

Members of the Joint Committee:

I oppose LC21. As our school boards and district administrations continue to receive considerable community pressure to reopen to in-person instruction despite my county's (Benton) and neighboring counties' continuing inability to meet the ODE reopening metrics, LC 21 sends the wrong message. Let's be clear - this is not about protecting students or frontline staff. It's about insulating districts from liability in order to smooth the path for the Executive Branch to move the goalposts yet again and force a premature reopening in an extremely risky, tenuous public health environment for which school districts are simply not prepared.

And, from a legal standpoint, LC 21 is unnecessary. It's black letter law that compliance with a regulation or statute is presumed to meet the duty of care in a negligence action. If school districts and their personnel are doing their jobs properly and complying with OHA, OSHA, and other regulations and guidelines for preventing the spread of COVID-19, there is no need for statutory immunity - the school district has met its duty of care and has a defense to liability. School districts already are afforded all the protections, damages caps, and immunities Oregon law extends to public bodies, and I see no reason why the legislature needs to craft yet another liability shield for public bodies.

Finally, there is a fairness argument. I cannot understate how seriously private employers take this public health threat and the intense effort large employers like my own have invested and will continue to invest in keeping our workforce safe. Would that private sector employers be granted the same liability protections as the school districts seek here with LC 21. But that proposition, of course, is a non-starter in this legislature, given its partisan composition.

In closing, if a school district's actions in response to COVID-19 render a school employee's spouse a widower or a child an orphan due to this virus's unpredictable behavior, I want that family to have all the legal redress to which they are entitled under Oregon law, including full accountability of school districts within the parameters of existing Oregon law.

Thank you for considering my comments and for all you do in service of Oregonians.

Ethan Hasenstein  
Corvallis