

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

February 5, 2024

Chair Prozanski, Vice Chair Thatcher and members of the Senate Committee on Judiciary. For the record, my name is Brandon Nevers representing Kittelson & Associates, Inc. We have been in business in Oregon since 1985 and employ over 400 Engineers, Planners, Technicians and Professional staff across the country, with over 100 in 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 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. This duty to defend clause is not fair, not equitable and is not inclusive.

As a large firm, Kittelson is certainly not immune to the potential for financial risk when having to accept a non-negotiable duty to defend contract provision, however, this requirement is especially damaging to emerging and small businesses that Oregon's affirmative action legislation strives to protect and whom Kittelson attempts to employ as subconsultants wherever possible. Such firms can be financially wiped out having to defend a single claim. The duty to defend requirement is a deterrent in both Kittelson's ability to attract emerging and small business and negotiate successful subagreements.

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.

Sincerely,
Kittelson & Associates, Inc.



Brandon Nevers, PE
President/CEO