



February 21, 2023

Dear Madams and Sirs:

**Subject:** Testimony to the Senate Committee on Judiciary in Support of SB 848

For the record, my name is Jason R. Kelly of Tigard Oregon, and I am a technical leader and minority owner of DOWL LLC, a full-service Civil Engineering Design Firm. We have been in business in Oregon since 1966 and employ over 500 engineers, scientists, and surveyors. I am writing today to strongly support Senate Bill 848.

Oregon's engineers, land surveyors and scientists care deeply about our communities, which is why we invest in our local economy, creating jobs, design roads and bridges and utilities 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, land surveyors and scientists are being forced to shoulder all the legal liability and legal expense far beyond what they're able to get insured for, fewer projects are being designed and built in our communities. This includes low-income public housing to help address Oregon's homelessness crisis.

Our firm's experience with duty to defend has been one of frustration and unfairness as we have been forced to defend others in cases that have no merit to begin with or at the very least we have been found to have no culpability. Civil Engineering firms are constantly the target of spurious lawsuits because we are an easier target for civil action as opposed to public agencies or other private parties that may be without means or insurance.

We respectfully ask this committee to support SB 848. 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 am happy to be a resource if you have additional questions.

Sincerely,

Jason Kelly, PE  
Practice Area leader  
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