

**REVENUE:** No revenue impact

**FISCAL:** No fiscal impact

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**Action:** Do Pass with Amendments to the A-Engrossed Measure (Printed B-Engrossed)

**Vote:** 4 - 0 - 1

**Yeas:** Dingfelder, Kruse, Whitsett, Prozanski

**Nays:** 0

**Exc.:** Bonamici

**Prepared By:** Bill Taylor, Counsel

**Meeting Dates:** 5/18, 5/31

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**WHAT THE MEASURE DOES:** Provides that a person who is personally injured or whose property is damaged as a result of using a trail that is in a public easement or unimproved right of way and who is on foot, on a horse, on bicycle or on another non-motorized vehicle does not have a negligence claim against a city with a population 500,000 or more, the officers, employees or agents of the city or owners of land abutting the public easement or unimproved right of way. Exempts from liability a nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way. Allows a county or city to opt into the provisions of the bill. Does not grant immunity if the injuries were a result of gross negligence or from reckless, wanton or intentional misconduct, or for activity for which the person is strictly liable

**ISSUES DISCUSSED:**

- Access to private property
- Public enjoyment

**EFFECT OF COMMITTEE AMENDMENT:** Exempts from liability a nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in a city with a population of 500,000 or more. Allows a county or city to opt into the provisions of the bill. Does not grant immunity if the injuries were as a result of gross negligence or from reckless, wanton or intentional misconduct, or for activity for which the person is strictly liable

**BACKGROUND:** Oregon encourages private property owners to allow the public to access land for recreation, gardening, woodcutting and harvesting forest products by limiting landowner liability should a person engaging in such activities be injured, ORS 105.682. The Oregon courts have recognized the legislature's ability to strike a balance in order to encourage landowners to grant access to the public in return for limitations on the landowner's liability. See *Brewer v. The Department of Wildlife*, 167 Or App 13 (2000), finding ORS 105.682 constitutional. House Bill 2865-B is modeled on ORS 105.682.