



**Billy J. Williams**  
County Counsel

June 25, 2026

BCC Agenda Date/Item: \_\_\_\_\_

**Scott C. Ciecko**  
**Amanda Keller**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Sarah Foreman**  
**Caleb Huegel**  
**Angela Hajihashemi**  
**M. Creston Rice**  
**Andrew Naylor**  
**Paul Matthias-Bennetch**  
Assistants

Board of Clackamas County  
Commissioners as the Board of Directors  
Water Environment Services

**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.**

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

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way and volunteers that construct and maintain such trails and structures.

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.

Water Environment Services (an ORS Chapter 190 entity comprised of ORS Chapter 451 County Service Districts, Clackamas County Service District No. 1, Tri-City Service District, and Surface Water Management Agency of 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,



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.

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**Whereas**, the Board of County Commissioners serves as the governing body and Board of Directors of Water Environment Services; and

**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 units of local government to opt into the same immunity via ordinance or resolution; and

**Whereas**, to date, Water Environment Services 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) for Water Environment Services.

**DATED** this \_\_\_\_\_ day of June 2026.

**BOARD OF DIRECTORS OF WATER  
ENVIRONMENT SERVICES**

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Chair

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Recording Secretary