

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1576**

1 In line 2 of the printed bill, after “matters” insert “; creating new pro-
2 visions; amending ORS 105.668 and 105.688; and declaring an emergency”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 105.668 is amended to read:

5 “105.668. (1) As used in this section:

6 **“(a) ‘Local government’ has the meaning given that term in ORS**
7 **174.116.**

8 “[*a*] (b) ‘Structures’ means improvements in a trail, including, but not
9 limited to, stairs and bridges, that are accessible by a user on foot, on a
10 horse or on a bicycle or other nonmotorized vehicle or conveyance.

11 “[*b*] (c) ‘Unimproved right of way’ means a platted or dedicated public
12 right of way over which a street, road or highway has not been constructed
13 to the standards and specifications of the [*city*] **local government** with ju-
14 risdiction over the public right of way and for which the [*city*] **local gov-**
15 **ernment** has not expressly accepted responsibility for maintenance.

16 **“(2) In a city with a population of 500,000 or greater,** a personal injury
17 or property damage resulting from use of a trail that is in a public easement
18 or in an unimproved right of way, or from use of structures in the public
19 easement or unimproved right of way, by a user on foot, on a horse or on a
20 bicycle or other nonmotorized vehicle or conveyance does not give rise to a
21 private claim or right of action based on negligence against:

1 “(a) *A city with a population of 500,000 or more;*]

2 “(a) **The city;**

3 “(b) The officers, employees or agents of [*a city with a population of*
4 *500,000 or more*] **the city** to the extent the officers, employees or agents are
5 entitled to defense and indemnification under ORS 30.285;

6 “(c) The owner of land abutting the public easement[,] or unimproved
7 right of way[, *in a city with a population of 500,000 or more*] **in the city;** or

8 “(d) A nonprofit corporation and its volunteers for the construction and
9 maintenance of the trail or the structures in a public easement or unim-
10 proved right of way in [*a city with a population of 500,000 or more*] **the**
11 **city.**

12 “(3) [*Notwithstanding the limit in subsection (2) of this section to a city*
13 *with a population of 500,000 or more, by adoption of an ordinance or resol-*
14 *ution, a city or county*] **A local government** to which subsection (2) of this
15 section does not apply may opt to limit liability in the manner established
16 by subsection (2) of this section **by ordinance, resolution, rule, order or**
17 **other regulation** for:

18 “(a) *The city or county that opts in by ordinance or resolution;*]

19 “(a) **The local government;**

20 “(b) The officers, employees or agents of the [*city or county that opts in*]
21 **local government** to the extent the officers, employees or agents are enti-
22 tled to defense and indemnification under ORS 30.285;

23 “(c) The owner of land abutting the public easement[,] or unimproved
24 right of way[, *in the city or county that opts in by ordinance or resolution;*
25 *and*] **in the local government; or**

26 “(d) A nonprofit corporation and its volunteers for the construction and
27 maintenance of the trail or the structures in a public easement or unim-
28 proved right of way in the [*city or county that opts in*] **local government.**

29 “(4) [*The immunity granted by this section from a private claim or right*
30 *of action based on negligence*] **This section** does not grant immunity from

1 liability:

2 “(a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a
3 person that receives compensation for providing assistance, services or ad-
4 vice in relation to conduct that leads to a personal injury or property dam-
5 age.

6 “(b) For [*personal injury or property damage resulting from*] gross
7 negligence or [*from*] reckless, wanton or intentional misconduct.

8 “(c) For an activity for which [*a person*] **the actor** is strictly liable
9 without regard to fault.

10 **“SECTION 2.** ORS 105.688 is amended to read:

11 “105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the
12 immunities provided by ORS 105.682 apply to:

13 “(a) All land, including but not limited to land adjacent or contiguous to
14 any bodies of water, watercourses or the ocean shore as defined by ORS
15 390.605;

16 “(b) All roads, bodies of water, watercourses, rights of way, buildings,
17 fixtures and structures on the land described in paragraph (a) of this sub-
18 section;

19 “(c) All paths, trails, roads, watercourses and other rights of way, while
20 being used by a person to reach land for recreational purposes, gardening,
21 woodcutting or the harvest of special forest products, that are on land ad-
22 jacent to the land that the person intends to use for recreational purposes,
23 gardening, woodcutting or the harvest of special forest products, [*and that*
24 *have*] **provided that:**

25 **“(A) The right of way has** not been improved, designed or maintained
26 for the specific purpose of providing access for recreational purposes, gar-
27 dening, woodcutting or the harvest of special forest products; [*and*] **or**

28 **“(B)(i) The right of way has been improved, designed or maintained**
29 **to provide access for recreational purposes, gardening, woodcutting**
30 **or the harvest of special forest products;**

1 “(ii) **The right of way is not a highway maintained under ORS**
2 **810.010; and**

3 “(iii) **The improvement, design or maintenance was completed in a**
4 **manner that does not constitute:**

5 “(I) **Gross negligence or reckless, wanton or intentional miscon-**
6 **duct; or**

7 “(II) **An activity for which the actor is strictly liable without regard**
8 **to fault; and**

9 “(d) All machinery or equipment on the land described in paragraph (a)
10 of this subsection.

11 “(2) The immunities provided by ORS 105.682 apply to land if the owner
12 transfers an easement to a public body to use the land.

13 “(3) Except as provided in subsections (4) to (7) of this section, the im-
14 munities provided by ORS 105.682 do not apply if the owner makes any
15 charge for permission to use the land for recreational purposes, gardening,
16 woodcutting or the harvest of special forest products.

17 “(4) If the owner charges for permission to use the owner’s land for one
18 or more specific recreational purposes and the owner provides notice in the
19 manner provided by subsection (8) of this section, the immunities provided
20 by ORS 105.682 apply to any use of the land other than the activities for
21 which the charge is imposed. If the owner charges for permission to use a
22 specified part of the owner’s land for recreational purposes and the owner
23 provides notice in the manner provided by subsection (8) of this section, the
24 immunities provided by ORS 105.682 apply to the remainder of the owner’s
25 land.

26 “(5) The immunities provided by ORS 105.682 for gardening do not apply
27 if the owner charges more than \$25 per year for the use of the land for
28 gardening. If the owner charges more than \$25 per year for the use of the
29 land for gardening, the immunities provided by ORS 105.682 apply to any use
30 of the land other than gardening. If the owner charges more than \$25 per

1 year for permission to use a specific part of the owner’s land for gardening
2 and the owner provides notice in the manner provided by subsection (8) of
3 this section, the immunities provided by ORS 105.682 apply to the remainder
4 of the owner’s land.

5 “(6) The immunities provided by ORS 105.682 for woodcutting do not apply
6 if the owner charges more than \$75 per cord for permission to use the land
7 for woodcutting. If the owner charges more than \$75 per cord for the use of
8 the land for woodcutting, the immunities provided by ORS 105.682 apply to
9 any use of the land other than woodcutting. If the owner charges more than
10 \$75 per cord for permission to use a specific part of the owner’s land for
11 woodcutting and the owner provides notice in the manner provided by sub-
12 section (8) of this section, the immunities provided by ORS 105.682 apply to
13 the remainder of the owner’s land.

14 “(7) The immunities provided by ORS 105.682 for the harvest of special
15 forest products do not apply if the owner makes any charge for permission
16 to use the land for the harvest of special forest products. If the owner
17 charges for permission to use the owner’s land for the harvest of special
18 forest products, the immunities provided by ORS 105.682 apply to any use of
19 the land other than the harvest of special forest products. If the owner
20 charges for permission to use a specific part of the owner’s land for har-
21 vesting special forest products and the owner provides notice in the manner
22 provided by subsection (8) of this section, the immunities provided by ORS
23 105.682 apply to the remainder of the owner’s land.

24 “(8) Notices under subsections (4) to (7) of this section may be given by
25 posting, as part of a receipt, or by such other means as may be reasonably
26 calculated to apprise a person of:

27 “(a) The limited uses of the land for which the charge is made, and the
28 immunities provided under ORS 105.682 for other uses of the land; or

29 “(b) The portion of the land the use of which is subject to the charge, and
30 the immunities provided under ORS 105.682 for the remainder of the land.

1 **“SECTION 3.** ORS 105.668, as amended by section 1 of this 2024 Act, is
2 amended to read:

3 “105.668. (1) As used in this section:

4 “(a) ‘Local government’ [*has the meaning given that term in ORS*
5 *174.116*] **means a city or county.**

6 “(b) ‘Structures’ means improvements in a trail, including, but not limited
7 to, stairs and bridges, that are accessible by a user on foot, on a horse or
8 on a bicycle or other nonmotorized vehicle or conveyance.

9 “(c) ‘Unimproved right of way’ means a platted or dedicated public right
10 of way over which a street, road or highway has not been constructed to the
11 standards and specifications of the local government with jurisdiction over
12 the public right of way and for which the local government has not expressly
13 accepted responsibility for maintenance.

14 “(2) In a city with a population of 500,000 or greater, a personal injury
15 or property damage resulting from use of a trail that is in a public easement
16 or in an unimproved right of way, or from use of structures in the public
17 easement or unimproved right of way, by a user on foot, on a horse or on a
18 bicycle or other nonmotorized vehicle or conveyance does not give rise to a
19 private claim or right of action based on negligence against:

20 “(a) The city;

21 “(b) The officers, employees or agents of the city to the extent the offi-
22 cers, employees or agents are entitled to defense and indemnification under
23 ORS 30.285;

24 “(c) The owner of land abutting the public easement or unimproved right
25 of way in the city; or

26 “(d) A nonprofit corporation and its volunteers for the construction and
27 maintenance of the trail or the structures in a public easement or unim-
28 proved right of way in the city.

29 “(3) A local government to which subsection (2) of this section does not
30 apply may opt to limit liability in the manner established by subsection (2)

1 of this section by ordinance, resolution, rule, order or other regulation for:

2 “(a) The local government;

3 “(b) The officers, employees or agents of the local government to the ex-
4 tent the officers, employees or agents are entitled to defense and
5 indemnification under ORS 30.285;

6 “(c) The owner of land abutting the public easement or unimproved right
7 of way in the local government; or

8 “(d) A nonprofit corporation and its volunteers for the construction and
9 maintenance of the trail or the structures in a public easement or unim-
10 proved right of way in the local government.

11 “(4) This section does not grant immunity from liability:

12 “(a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a
13 person that receives compensation for providing assistance, services or ad-
14 vice in relation to conduct that leads to a personal injury or property dam-
15 age.

16 “(b) For gross negligence or reckless, wanton or intentional misconduct.

17 “(c) For an activity for which a person is strictly liable without regard
18 to fault.

19 **“SECTION 4.** ORS 105.688, as amended by section 2 of this 2024 Act, is
20 amended to read:

21 “105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the
22 immunities provided by ORS 105.682 apply to:

23 “(a) All land, including but not limited to land adjacent or contiguous to
24 any bodies of water, watercourses or the ocean shore as defined by ORS
25 390.605;

26 “(b) All roads, bodies of water, watercourses, rights of way, buildings,
27 fixtures and structures on the land described in paragraph (a) of this sub-
28 section;

29 “(c) All paths, trails, roads, watercourses and other rights of way, while
30 being used by a person to reach land for recreational purposes, gardening,

1 woodcutting or the harvest of special forest products, that are on land ad-
2 jacent to the land that the person intends to use for recreational purposes,
3 gardening, woodcutting or the harvest of special forest products, provided
4 that[:]

5 “[A] the right of way has not been improved, designed or maintained for
6 the specific purpose of providing access for recreational purposes, gardening,
7 woodcutting or the harvest of special forest products; [or] **and**

8 “[B](i) *The right of way has been improved, designed or maintained to*
9 *provide access for recreational purposes, gardening, woodcutting or the harvest*
10 *of special forest products;]*

11 “[ii] *The right of way is not a highway maintained under ORS 810.010;*
12 *and]*

13 “[iii] *The improvement, design or maintenance was completed in a manner*
14 *that does not constitute:]*

15 “[I] *Gross negligence or reckless, wanton or intentional misconduct; or]*

16 “[II] *An activity for which the actor is strictly liable without regard to*
17 *fault; and]*

18 “(d) All machinery or equipment on the land described in paragraph (a)
19 of this subsection.

20 “(2) The immunities provided by ORS 105.682 apply to land if the owner
21 transfers an easement to a public body to use the land.

22 “(3) Except as provided in subsections (4) to (7) of this section, the im-
23 munities provided by ORS 105.682 do not apply if the owner makes any
24 charge for permission to use the land for recreational purposes, gardening,
25 woodcutting or the harvest of special forest products.

26 “(4) If the owner charges for permission to use the owner’s land for one
27 or more specific recreational purposes and the owner provides notice in the
28 manner provided by subsection (8) of this section, the immunities provided
29 by ORS 105.682 apply to any use of the land other than the activities for
30 which the charge is imposed. If the owner charges for permission to use a

1 specified part of the owner’s land for recreational purposes and the owner
2 provides notice in the manner provided by subsection (8) of this section, the
3 immunities provided by ORS 105.682 apply to the remainder of the owner’s
4 land.

5 “(5) The immunities provided by ORS 105.682 for gardening do not apply
6 if the owner charges more than \$25 per year for the use of the land for
7 gardening. If the owner charges more than \$25 per year for the use of the
8 land for gardening, the immunities provided by ORS 105.682 apply to any use
9 of the land other than gardening. If the owner charges more than \$25 per
10 year for permission to use a specific part of the owner’s land for gardening
11 and the owner provides notice in the manner provided by subsection (8) of
12 this section, the immunities provided by ORS 105.682 apply to the remainder
13 of the owner’s land.

14 “(6) The immunities provided by ORS 105.682 for woodcutting do not apply
15 if the owner charges more than \$75 per cord for permission to use the land
16 for woodcutting. If the owner charges more than \$75 per cord for the use of
17 the land for woodcutting, the immunities provided by ORS 105.682 apply to
18 any use of the land other than woodcutting. If the owner charges more than
19 \$75 per cord for permission to use a specific part of the owner’s land for
20 woodcutting and the owner provides notice in the manner provided by sub-
21 section (8) of this section, the immunities provided by ORS 105.682 apply to
22 the remainder of the owner’s land.

23 “(7) The immunities provided by ORS 105.682 for the harvest of special
24 forest products do not apply if the owner makes any charge for permission
25 to use the land for the harvest of special forest products. If the owner
26 charges for permission to use the owner’s land for the harvest of special
27 forest products, the immunities provided by ORS 105.682 apply to any use of
28 the land other than the harvest of special forest products. If the owner
29 charges for permission to use a specific part of the owner’s land for har-
30 vesting special forest products and the owner provides notice in the manner

1 provided by subsection (8) of this section, the immunities provided by ORS
2 105.682 apply to the remainder of the owner’s land.

3 “(8) Notices under subsections (4) to (7) of this section may be given by
4 posting, as part of a receipt, or by such other means as may be reasonably
5 calculated to apprise a person of:

6 “(a) The limited uses of the land for which the charge is made, and the
7 immunities provided under ORS 105.682 for other uses of the land; or

8 “(b) The portion of the land the use of which is subject to the charge, and
9 the immunities provided under ORS 105.682 for the remainder of the land.

10 **“SECTION 5. (1) The amendments to ORS 105.668 and 105.688 by**
11 **sections 1 and 2 of this 2024 Act apply to actions for personal injury,**
12 **death or property damage commenced on or after the effective date**
13 **of this 2024 Act, and before January 1, 2026.**

14 **“(2) The amendments to ORS 105.668 and 105.688 by sections 3 and**
15 **4 of this 2024 Act become operative on January 2, 2026, and apply to**
16 **actions for personal injury, death or property damage commenced on**
17 **or after January 2, 2026.**

18 **“(3) An ordinance, resolution, rule, order or other regulation under**
19 **ORS 105.668 (3) that is adopted by a local government other than a city**
20 **or county is not effective after January 2, 2026.**

21 **“SECTION 6. This 2024 Act being necessary for the immediate**
22 **preservation of the public peace, health and safety, an emergency is**
23 **declared to exist, and this 2024 Act takes effect on its passage.”.**

24
