



Home of the Tualatin River National Wildlife Refuge

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March 16, 2021

House Subcommittee On Civil Law  
Oregon State Capitol  
900 Court St NE  
Salem, OR, 97301

Chair Power, Vice-Chair Wallan and Members of the Committee:

The City of Sherwood supports the Legislature's ongoing efforts to improve accountability for law enforcement officers and agencies in Oregon, and therefore supports the overall goals of HB 2204. The purpose of this letter is to draw attention to a few specific aspects of HB 2204 as it is currently written which the City believes may have unintended consequences or which otherwise warrant further consideration.

The Oregon Tort Claims Act, which HB 2204 would amend, attempts to strike a difficult balance between, on the one hand, allowing injured parties to be appropriately compensated for injuries caused by public bodies and employees, and on the other hand, a recognition of the fact that the funds that must be used to pay these damages are taxpayer dollars—which necessarily means that any amounts paid in damages are not available to be used for critical public services. The Tort Claims Act accomplishes this goal by setting reasonable limits on the amounts of damages that can be recovered in lawsuits against public bodies.

The Tort Claims Act also recognizes differences between the financial resources of local governments and the state by setting different limits for these two categories of public bodies. In other words, the Legislature has understood that a \$500,000 award against a small city has a significantly different impact on services than a \$500,000 award against the State. To that end, the limits for local governments are set at approximately one-third of the limits for the State.

As currently written, HB 2204 does not carry forward either of these important aspects of the Tort Claims Act in cases involving public safety officer misconduct. It dramatically raises the liability caps for a single claimant in these cases from \$769,200 (for local governments) to \$5 million and removes the distinction between state and local governments for these caps (the State cap is also proposed to be \$5

million). And it eliminates the caps entirely for multiple claimants, which means the amount of damages a local government could be required to pay is truly limitless.

It is also important for the Legislature to understand that most local governments manage their liability risk through an insurance policy. Such a substantial increase in liability caps (not to mention eliminating them entirely, in some cases) will mean a significant increase in insurance premiums, and those premiums will need to be paid by *all* local governments who utilize liability insurance, even those that have taken or would like to take proactive measures to prevent the type of law enforcement misconduct this bill is intended to address. That means these local governments will have fewer resources available for government services in general, including the training, supervision, and other measures that most effectively prevent misconduct from occurring in the first place. In this way, HB 2204 may unintentionally undermine its own goals.

The City of Sherwood therefore encourages the Legislature to amend HB 2204 to include a reasonable cap on damages for claims involving multiple claimants, to reconsider the reasonableness of the cap on damages for claims involving a single claimant, and to maintain the existing three-to-one ratio for the state caps vs local government caps.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Gall".

Joseph Gall, ICMA-CM  
City Manager