

**PROPOSED AMENDMENTS TO
HOUSE BILL 4048**

1 On page 1 of the printed bill, line 2, delete “and 656.018”.

2 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

3 **“SECTION 1.** ORS 30.265 is amended to read:

4 “30.265. (1) Subject to the limitations of ORS 30.260 to 30.300, every public
5 body is subject to civil action for its torts and those of its officers, employees
6 and agents acting within the scope of their employment or duties, whether
7 arising out of a governmental or proprietary function or while operating a
8 motor vehicle in a ridesharing arrangement authorized under ORS 276.598.

9 “(2) The sole cause of action for a tort committed by officers, employees
10 or agents of a public body acting within the scope of their employment or
11 duties and eligible for representation and indemnification under ORS 30.285
12 or 30.287 is an action under ORS 30.260 to 30.300. The remedy provided by
13 ORS 30.260 to 30.300 is exclusive of any other action against any such officer,
14 employee or agent of a public body whose act or omission within the scope
15 of the officer’s, employee’s or agent’s employment or duties gives rise to the
16 action. No other form of civil action is permitted.

17 “(3) If an action under ORS 30.260 to 30.300 alleges damages in an amount
18 equal to or less than the damages allowed under ORS 30.271, 30.272 or 30.273,
19 the sole cause of action for a tort committed by officers, employees or agents
20 of a public body acting within the scope of their employment or duties and
21 eligible for representation and indemnification under ORS 30.285 or 30.287
22 is an action against the public body. If an action is filed against an officer,

1 employee or agent of a public body, and the plaintiff alleges damages in an
2 amount equal to or less than the damages allowed under ORS 30.271, 30.272
3 or 30.273, the court upon motion shall substitute the public body as the de-
4 fendant. Substitution of the public body as the defendant does not exempt the
5 public body from making any report required under ORS 742.400.

6 “(4) If an action under ORS 30.260 to 30.300 alleges damages in an amount
7 greater than the damages allowed under ORS 30.271, 30.272 or 30.273, the
8 action may be brought and maintained against an officer, employee or agent
9 of a public body, whether or not the public body is also named as a defend-
10 ant. An action brought under this subsection is subject to the limitations on
11 damages imposed under ORS 30.271, 30.272 or 30.273, and the total combined
12 amount recovered in the action may not exceed those limitations for a single
13 accident or occurrence without regard to the number or types of defendants
14 named in the action.

15 “(5) Every public body is immune from liability for any claim for injury
16 to or death of any person or injury to property resulting from an act or
17 omission of an officer, employee or agent of a public body when such officer,
18 employee or agent is immune from liability.

19 “(6) Every public body and its officers, employees and agents acting
20 within the scope of their employment or duties, or while operating a motor
21 vehicle in a ridesharing arrangement authorized under ORS 276.598, are im-
22 mune from liability for:

23 “(a) Any claim for injury to or death of any person covered by any
24 workers’ compensation law.

25 “(b) Any claim in connection with the assessment and collection of taxes.

26 “(c) Any claim based upon the performance of or the failure to exercise
27 or perform a discretionary function or duty, whether or not the discretion
28 is abused.

29 “(d) Any claim that is limited or barred by the provisions of any other
30 statute, including but not limited to any statute of ultimate repose.

1 “(e) Any claim arising out of riot, civil commotion or mob action or out
2 of any act or omission in connection with the prevention of any of the
3 foregoing.

4 “(f) Any claim arising out of an act done or omitted under apparent au-
5 thority of a law, resolution, rule or regulation that is unconstitutional, in-
6 valid or inapplicable except to the extent that they would have been liable
7 had the law, resolution, rule or regulation been constitutional, valid and
8 applicable, unless such act was done or omitted in bad faith or with malice.

9 “(7) This section applies to any action of any officer, employee or agent
10 of the state relating to a nuclear incident, whether or not the officer, em-
11 ployee or agent is acting within the scope of employment, and provided the
12 nuclear incident is covered by an insurance or indemnity agreement under
13 42 U.S.C. 2210.

14 “(8)(a) **Subsection (6)(a) of this section does not apply to a claim for**
15 **wrongful death if:**

16 “(A) **The death occurred in the course and scope of the decedent’s**
17 **employment;**

18 “(B) **The death occurred as a result of the conduct of another per-**
19 **son that could be charged as a crime; and**

20 “(C) **The decedent was not employed by a public body at the time**
21 **of death.**

22 “(b) Subsection (6)(c) of this section does not apply to any discretionary
23 act that is found to be the cause or partial cause of a nuclear incident cov-
24 ered by an insurance or indemnity agreement under the provisions of 42
25 U.S.C. 2210, including but not limited to road design and route selection.

26 “**SECTION 2. (1) The amendments to ORS 30.265 by section 1 of this**
27 **2014 Act apply only to claims arising on or after May 1, 2012.**

28 “(2) **If the amendments to ORS 30.265 by section 1 of this 2014 Act**
29 **operate to revive a claim that was barred under ORS 30.265 (6)(a) im-**
30 **mediately before the effective date of this 2014 Act, the person assert-**

1 **ing the claim must give notice of the claim as provided in ORS 30.275**
2 **within one year after the effective date of this 2014 Act.**

3 **“SECTION 3. This 2014 Act being necessary for the immediate**
4 **preservation of the public peace, health and safety, an emergency is**
5 **declared to exist, and this 2014 Act takes effect on its passage.”.**

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