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Billy J. Williams
County Counsel

June 25, 2026

BCC Agenda Date/Item: _____

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Board of Clackamas County
Commissioners

**Approval of a Resolution to Opt-in to Recreational Immunity Protections
for Local Government Pursuant to ORS 105.668(2)-(3).
No County General Funds are Involved.**

Previous Board Action/Review	June 16, 2026 Policy Session		
Performance Clackamas	Which indicator of success does this item affect? Public trust in good government		
Counsel Review	Yes, JM	Procurement Review	N/A, Item is a Board Order
Contact Person	Jeffrey D. Munns	Contact Phone	(503) 742-5984

EXECUTIVE SUMMARY: In 1995, the legislature enacted the Oregon Public Use of Lands Act. The act is codified as amended in ORS chapter 105. ORS 105.682(1) generally immunizes landowners from liability arising from the use of their land for “recreational purposes.” ORS 105.672(5) defines “recreational purposes” to include a list of outdoor activities such as hunting, fishing, camping, hiking, etc.

ORS 105.688(1)(c) provides that the immunity in ORS 105.682(1) applies even if the liability arises in a right-of-way being used by a person to reach adjacent land for recreational purposes, so long as the right-of-way is unimproved. ORS 105.668(2) generally immunizes the City of Portland and its employees from liability arising from the use of certain trails and structures in public easements and unimproved rights-of-way, as well as the landowners abutting such easements and rights-of-way and volunteers that construct and maintain such trails and structures.

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The Oregon Legislature passed SB179 in 2025 to make changes to the recreational immunity protections for local governments permanent and includes certain special districts in the definition. The previous version of this law only extended these protections to cities and counties. This bill allows for Clackamas County and those county service districts that are included within the definition of local government in ORS 174.166 to opt-in to additional immunity from claims “from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on an equine or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence...” ORS 105.668(3) authorizes units of local government other than the City of Portland to “opt in” to the same immunity via ordinance or resolution.

Clackamas County owns land and easements that may benefit from reduced liability by opting in to these protections in ORS 105.668(3).

RECOMMENDATION: Staff recommends approval of the Resolution to opt-in to the additional protections provided in ORS 105.668(2)-(3).

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'JM', is positioned above the printed name of Jeffrey D. Munns.

Jeffrey D. Munns
Assistant County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Resolution Limiting Liability
in the Manner Established by ORS
106.668(2)-(3)



Resolution No.

Page 1 of 1

Whereas, ORS 105.668(2) generally immunizes cities with populations of 500,000 or more and their employees from liability arising from the use of certain trails and structures in public easements and unimproved rights-of-way, as well as the landowners abutting such easements and rights-of-way and volunteers that construct and maintain such trails and structures; and

Whereas, ORS 105.668(3) authorizes other cities and counties to opt into the same immunity via ordinance or resolution; and

Whereas, to date, Clackamas County has not opted into the immunity afforded by ORS 105.668;

Now, therefore, the Clackamas County Board of Commissioners does hereby resolve to limit liability in the manner established by ORS 105.668(2)-(3).

DATED this _____ day of June 2026.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary