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End Unfair Contracts Harming Minority Businesses by Passing Senate Bill 848

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Tina Adams

Tina Adams
Published: 27 February 2023

As a Hispanic woman who founded and owns a small engineering firm, I'm urging Oregon state lawmakers to pass [Senate Bill 848](#), which will protect businesses like mine from unfair contract practices.

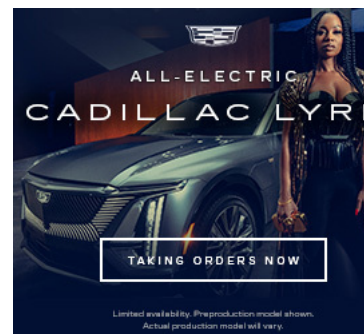
I am proud to say by most measures I would be considered a success story. As the first college graduate in my family, I have a career in engineering affording my children more stability and opportunities than I had growing up. With a lot of time and hard work, I am now an owner of an 11-person civil engineering firm that I started in 2012.

Sadly, Oregon's engineers, architects and land surveyors are being forced into unfair contracting practices called "duty to defend" clauses, which require us to pay the legal expenses for others involved in construction projects even before fault is



MLK BREAKFAST 2023

Photos from The Skanner Foundation's 3 Annual Martin Luther King, Jr. Breakfast.



afford to take on that kind of liability. As a small firm owner without the financial means to have a lawyer review every contract, I have had to become very educated over the last 10 years on the risks associated with the language embedded into the contracts I sign.

As I consider the benefits of growing my firm, I must weigh the various business variables including the hypocritical and patronizing duty to defend clause that could result in my personal financial ruin. Unfortunately, I've had to walk away from some projects as a result.

“ My company paying the legal fees to defend another party's actions over which we have absolutely no control is unfair.

And those costs should never be considered “part of doing business.” These costs are uninsurable and could easily exceed \$50,000. With that magnitude of out-of-pocket uninsurable costs, every time I sign a contract with this clause, I am essentially risking my business, the equity in my home and everything that I have been able to build.

I am beyond frustrated and dismayed by the state and local governments that require a 20% to 30% small business participation goal for public works projects but still allow their legal counsel and procurement officers to include this small business killer clause. This practice reeks of the right hand not knowing what the left hand of government is doing. The outcome communicates an insincerity of helping the actual small, women and minority owned businesses to be successful.

Allowing this practice to continue is not a good government policy and is unfair on many levels. Passing Senate Bill 848 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. We can, and should, be responsible for our own actions and liability.

If the duty to defend clause is allowed to remain in government contracts, Oregon's small businesses will be left behind.

On Wednesday, March 1, the Oregon Senate Judiciary Committee will consider Senate Bill 848. I hope the state legislature passes this bill because it will allow me and other minority women engineers to continue to grow our businesses and help our community thrive.

Read the full text of SB 848 [here](#).

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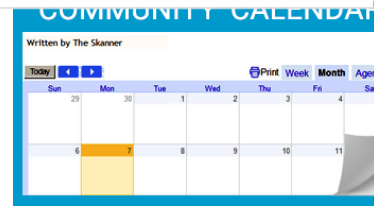
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