

Submitter: Beth Jones
On Behalf Of: civil defense attorney
Committee: Senate Committee On Judiciary
Measure: SB1576

The amendments to ORS 105.668; 105.672; and 105.688 are all helpful but SB 1576 needs one more amendment to address the ruling in *Fields v. City of Newport*.

ORS 105.682 (Liabilities) provides in part that "[t]he limitation on liability provided by this section applies if the principal purpose for entry upon the land is for recreational purposes...." The phrase "the principal purpose" is an issue.

Recently, in *Fields v. City of Newport*, plaintiff was engaged in a recreational purpose under ORS 105.672 by walking the Ocean to Bay Trail but claimed "the principal purpose" of walking the scenic trail with a friend and her dogs on a Saturday morning was accessing the beach, not recreation. The Court of Appeals found that a jury could conclude that plaintiff's "purpose [in walking the scenic trail] was not principally recreational" if plaintiff also intended to access adjacent recreational land. 326 Or. App. 764, 766, review denied, 371 Or. 476 (2023). This cannot be what the legislature intended. Public bodies must now engage in costly litigation through trial to establish whether recreational use immunity applies as a matter of fact. This should be a matter of law.

I suggest amending the phrase "the principal purpose" to "a purpose" to avoid costly and extended legal battles on this issue.

Regards,
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