional consulting firms, which are dedicated to protecting and enhancing Oregon's water quality. Our members provide wastewater and stormwater services to over 2.5 million Oregonians, serving over 65% of Oregon's homes and businesses. As part of its mission to protect clean water, ACWA members routinely hire design professionals to assist on sometimes massive projects that include wastewater treatment plant upgrades and extensive conveyance lines for sewage and stormwater.

SB 1575 A, otherwise known as the Duty to Defend bill, would require ACWA's municipal members to defend design professionals even when the cause of the third party harm was the negligence of the architect or engineer. Many reasons for concern have been raised in the letter signed by multiple State and municipal entities dated February 20, 2024. ACWA has read those comments and strongly supports the concerns raised. The letter not only adds its voice to those concerns but elaborates on specific concerns of the wastewater treatment and stormwater management community.

Concerns regarding the cost of infrastructure are central to the issue of how Oregon can add to the stock of affordable housing. The Governor's priorities cannot be met unless the cost of infrastructure is controlled. ACWA has been supporting additional funding from the Legislature to cities, counties, and special districts to help defray the cost of wastewater and stormwater infrastructure. The Duty to Defend bill works at cross-purposes with these goals.

SB 1575 A would drive up the cost of not only wastewater and stormwater projects, but for all publicly built infrastructure. A Duty to Defend is not benign, but rather represents potential very large expenses for legal fees where the municipality had no

part in how the project was designed other than hiring the design professional based upon their expertise. The cost of determining design negligence rightly should fall on the design professional, not the ratepayer or taxpayer.

ACWA strongly encourages the Legislature to reject SB 1575 A.

Sincerely,

Jerry

Gerald P. Linder  
ACWA Executive Director