



May 9, 2017

House Committee on Judiciary

**RE: SB 327 A – Recreational Immunity**

Chair Barker and Members of the House Committee on Judiciary:

Thank you for your continued service to the State of Oregon and your leadership in the state Legislature. On behalf of the Lane County entities listed below, we ask that you support SB 327, restoring Oregon's recreational immunity provisions.

The Oregon Public Use of Lands Act passed in 1995 with a goal of encouraging *public and private* owners of land to make their land available to the public for recreational purposes. It was understood that landowners, *both public and private*, who made their land available without charge for recreational use by the public were not liable if a person was injured while using the land for recreational purposes.

The Act increased the availability of land for free recreation by limiting liability to cities, counties, parks, schools and a wide range of private owners, including farmers and timber companies that allow hunters, anglers, hikers, mountain bikers and other members of the public to use or traverse their lands at no charge.

However, a recent Oregon Supreme Court decision narrowed the immunity guaranteed in the Act, which could result in a severe reduction of land available to Oregonians for their recreational use and enjoyment.

In *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature passed the Public Lands Act, it intended only to immunize the actual landowner, and never intended recreational immunity to protect employees or agents acting on behalf of the landowners. However, if you ask those involved in the Act's passage and if you listen to legislative intent, this is not what was meant.

If this ruling is allowed to stand, it will undermine a landowner's recreational immunity from tort liability under the Act. Because public employers are statutorily required to indemnify

their employees, those landowners will in fact be responsible for the actions of their employees that result in injury.

Landowners must now weigh whether allowing the public to recreate on their land and in their facilities is worth the increased risk of liability.

In light of the decision in *Johnson*, we merely seek to amend ORS 105.672 to restore recreational immunity as the Legislature originally intended. Language will simply confirm that a landowner's officers, employees, agents or volunteers who are acting within the scope of their employment or duties are also covered.

Thank you for your consideration. We greatly appreciate your tireless support and your commitment to Oregon.

Sincerely,



Brenda Wilson

Executive Director of the Lane Council of Governments (LCOG) on behalf of the following LCOG members:

City of Coburg  
City of Cottage Grove  
City of Creswell  
City of Dunes City  
City of Eugene  
City of Florence  
City of Lowell  
City of Springfield  
City of Veneta  
Lane County