

SENATE AMENDMENTS TO SENATE BILL 412

By COMMITTEE ON JUDICIARY

April 15

- 1 On page 1 of the printed bill, delete lines 7 through 30 and delete page 2.
- 2 On page 3, delete lines 1 through 16 and insert:
- 3 **“SECTION 1. As used in sections 1 to 4 of this 2011 Act:**
- 4 **“(1) ‘Authorized tribal police officer’ means a tribal police officer who is acting:**
- 5 **“(a) In accordance with sections 1 to 4 of this 2011 Act;**
- 6 **“(b) While employed by a tribal government that is in compliance with sections 1 to 4 of**
- 7 **this 2011 Act; and**
- 8 **“(c) Within the scope of employment as a tribal police officer.**
- 9 **“(2) ‘Tribal government’ means a federally recognized sovereign tribal government whose**
- 10 **borders lie within this state or an intertribal organization formed by two or more of those**
- 11 **governments.**
- 12 **“(3) ‘Tribal police officer’ means an employee of a tribal government whose duties include**
- 13 **the enforcement of criminal law.**
- 14 **“SECTION 2. The Legislative Assembly finds and declares that the purpose of sections 1**
- 15 **to 4 of this 2011 Act is to provide authorized tribal police officers with the ability to exercise**
- 16 **all of the powers of, and to receive the same authority and protections provided to, law**
- 17 **enforcement officers under the laws of this state, without incurring any additional costs or**
- 18 **loss of revenue to the State of Oregon or a political subdivision of the State of Oregon.**
- 19 **“SECTION 3. (1) A tribal police officer is eligible to act as an authorized tribal police of-**
- 20 **ficer if the officer:**
- 21 **“(a) Is certified as a police officer under the provisions of ORS 181.610 to 181.712;**
- 22 **“(b) Is in compliance with any rules adopted by the Department of Public Safety Stan-**
- 23 **dards and Training under sections 1 to 4 of this 2011 Act; and**
- 24 **“(c) Is employed by a tribal government that:**
- 25 **“(A) Is in compliance with the requirements of ORS 181.610 to 181.712 applicable to a law**
- 26 **enforcement unit as defined in ORS 181.610;**
- 27 **“(B) Is in compliance with any rules adopted by the department under sections 1 to 4 of**
- 28 **this 2011 Act;**
- 29 **“(C) Has submitted to the department the resolution and documents described in section**
- 30 **4 of this 2011 Act; and**
- 31 **“(D) Has adopted a provision of tribal law that waives sovereign immunity, in a manner**
- 32 **similar to the waiver expressed in ORS 30.260 to 30.300, as to tort claims asserted in the**
- 33 **tribal government’s court that arise from the conduct of an authorized tribal police officer.**
- 34 **The waiver described in this subparagraph:**
- 35 **“(i) Must apply to the conduct of an authorized tribal police officer that occurs while the**

1 provision of tribal law is in effect;

2 “(ii) Must allow for recovery against the tribal government in an amount equal to or
3 greater than the amounts described in ORS 30.260 to 30.300 that are applicable to a local
4 public body;

5 “(iii) May require that the claim be asserted in accordance with any applicable tort
6 claims procedures of the tribal government; and

7 “(iv) May exclude claims that could be brought in federal court under the Federal Tort
8 Claims Act.

9 “(2) When an authorized tribal police officer issues a citation for the commission of an
10 offense for which the State of Oregon has jurisdiction and the tribal government employing
11 the officer does not have jurisdiction, the citation must:

12 “(a) Summon the person cited to appear in the circuit court of the county in which the
13 offense was committed; and

14 “(b) Be submitted to the district attorney of the county in which the offense was com-
15 mitted.

16 “(3) For purposes of ORS 30.260 to 30.300, an authorized tribal police officer is not an
17 officer, employee or agent of the State of Oregon or of any other public body as defined in
18 ORS 174.109. A public body or an officer, employee or agent of a public body is not liable for
19 certifying a tribal police officer under ORS 181.610 to 181.712, for accepting for filing the re-
20 solution and documents described in section 4 of this 2011 Act or for the acts or omissions
21 of an authorized tribal police officer.

22 “(4) Nothing in sections 1 to 4 of this 2011 Act:

23 “(a) Affects the authority of a county sheriff to appoint duly commissioned police officers
24 as deputy sheriffs authorized to enforce the criminal and traffic laws of the State of Oregon;

25 “(b) Affects the existing status and sovereignty of tribal governments whose traditional
26 lands and territories lie within the borders of the State of Oregon as established under the
27 laws of the United States; or

28 “(c) Authorizes a tribal government to receive funds from, or in lieu of, the State of
29 Oregon or a political subdivision of the state of Oregon.

30 “(5) A tribal government or tribal police department is not a seizing agency for purposes
31 of ORS 131.550 to 131.600 or ORS chapter 131A.

32 “(6) The department may adopt rules to carry out the provisions of sections 1 to 4 of this
33 2011 Act. The rules must require tribal governments that employ authorized tribal police
34 officers to reimburse the department for any costs incurred in carrying out the provisions
35 of sections 1 to 4 of this 2011 Act.

36 “SECTION 4. (1) A tribal government that employs tribal police officers may submit to
37 the Department of Public Safety Standards and Training a resolution declaring that the
38 tribal government is self-insured or has purchased and maintains in force:

39 “(a) Public liability and property damage insurance for vehicles operated by authorized
40 tribal police officers; and

41 “(b) Police professional liability insurance from a company licensed to sell insurance in
42 this state.

43 “(2) The tribal government shall attach the following documents to the resolution sub-
44 mitted to the department:

45 “(a) A declaration that the tribal government has complied with the requirements of

1 sections 1 to 4 of this 2011 Act; and

2 “(b)(A) A full copy of the public liability and property damage insurance policy for vehi-
3 cles operated by the tribal government’s authorized tribal police officers and a full copy of
4 the police professional liability insurance policy from a company licensed to sell insurance
5 in this state; or

6 “(B) A description of the tribal government’s self-insurance program.

7 “(3) A self-insurance program or insurance policy described in subsection (1) or (2) of this
8 section must provide:

9 “(a) That the self-insurance program or insurance policy is available to satisfy settle-
10 ments and judgments arising from the tortious conduct of authorized tribal police officers
11 in an amount equal to or greater than the amounts described in ORS 30.260 to 30.300 that
12 are applicable to a local public body; and

13 “(b) That the tribal government and the insurance carrier will not raise the defense of
14 sovereign immunity for claims that are asserted in the tribal government’s court and involve
15 the tortious conduct of an authorized tribal police officer, provided that the claims:

16 “(A) Are asserted in accordance with any applicable tort claims procedures of the tribal
17 government; and

18 “(B) Could not be brought in federal court under the Federal Tort Claims Act.

19 “(4) If, after making a submission described in this section, there is a material change
20 in the tribal government’s self-insurance program or insurance policy, the tribal government
21 shall file with the department a written description of the change within 30 days of the ef-
22 fective date of the change.

23 “(5) The department shall maintain a file of submissions made by tribal governments
24 under this section. The department shall permit inspection and copying of the submissions
25 in accordance with ORS 192.410 to 192.505.”.

26 In line 21, delete “a certified” and insert “an authorized”.

27 On page 4, line 23, delete “a certified” and insert “an authorized”.

28 On page 6, line 35, delete “A certified” and insert “An authorized”.

29 On page 7, line 27, delete “a certified” and insert “an authorized”.

30 On page 8, delete lines 11 through 19 and insert:

31 “(6) ‘Investigative or law enforcement officer’ means:

32 “(a) An officer or other person employed to investigate or enforce criminal laws by:

33 “(A) A county sheriff or municipal police department;

34 “(B) The Oregon State Police, the Department of Corrections, the Attorney General or a district
35 attorney; or

36 “(C) Law enforcement agencies of other states or the federal government; or

37 “(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.”.

38 On page 10, delete lines 30 through 36 and insert:

39 “(11) As used in this section, ‘law enforcement officer’ means:

40 “(a) An officer employed to enforce criminal laws by:

41 “(A) The United States, this state or a municipal government within this state; or

42 “(B) A political subdivision, agency, department or bureau of the governments described in
43 subparagraph (A) of this paragraph; or

44 “(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.”.

45 On page 12, delete lines 14 through 20 and insert:

1 “(11) As used in this section, ‘law enforcement officer’ means:
2 “(a) An officer employed to enforce criminal laws by:
3 “(A) The United States, this state or a municipal government within this state; or
4 “(B) A political subdivision, agency, department or bureau of the governments described in
5 subparagraph (A) of this paragraph; or
6 “(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.”.
7 On page 13, line 1, after “or” insert “, if the witness whose attendance at trial is required is
8 an authorized tribal police officer as defined in section 1 of this 2011 Act.”.
9 In line 2, after “Act” insert a period and delete the rest of the line and delete line 3.
10 In line 22, delete “A certified” and insert “An authorized”.
11 On page 14, line 15, delete “A certified” and insert “An authorized”.
12 In line 38, delete “A certified” and insert “An authorized”.
13 On page 15, delete lines 35 through 39 and insert:
14 “(6) ‘Law enforcement officer’ means:
15 “(a) A person employed in this state as a police officer by a county sheriff, constable or marshal
16 or a municipal or state police agency; or
17 “(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.”.
18 On page 16, delete lines 1 through 6 and insert:
19 “(2) ‘Person’ has the meaning given that term in ORS 174.100 and includes:
20 “(a) Public officials and law enforcement officers of the state and of a county, municipal corpo-
21 ration or any other political subdivision of the state; and
22 “(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.”.
23 On page 17, line 4, delete “certified” and insert “authorized”.
24 In line 38, delete “Indian reservation.”.
25 In line 39, delete “certified” and insert “authorized”.
26 On page 18, line 34, delete “Indian reservation,” and insert “tribal government as defined in
27 section 1 of this 2011 Act.”.
28 In line 38, delete “a certified” and insert “an authorized”.
29 On page 19, line 4, delete “Indian reservation,” and insert “tribal government as defined in
30 section 1 of this 2011 Act.”.
31 In lines 6 and 7, delete the boldfaced material.
32 On page 20, line 13, delete “A certified” and insert “An authorized”.
33 In line 41, delete “A certified” and insert “An authorized”.
34 On page 21, line 23, after “or” insert “, if the witness whose attendance at trial is required is
35 an authorized tribal police officer as defined in section 1 of this 2011 Act.”.
36 In line 24, after “Act” insert a period and delete the rest of the line and delete line 25.
37 In line 45, delete “A certified” and insert “An authorized”.
38 On page 22, line 3, delete “a certified” and insert “an authorized”.
39 On page 23, line 34, delete “a certified” and insert “an authorized”.
40 On page 24, line 16, delete “a certified tribal police officer” and insert “an authorized tribal
41 police officer as defined in section 1 of this 2011 Act”.
42 Delete lines 22 through 33 and insert:
43 **“SECTION 34. (1) Sections 1 to 4, 9, 11 and 13 of this 2011 Act and the amendments to**
44 **ORS 40.275, 90.440, 131.605, 133.005, 133.033, 133.318, 133.525, 133.721, 133.726, 136.595, 147.425,**
45 **153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 348.270, 414.805, 419B.902, 420.905, 801.395,**

1 810.410, 811.720 and 830.005 by sections 5 to 8, 10, 12 and 14 to 33 of this 2011 Act become
2 operative on January 1, 2012.

3 “(2) The Department of Public Safety Standards and Training may adopt rules or take
4 any other action before the operative date specified in subsection (1) of this section that is
5 necessary to enable the department to exercise, on or after the operative date specified in
6 subsection (1) of this section, all the duties, functions and powers conferred on the depart-
7 ment by this 2011 Act.

8 “SECTION 35. This 2011 Act being necessary for the immediate preservation of the public
9 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
10 on its passage.”

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