

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 Eric Webber representing Morrison-Maierle, Inc., a 350-person engineering firm that does business in the mountain west. We have been in business in Oregon since 202 and employ 13 individuals. 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 duty to defend clauses are used to shift responsibility from those that have the most control over and stand to benefit the most from projects to professional service providers. In many cases the procurement process for professional services prevents or discourages the ability to price this risk, thereby putting an undue and unfair burden on professional service firms.

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,



Eric Webber, P.E.

Bend Operations Manager

*We create solutions that build better communities*