

February 28, 2023

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

Chair Prozanski, Vice Chair Thatcher and members of the Senate Committee on Judiciary:

For the record, my name is Jason Tell and I am writing in support of Senate Bill 848. I represent Burgess & Niple, an engineering firm that was founded in 1912 and today employees over four hundred professionals. We recently signed a lease for a new downtown Portland office that we hope contributes to the revitalization of Portland's core and Oregon's economy. I serve on the Board of ACEC Oregon and am a past president.

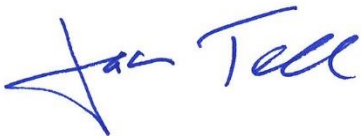
Our firm, and others like ours, are adding staff and opening new offices to provide consulting services to ODOT and other public agencies that have an influx of federal infrastructure dollars to spend. We are proud of our role in helping convert these dollars into infrastructure improvements that make our communities safer, provide multiple modes of transportation, reduce emissions, facilitate freight movement, and connect all corners of our state. In short, we work hard to improve the communities we live and work in.

Our industry welcomes competition and has consistently supported contracting laws that ensure a level playing field. We are concerned that over time, so-called "duty to defend" clauses have proliferated in our state. Contracts with this clause require us to pay legal costs for problems with construction projects before fault is determined. Asking design firms to pay first and then determine who is at fault later is flatly unfair. This explains why several states have already moved to ban this unfair contracting practice, and why I strongly urge you to do the same.

I urge the committee to support SB 848. Passing this bill would prevent unfair contract practices and ensure those responsible pay for legal expenses.

Thank you for considering my testimony.

Sincerely,



Jason Tell
Vice President