

*Company Letterhead*

TO: Senate Committee on Judiciary  
FROM: Heather Wilson, AIA Oregon EVP / CEO  
DATE: 2/20/23  
RE: Support for SN 848

My name is Heather Wilson, representing The American Institute of Architects, Oregon Chapter. We are a Chapter of 1700 members, part of a national organization of over 95,000. We have been in business in Oregon for nearly 100 years and represent hundreds of firm owners – your constituents - in the state. 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.

AIA Oregon’s experience with duty to defend has been that it creates a barrier to entry for small, women-owned and minority firms. The onerous potential cost of such up front liability makes it financially untenable for them to consider. As such, we feel this sets up a contradictory situation between municipalities and state entities with required minimums for MBWE involvement. How can these contracting minimums be met when firms are discouraged to participate vis-à-vis unfairly burdensome, uninsurable contract clauses?

We also believe there is a fundamental misunderstanding about the nature of large scale built environment projects that belies the concept of a “duty to defend”. Modern projects happen in a team; thus, asking one entity to take on all responsibility isn’t just unfair, it’s inaccurate.

We respectfully ask this committee to support SB 848. Passing this bill would eliminate antiquated 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 public service and we are happy to be a resource if you have additional questions.