

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass the A-Engrossed Measure
Vote: 5 - 0 - 0
Yeas: Bonamici, Boquist, Dingfelder, Whitsett, Prozanski
Nays: 0
Exc.: 0
Prepared By: Anna Braun, Counsel
Meeting Dates: 2/18

WHAT THE MEASURE DOES: Preserves immunity protection for remainder of land even if a charge has been levied for use of part of the land. Requires notice upon fee of limited use of land and immunities available for remainder of land. Removes parking charges of \$15 per day or less from the definition of fee for purposes of immunity. Applies to causes of action after effective date. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Not to exceed fee applies to gardening and woodcutting
- Need for not to exceed fee for other recreational uses
- Concerns of counties

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Generally, property owners are immune from contract or tort liability for the use of their land for recreational purposes if they are allowing the public to use the land for free. ORS 105.682. Charging a fee for use removes that protection. A recent Oregon Supreme Court case, Bradley Coleman v. Oregon Parks and Recreational Department (2009) held the state lost immunity protection because the paying of a fee for camping removed the immunity protection for all other recreational use of the land and remanded the case to determine damages from a bicycle injury caused by a defective bridge.

HB 3673A continues the immunity protection if a land owner does not charge a fee. If a landowner charges a fee, immunity is lost unless notice is given of the limited uses of the land subjected to the fee and the immunities for the remainder of the land. In addition, landowners offering access for special uses of land, specifically, gardening, woodcutting are allowed to charge a fee not to exceed a certain amount and continue to preserve their immunity. However, if a landowner charges more than the prescribed fee, immunity is lost unless notice is given.