



February 29, 2024

Chairwoman Fahey  
House Committee on Rules  
900 Court Se. NE  
Salem, OR 97301

**RE: City of Eugene opposes SB 1575A-‘Duty to Defend’**

The City of Eugene opposes the public contracting provisions included in SB 1575A. As the record shows, a large coalition of public agencies across Oregon oppose this bill, including Lane County. The shared concern is that the bill provides preferential treatment for one sector and transfers the risk from design contractors onto the public agency, resulting in increased costs for public projects.

When public entities enter a contract to perform engineering or design services, they rely on the skills, expertise, and experience of the vendor to fulfill that contract. Under basic contract terms, project owners are not expected to provide supervision or day-to-day oversight of the project; that is the role of the contractor, and those overhead costs are built into the contract scope of work and pricing. To limit their litigation exposure under SB1575A, public entities would have no choice but to exercise daily oversight of the contractor’s work product and employees. This additional cost burden is unlikely to be deducted from contract amounts, thus building extra profit into the contract at taxpayer expense.

Additionally, it is unlikely that a third-party claim arising out of engineering or design work would be the fault of the project owner (e.g. City of Eugene), as we rely on the contractor’s skills and expertise to complete the project in a manner aligned with their industry’s standards. SB1575 reverses current contracting practice by making the party least likely to be at fault responsible for bearing defense costs for torts they had little (if any) ability to avoid.

Public entities are facing the same cost of insurance headwinds as any other economic sector in the state; if anything, our situation is worse because of our broad exposures and inability to increase budgetary resources to match inflation. Giving one special interest group a unique legal benefit at taxpayer expense is unfair. The City of Eugene urges you to vote NO on SB 1575A.

Sincerely,

*-submitted electronically-*

Ethan Nelson  
Intergovernmental Relations Manager