

**B-Engrossed**  
**House Bill 2865**

Ordered by the Senate June 9  
Including House Amendments dated April 18 and Senate Amendments  
dated June 9

Sponsored by Representative GARRETT; Representative GREENLICK, Senator BURDICK (Pre-session filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Extends immunity to owner of land [or], city of population of 500,000 or more or city's officers, employees or agents, **or nonprofit corporation and its volunteers providing certain services in such city**, for personal injury or property damage resulting from specified uses of certain publicly accessible trails or structures. **Authorizes city with population under 500,000 or county to adopt ordinance or resolution that provides for such immunity. Limits grant of immunity.**

**A BILL FOR AN ACT**

1  
2 Relating to landowner liability for public use of land.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Structures" means improvements in a trail, including, but not limited to, stairs and**  
6 **bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmo-**  
7 **torized vehicle or conveyance.**

8 (b) **"Unimproved right of way" means a platted or dedicated public right of way over**  
9 **which a street, road or highway has not been constructed to the standards and specifications**  
10 **of the city with jurisdiction over the public right of way and for which the city has not ex-**  
11 **pressly accepted responsibility for maintenance.**

12 (2) **A personal injury or property damage resulting from use of a trail that is in a public**  
13 **easement or in an unimproved right of way, or from use of structures in the public easement**  
14 **or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmo-**  
15 **torized vehicle or conveyance does not give rise to a private claim or right of action based**  
16 **on negligence against:**

17 (a) **A city with a population of 500,000 or more;**

18 (b) **The officers, employees or agents of a city with a population of 500,000 or more to the**  
19 **extent the officers, employees or agents are entitled to defense and indemnification under**  
20 **ORS 30.285;**

21 (c) **The owner of land abutting the public easement, or unimproved right of way, in a city**  
22 **with a population of 500,000 or more; or**

23 (d) **A nonprofit corporation and its volunteers for the construction and maintenance of**  
24 **the trail or the structures in a public easement or unimproved right of way in a city with a**  
25 **population of 500,000 or more.**

26 (3) **Notwithstanding the limit in subsection (2) of this section to a city with a population**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 of 500,000 or more, by adoption of an ordinance or resolution, a city or county to which  
2 subsection (2) of this section does not apply may opt to limit liability in the manner estab-  
3 lished by subsection (2) of this section for:

4 (a) The city or county that opts in by ordinance or resolution;

5 (b) The officers, employees or agents of the city or county that opts in to the extent the  
6 officers, employees or agents are entitled to defense and indemnification under ORS 30.285;

7 (c) The owner of land abutting the public easement, or unimproved right of way, in the  
8 city or county that opts in by ordinance or resolution; and

9 (d) A nonprofit corporation and its volunteers for the construction and maintenance of  
10 the trail or the structures in a public easement or unimproved right of way in the city or  
11 county that opts in.

12 (4) The immunity granted by this section from a private claim or right of action based  
13 on negligence does not grant immunity from liability:

14 (a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a person that re-  
15 ceives compensation for providing assistance, services or advice in relation to conduct that  
16 leads to a personal injury or property damage.

17 (b) For personal injury or property damage resulting from gross negligence or from  
18 reckless, wanton or intentional misconduct.

19 (c) For an activity for which a person is strictly liable without regard to fault.

20 **SECTION 2.** Section 1 of this 2011 Act applies to use of an unimproved right of way, as  
21 defined in section 1 of this 2011 Act, or public easement on or after the effective date of this  
22 2011 Act.

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