



DAVID EVANS  
AND ASSOCIATES INC.

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

February 23, 2023

Good afternoon Chair Prozanski, Vice Chair Thatcher and members of the Senate Committee on Judiciary. For the record, my name is Gavin Oien representing David Evans and Associates, Inc. We have been in business in Oregon since 1976 and employ over 300 employees. I am writing today to strongly support Senate Bill 848.

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 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.

So far, our firm has not been faced with a duty to defend case, but it seems like it will only be a matter of time before it happens. If or when it does come up, it could affect our ability to do business in Oregon. As a matter of fact, some of our smaller business partners have refused to do work with agencies that force the duty to defend clauses into their contracts. This makes it difficult for us to meet the diversity, equity and inclusion subcontracting goals for the state and other agencies.

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 we are happy to be a resource if you have additional questions.

Thank you.

Sincerely,  
Gavin J. Oien