



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

February 8, 2024

Good afternoon, Chair Prozanski, Vice Chair Thatcher, and members of the Senate Committee on Judiciary. For the record, my name is Korey Derrick representing DOWL, LLC. We have been in business in Oregon as DOWL since 2013 and formerly as OBEC since 1971 and employ 153 and perform work throughout all parts of the State. 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 project related claims 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 been extremely challenging with certain jurisdictions and public entities. Many will not accept any modifications to their contract language, forcing DOWL to forego proposing on design related projects. The Port of Portland is the most recent jurisdiction that we walked away from a RFP due to poor contract indemnity and duty-to-defend language. Clackamas, Lane, Jackson, Marion, Multnomah, and Washington Counties along with Oregon Department of Transportation are a few of the larger jurisdictions that have been unwilling to accept modifications related to duty-to defend language. We implore you to back this bill to help protect all engineering, architectural, and survey firms doing work in Oregon, small or large, so they can be backed by professional insurance instead of paying up front costs out of pocket. Ultimately, access to a design professional's insurance policy is more beneficial to public clients versus the design firm itself. This will also provide a better value to all Oregon citizens as more design firms would be willing to submit on public proposals to get the best design at the best price.

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.

DOWL

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