



February 29, 2024

Testimony to the House Committee on Rules in Support of SB1575-A

Good morning, Chair Fahey and the Members of the House Committee on Rules. My name is Matthew Banton, PLS, representing Povey & Associates Land Surveyors in Redmond, Oregon. We have been in business for 97 years, serving Central Oregon and the Pacific Northwest. We are a very small company, with 3 partners and 1 full time employee, providing Land Surveying and UAV Drone Mapping Services. Much of our business revolves around construction surveying and support, including government projects which contain “duty to defend” clauses within their contracts.

Being part of a small company has many great benefits, but it also leaves us highly vulnerable to unfair practices such as these harmful clauses. A single incident involving negligence of another company in which we could be held accountable without fault of our own can destroy a small business such as ours. With already tight budgets and demanding schedules on many government projects, the liability and risk for our small firm is already high, and it is further compounded by these clauses included in the contacts. Little room for error does not allow a company like ours to absorb large financial impacts. Only by implementing strict quality controls and extreme caution can we remain competitive under the pressures of these projects, which are more easily navigated by larger firms.

When liability is too high, insurance coverage is sometimes insufficient due to increased risk for small firms, and this adds even greater strain when faced with being forces to be accountable for the work of others. Accountability for our own work is expected and appropriate for any individual company, but this illogical practice of holding everyone liable for the work of others is irresponsible and I encourage you to put an end to it.

For small businesses with exceptional service and longevity to continue to compete in today’s economy, we must maintain a diversified job portfolio, including government contracts as well as private sector projects. “Duty to defend” places an unnecessary risk upon us and others by causing firms like ours to consider turning down projects to ensure that we can keep operating without potentially being unfairly punished for the shortcomings of another company. The result of being forced to protect ourselves in this way causes the narrowing of our scope of practice and makes us even more susceptible to market changes, also reducing our available contributions to the support of our families and the local economy.

Our firm respectfully asks this committee to support SB1575-A by voting YES to protect small businesses from these unfair contractual obligations and to keep accountability in perspective, leaving only those at fault to be liable for their own mistakes.

Thank you for your service and for helping to keep businesses like ours successful.

Povey & Associates Land Surveyors

Matthew Banton, PLS