

HB 2204 -1, -2, -3, -4 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 3/15, 3/24, 4/5, 4/13

WHAT THE MEASURE DOES:

Specifies that a public safety officer who represents that person is acting as an employee of public body is acting within the scope of employment for purposes of Oregon Tort Claims Act. Increases limit of liability to state and local governments for acts or omissions of public safety officers to \$5 million for single claimants with year adjustment after July 1, 2022. Removes aggregate liability limitation for state and local governments for acts or omissions of public safety officers. Allows action for person injured as a result of police officer failure to intervene or report misconduct. Requires award of attorney fees for prevailing plaintiff. Allows award of attorney fees to prevailing defendant if court determines plaintiff's claim was frivolous, unreasonable, or without foundation. Requires report of misconduct to be in writing. Requires Department of Public Safety Standards and Training to include settlements of civil claims involving police misconduct within statewide online database of suspensions and revocations of certifications. Requires Department of Public Safety Standards and Training to investigate report of settlement to determine whether discipline against officer who was the subject of the settlement is warranted.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

- 1 Removes increase in limits of liability against state entities. Sets limit of liability of local public body and officers and reserve officers acting within the scope of their duties to current level of state entities.
- 2 Specifies that a public safety officer is acting within scope of employment when officer represents they are public safety officer and either the tort occurred when the officer was off duty but under employer policy to acts as if officer was on duty at all times or equipment used in the commission of the tort was lawfully issued to the officer by the employer.
- 3 Combines -1 and -2 amendments.
- 4 Makes award of attorney fees permissive rather than mandatory.

BACKGROUND:

The Oregon Tort Claims Act makes public bodies liable for the torts of its officers, agents, and employees acting within the scope of their duties but limits the amount of damages that can be awarded against the public body. Claims against a state body for claims arising between July 1, 2020 and July 1, 2021 are currently capped at \$2.3 million for single claimants and \$4.6 million for all claims arising out of an occurrence. Claims against a local governments are capped at approximately \$770,000 for single claimants and \$1.5 million for all claims arising out of an occurrence. The caps increase each year based on changes to the Consumer Price Index.

House Bill 2204 increases the cap for damages against state and local government for claims against public safety officers to \$5 million for single occurrences and unlimited for all claims arising out of an occurrence and allows an award of attorney fees to prevailing plaintiffs. Additionally, the measure allows a cause of action to be brought for persons injured by an officer's failure to report misconduct or failure to intervene in misconduct by another officer. HB 2204 requires DPSST to include settlements of civil claims involving police officers within its database of suspensions or revocations of certifications and requires DPSST to investigate reported settlements to

determine whether discipline against the officer who was the subject of the settlement is warranted.

PRELIMINARY