

**IMPACT STATEMENT**

**Legislation title:** Authorize City Attorney to appear as *amicus curiae* to support City's interest in recreational use of public lands. (Resolution)

**Contact name:** Denis Vannier

**Contact phone:** 823-3067

**Presenter name:** Denis Vannier

**Purpose of proposed legislation and background information:**

This proposed resolution would authorize the City Attorney to file or join *amicus curiae* briefs in support of the state in *Ortega v. Martin et al.*, 293 Or App 180, \_\_ P3d \_\_ (Aug 1, 2018), and *McCormick v. State ex rel. Oregon State Parks & Rec. Dep't*, 293 Or App 197, \_\_ P3d \_\_ (Aug 1, 2018), and in any resulting appeal or petition for review in either of those cases. Those two cases are recent Oregon Court of Appeals decisions that held that ORS 105.682, the recreational-use immunity statute, does not apply to public beaches, the ocean adjoining those beaches, or land held in public trust.

The Oregon Legislature enacted ORS 105.682 to encourage the recreational use of land by providing immunity to any landowner, public or private, who directly or indirectly permits any person to use land for recreational purposes. The court's reasoning in *Ortega* and *McCormick*, if upheld, would undermine that purpose, penalize public landowners for permitting the recreational use of public lands and lands held in public trust, and discourage the recreational use of such lands. The Attorney General of the State of Oregon has informed the City Attorney that it intends to seek Supreme Court review of the decisions of the Court of Appeals in those two cases. This proposed legislation would allow the City Attorney to present the City's position to the Supreme Court.

**Financial and budgetary impacts:**

No significant financial or budgetary impact.

**Community impacts and community involvement:**

This proposed resolution would allow the City to advocate for a construction of ORS 105.682 that furthers the City's interest in supporting and encouraging the recreational use of public lands and lands held in public trust whenever such recreational use is possible and appropriate.

**100% Renewable Goal:**

- NA

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

- ☐ **YES:** Please complete the information below.
- ☒ **NO:** Skip this section