

House Bill 3021

Sponsored by Representative FAHEY

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 **as introduced**.

Provides that public body and its officers, employees and agents are immune from liability for claims arising out of real-time data related to traffic made available by public body.

A BILL FOR AN ACT

1
2 Relating to tort claims against public bodies; amending ORS 30.265.

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

4 **SECTION 1.** ORS 30.265 is amended to read:

5 30.265. (1) Subject to the limitations of ORS 30.260 to 30.300, every public body is subject to civil
6 action for its torts and those of its officers, employees and agents acting within the scope of their
7 employment or duties, whether arising out of a governmental or proprietary function or while op-
8 erating a 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 or agents of a public
10 body acting within the scope of their employment or duties and eligible for representation and
11 indemnification under ORS 30.285 or 30.287 is an action under ORS 30.260 to 30.300. The remedy
12 provided by ORS 30.260 to 30.300 is exclusive of any other action against any such officer, employee
13 or agent of a public body whose act or omission within the scope of the officer's, employee's or
14 agent's employment or duties gives rise to the action. No other form of civil action is permitted.

15 (3) If an action under ORS 30.260 to 30.300 alleges damages in an amount equal to or less than
16 the damages allowed under ORS 30.271, 30.272 or 30.273, the sole cause of action for a tort com-
17 mitted by officers, employees or agents of a public body acting within the scope of their employment
18 or duties and eligible for representation and indemnification under ORS 30.285 or 30.287 is an action
19 against the public body. If an action is filed against an officer, employee or agent of a public body,
20 and the plaintiff alleges damages in an amount equal to or less than the damages allowed under ORS
21 30.271, 30.272 or 30.273, the court upon motion shall substitute the public body as the defendant.
22 Substitution of the public body as the defendant does not exempt the public body from making any
23 report required under ORS 742.400.

24 (4) If an action under ORS 30.260 to 30.300 alleges damages in an amount greater than the
25 damages allowed under ORS 30.271, 30.272 or 30.273, the action may be brought and maintained
26 against an officer, employee or agent of a public body, whether or not the public body is also named
27 as a defendant. An action brought under this subsection is subject to the limitations on damages
28 imposed under ORS 30.271, 30.272 or 30.273, and the total combined amount recovered in the action
29 may not exceed those limitations for a single accident or occurrence without regard to the number
30 or types of defendants named in the action.

31 (5) Every public body is immune from liability for any claim for injury to or death of any person

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 or injury to property resulting from an act or omission of an officer, employee or agent of a public
2 body when such officer, employee or agent is immune from liability.

3 (6) Every public body and its officers, employees and agents acting within the scope of their
4 employment or duties, or while operating a motor vehicle in a ridesharing arrangement authorized
5 under ORS 276.598, are immune from liability for:

6 (a) Any claim for injury to or death of any person covered by any workers' compensation law.

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

8 (c) Any claim based upon the performance of or the failure to exercise or perform a discretion-
9 ary function or duty, whether or not the discretion is abused.

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

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

14 (f) Any claim arising out of an act done or omitted under apparent authority of a law, resolution,
15 rule or regulation that is unconstitutional, invalid or inapplicable except to the extent that they
16 would have been liable had the law, resolution, rule or regulation been constitutional, valid and
17 applicable, unless such act was done or omitted in bad faith or with malice.

18 **(g) Any claim arising out of real-time data related to traffic made available by a public**
19 **body.**

20 (7) This section applies to any action of any officer, employee or agent of the state relating to
21 a nuclear incident, whether or not the officer, employee or agent is acting within the scope of em-
22 ployment, and provided the nuclear incident is covered by an insurance or indemnity agreement
23 under 42 U.S.C. 2210.

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

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