



**OREGON STATE SENATE**

**In Support of Senate Bill 1563**

Chair, Vice Chair, and Members of the Committee,

For the record, my name is Senator Cedric Hayden, and I represent Senate District 6. I am here today in strong support of Senate Bill 1563.

At its core, SB 1563 is about something very simple: whether the rights guaranteed in the Oregon Constitution are enforceable in a meaningful way. Today, in many cases, they are not.

Oregonians currently have the right to bring claims alleging violations of the Oregon Constitution against state and local government when those bodies violate a person's civil rights. SB 1563 does not change that. What it does is recognize a hard reality: even though courts can already hear these cases, they are rarely brought in state court because of the burdensome cost of accessing civil justice—even when the claim is legally sound and meritorious.

What is missing from our current system of state civil justice is accountability with real consequence.

SB 1563 creates a mechanism whereby a prevailing party—someone who proves, as a matter of law, that their state constitutional rights were violated—may recover the cost of bringing that case. Without a statutory mechanism for attorney fees, our Constitution too often lacks teeth, especially for ordinary people who do not have the resources to fund complex litigation against the government.

That means the promise of Article I of the Oregon Constitution, with its 47 separately enumerated rights, too often exists only on paper.

As Vice Chair of the Senate Committee on Health Care, as a parent, and as someone whose family has firsthand experience navigating disability and complex systems of care, I have seen how profoundly government decisions affect people's lives. When the state gets it wrong—when it violates free speech, due process, religious liberty, equal protection, or the rights of the accused—civil justice should not be reserved only for those who can afford it.

**Why this bill is needed — even with federal civil rights law**

Some have asked why this bill is necessary given the existence of federal civil rights statutes such as Sections 1983 and 1988. The answer is straightforward: those statutes do not protect state constitutional rights.

To recover attorney fees under federal law, there must be a federal claim at issue, and it is ultimately up to a federal judge whether related state-law claims are even considered. Oregon's Constitution often



provides distinct—and in some cases broader—protections than federal law. In addition, some rights guaranteed under the Oregon Constitution have no parallel in the U.S. Constitution at all.

When those state-specific rights are violated, Oregonians need a path to justice that does not leave them without meaningful access to counsel simply because state law offers no realistic way to recover the cost of enforcing those rights.

SB 1563 ensures that state constitutional claims can stand on their own, just as federal constitutional claims have for decades.

### **Addressing concerns about law enforcement**

Another concern raised is that this bill will lead to a surge of lawsuits against law enforcement. That concern misunderstands how civil rights litigation actually works.

In cases involving police conduct, federal law is already the dominant and well-established path. Qualified immunity doctrine, extensive federal precedent, and long-standing attorney-fee provisions under Section 1988 mean that plaintiffs and attorneys already pursue those cases under federal law when such claims exist. SB 1563 does not change that reality.

What this bill addresses instead are state-law violations—cases where the Oregon Constitution itself is the source of the right, and where federal remedies may not apply or may not fully address the harm. In practice, people are unlikely to bring police cases solely under state law when federal law already provides a clearer and more predictable path.

This bill is not about targeting law enforcement. It is about ensuring that when the state violates its own Constitution, there is a meaningful remedy.

### **This is not about creating new lawsuits**

It is important to be clear: SB 1563 does not create new causes of action. It does not expand liability. It does not lower legal standards.

People can already bring these cases today.

What SB 1563 does is ensure that when a person proves a constitutional violation, the courts have the authority to make that victory real—not hollow—by allowing recovery of attorney fees. Without that authority, many valid claims are never brought, and unconstitutional conduct goes uncorrected.



### **A bipartisan constitutional principle**

This year marks the 50th anniversary of the federal attorney-fee statute that has long governed civil rights enforcement. That law was enacted in 1976, passed by a Democratic-controlled Congress, signed by Republican President Gerald Ford, and received unanimous support from Oregon's federal delegation at the time:

- Representative Les AuCoin (D)
- Representative Robert F. "Bob" Smith (R)
- Senator Mark Hatfield (R)
- Senator Bob Packwood (R)

That history matters. It reminds us of a shared truth: civil rights enforcement should never be partisan.

Whether one's focus is religious liberty, due process, property rights, free speech, or equal protection for people with disabilities, constitutional accountability benefits everyone—regardless of ideology.

The Oregon Constitution reflects our highest commitments as a state. But rights without enforcement are not rights at all.

Senate Bill 1563 restores balance. It strengthens accountability. And it ensures that constitutional protections apply not just to the powerful, but to everyday Oregonians.

I respectfully urge the committee to support SB 1563.

Thank you.