

February 29, 2024

Representative Julie Fahey, Committee Chair
900 Court Street, NE, H-295
Salem, Oregon 97301
Submitted Electronically to <https://olis.oregonlegislature.gov>

**Testimony to House Committee on Rules
Support for Senate Bill 1575-A**

Dear Representative Fahey,

I am writing this letter to ask that you and your committee members support Senate Bill 1575-A. My name is Gerry Heslin and I represent Cornforth Consultants, Inc. We are a small business design firm engaged in geotechnical engineering and employ 28 people. We have been in business in Oregon for 40 years and need your support to remove Duty to Defend clauses in construction contracts.

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 contract clause negatively impacts many Oregon public construction projects including low-income public housing to help address Oregon's homelessness crisis and its associated infrastructure.

As a result of duty-to-defend contract clauses, our firm chooses not to pursue an average of 10 to 15 projects per year. Oftentimes our decision is based on sample contract language provided in Request for Proposal documents, but we often decline to sign a contract after we have won the work and attempted to negotiate contract language. Since duty-to-defend clauses are not covered by professional liability policies, our firm's choice is to risk the existence of the firm by signing the contract or to walk away from potential work.

We respectfully ask you to vote YES on SB 1575-A. 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 I appreciate the opportunity to provide this testimony.

Sincerely,

CORNFORTH CONSULTANTS, INC.



Gerry M. Heslin, P.E.
President