



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 Scott Wallace representing Wallace Group, Inc., a 17-person geo-environmental engineering and construction service firm in Bend, Oregon. Our small business practice has been in Oregon since 1998 and we are proud to employ geotechnical engineers, geologists, environmental scientists, special inspectors, field technicians, and administrative support professionals. 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.

Our firm's experience with duty to defend has been that when clients, particularly in the public sector, are unwilling to negotiate duty to defend contract terms, we are simply eliminated from contract consideration. If we agree to sign-on with duty to defend terms, we do so with the understanding that we are uninsured and as such, risk the financial future of our firm in exchange for giving our employees rewarding, public sector projects to work on. Most often, the end result is our small business misses out on work that we are very qualified to perform because of onerous contract language.

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.

Sincerely,

R. Scott Wallace, R.G.
President/Principal Geologist
Wallace Group, Inc.
swallace@wallacegroup-inc.com