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Clackamas County
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CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Sitting/Acting as (if applicable)

Policy Session Worksheet

Presentation Date: June 16, 2026 **Approx. Start Time:** 2:00 pm **Approx. Length:** 30 minutes

Presentation Title: Recreational Immunity Opt-In

Department: County Counsel

Presenters: Jeffrey D. Munns, Assistant County Counsel

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Approval of a Resolution for Clackamas County, NCPRD, WES, and Street Lighting District, to opt-in to the additional recreational immunity protections in ORS 105.668(2)-(3).

EXECUTIVE SUMMARY:

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...”

Clackamas County, NCPRD, WES and Clackamas County Service District No. 5 (Street Lighting District) all either own property, have interests in easements, or may acquire these interests within the right of way and may benefit from the additional protections provided by SB179 2025.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? Unknown reduction in claims handling and liability costs.

What is the funding source? Risk fund.

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals?
- How does this item align with the County’s Performance Clackamas goals? Public trust in good government.

LEGAL/POLICY REQUIREMENTS:

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

PUBLIC/GOVERNMENTAL PARTICIPATION:

The applicability of recreational immunity has been a frequent area of litigation of public entities and owners of lan used for recreation. This has led to increased insurance costs and claims related to the use of unimproved trails.

OPTIONS:

1. Approval to place Resolutions on a future Board Business Meeting to opt-in to recreational immunity provided under ORS 105.668 (2) – (3).
2. Do not opt-in to additional protections for recreational immunity.

RECOMMENDATION:

Option 1: Approval to place Resolutions on a future Board Business Meeting to opt-in to recreational immunity provided under ORS 105.668 (2) – (3).

ATTACHMENTS:

Attachment A: Draft Resolutions for Clackamas County, NCPRD, WES, and Clackamas County Service District

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval _____
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Jeff Munns @ 503-742-5984

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

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, the Board of County Commissioners serves as the governing body and Board of Directors of the North Clackamas Parks and Recreation District; 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, the North Clackamas Parks and Recreation District 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 DIRECTORS OF THE NORTH
CLACKAMAS PARKS AND RECREATION DISTRICT**

Chair

Recording Secretary

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, the Board of County Commissioners serves as the governing body and Board of Directors of Clackamas County Service District No. 5 which provides street lighting to areas of Clackamas County; 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, Clackamas County Service District No. 5 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 Clackamas County Service District No. 5.

DATED this _____ day of June 2026.

**BOARD OF DIRECTORS OF CLACKAMAS
COUNTY SERVICE DISTRICT NO. 5**

Chair

Recording Secretary

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, 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**

Chair

Recording Secretary