

## Testimony in Support of Oregon SB 1566

### Prevailing Wage Exemptions for Affordable Housing Projects

I am writing in strong support of Senate Bill 1566, which seeks to clarify and restore the intended affordable housing exemption from prevailing wage requirements. This legislation addresses a critical problem: Oregon Bureau of Labor and Industries (BOLI) interpretations that are inadvertently undermining our state's affordable housing goals and squandering limited public resources.

### The Double Negative: Fewer Units, Higher Costs

Oregon faces an acute housing crisis. We have invested over \$1 billion in affordable housing in the past decade—a historic commitment. Yet prevailing wage requirements add 10-20% to construction costs. This creates a devastating equation:

**Same public dollars + 20% higher costs = 10-20% fewer housing units**

This is not an abstract problem. Real projects serving real Oregonians have been delayed, reduced in scope, or canceled entirely due to BOLI determinations that nullify statutory exemptions intended by the Legislature.

### Documented Examples of BOLI Overreach

#### 1. Converting Existing Buildings Becomes Impossible

BOLI has ruled that the *previous use* of a building determines whether affordable housing projects qualify for exemption:

- **Copeland Commons (Astoria):** Converting a century-old hotel into 68 units of workforce housing was ruled subject to prevailing wage because it was previously a hotel, not an apartment building. This could add substantially to the \$15 million project cost.
- **Yaquina Hall (Salem):** A 1948 nurses' dormitory later converted to offices was denied exemption for conversion to 52 affordable apartments (18 for people with serious mental illness) because it was currently an office building.
- **Church Conversion (Salem):** Replacing a shuttered church with 18 affordable units was denied exemption because the project included "renovation of a church building, which is neither an apartment building or a single family home."

**The absurdity:** A building's past use—completely irrelevant to the housing being created—determines whether affordable housing can be built efficiently.

## **2. Community Services Trigger Full Project Costs**

BOLI has determined that including *any* commercial use—childcare centers, health clinics—in an affordable housing development triggers prevailing wage for the *entire project*:

- A project in Lincoln City that would have included childcare space was halted entirely because the childcare component would have required prevailing wage for all construction.
- This interpretation ignores the reality that affordable housing residents desperately need these supportive services on-site.

## **3. Adjacent Infrastructure Creates Unlimited Exposure**

BOLI ruled that installation of streets, sewers, and utilities *adjacent* to private affordable housing projects triggers prevailing wage for those private developments—even when the infrastructure and housing are separately funded. This determination has stalled a major Eugene riverfront development that would have created over 1,000 housing units.

## **4. Even Derelict Ships Are "Structures"**

BOLI's interpretive approach extends beyond housing. The agency recently determined that removing derelict vessels from Oregon waterways requires prevailing wage because boats constitute "structures"—despite vessels not being considered structures under state or federal maritime law. This ruling will deplete limited removal funds and leave hazardous wrecks in our waterways.

### **BOLI's Approach Contradicts Legislative Intent**

The Legislature created affordable housing exemptions for a reason: to maximize housing production with limited public dollars. Yet BOLI Commissioner Christina Stephenson has stated determinations are "not discretionary" while simultaneously interpreting statutory language in increasingly expansive ways that nullify these exemptions.

Notably, the Legislative Counsel Office issued an opinion stating that Commissioner Stephenson *does* have discretionary authority to consider alternative definitions that would allow more projects to qualify for exemptions.

### **SB 1566 Provides Necessary Clarity**

This bill does not eliminate prevailing wage—it clarifies existing exemptions:

- **Commercial uses:** Allows reasonable commercial space (childcare, health services) without jeopardizing entire projects

- **Previous use:** Makes clear that a building's prior use is irrelevant to affordable housing qualification
- **Height limits:** Increases exemption from 4 to 7 stories in certain counties to reflect modern housing needs
- **Infrastructure:** Clarifies that adjacent public infrastructure doesn't trigger requirements for separate private projects

### **The Stakes Are Too High**

Oregon's housing crisis demands efficiency. Every dollar wasted on unnecessary costs is a dollar not building housing. Every project delayed is more Oregonians without shelter. Every rule that makes conversion of existing buildings prohibitively expensive is a missed opportunity.

Governor Kotek has made housing production her top priority. Yet housing starts have declined for three consecutive years. BOLI's interpretation of prevailing wage laws is working directly against this goal.

### **Conclusion**

SB 1566 strikes the right balance. It respects the important goal of fair wages for construction workers while ensuring that affordable housing exemptions work as intended. It allows Oregon to build more housing, serve more vulnerable Oregonians, and use taxpayer dollars efficiently.

I urge your support for this critical legislation.

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**Respectfully submitted,**

**Philip E Higgins**