

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: HB 2644
CARRIER: Sen. Prozanski

Fiscal: Fiscal impact issued
Revenue: No Revenue Impact

Action Date: 05/26/15

Action: Do Pass.

Meeting Dates: 05/26

Vote:

Yeas: 4 - Burdick, Gelser, Kruse, Prozanski

Exc: 1 - Thatcher

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Allows claim against state for wrongful death when death occurred within course and scope of decedent's employment, person responsible for death is convicted of murder or found guilty except for insanity, and decedent was not employed by public body at time of death. Applies only to claims based on crimes committed on or after May 1, 2012. Repeals ability to bring claim on January 2, 2017. Requires revived claim be brought within one year of effective date. Declares emergency; effective on passage.

ISSUES DISCUSSED:

- Specifics of wrongful death case in Columbia County
- Prior legislation on issue
- Limited reach of measure
- Fiscal impact of prior legislation

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

ORS 30.260 to 30.300 is the Oregon Tort Claims Act (OTCA). It sets forth the circumstances in which a person may sue the state or local government for damages caused by the negligence of the government entity's employee. It is the exclusive avenue for actions against officers, agents, or employees of a public body.

The OTCA gives immunity to public bodies when the claim for injury or death of any person is covered by the person's workers' compensation insurance. The immunity in the OTCA applies regardless of whether the harm was caused through negligence of a government entity. For example, if a person employed by a private business is killed or injured through the negligence of a government employee, the only action the injured or killed person has is recovery against their own employers' workers' compensation carrier. Under the workers' compensation statutes, ORS 656.018, an employer is not subject to civil liability for injuries or diseases arising out of employees' work; in return, workers must only show that they were injured in relation to their job in order to collect from workers' compensation insurance.

House Bill 2644 allows claims for wrongful death against the state in a narrow set of circumstances. The claim is only allowable against the state and not for claims against local public bodies. The death must have occurred in the scope and course of the person's employment, it must have occurred as a result of the conduct of another person who is subsequently convicted of murder or found guilty except for insanity of murder, and the person was not employed by a public body at the time of death. The measure would only apply to claims based on crimes committed on or after May 1, 2012 and is repealed on January 2, 2017. If the measure revives a claim, the claimant must begin the action within one year of the effective date.