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GOVERNMENTAL IMMUNITY; YEAR 2000 COMPUTER PROBLEMS

House Bill 4469

Sponsor: Rep. Eileen DeHart

Committee: Family and Civil Law

Complete to 9-21-99

A SUMMARY OF HOUSE BILL 4469 AS INTRODUCED 4-14-99

The bill would amend the governmental immunity act to provide immunity from liability for local governments for actions resulting from a computer date failure, defined as the inability of a computer system to recognize, calculate, or otherwise properly process dates or times in the years 1999 and 2000 and beyond.

(Under the governmental immunity act, governmental agencies and their officers, employees, and volunteers are immune from tort liability when engaged in the exercise or discharge of a governmental function. Certain specific exceptions apply, including for defective highways, government owned vehicles, public buildings, and the ownership or operation of a hospital or county medical care facility.)

Under the bill, a municipal corporation (a city, village, township, or charter township) engaged in the exercise or discharge of a governmental function would be immune from liability in an action to recover damages resulting directly or indirectly from a computer date failure, and further would be immune from liability in actions resulting from a computer date failure even where exceptions to governmental immunity generally apply (e.g., defective highways, public buildings, and so forth). Further, officers, employees, volunteers, and members of boards, councils, commissions, and statutorily created task forces of municipal corporations would also be immune from liability under the same circumstances, if all of the following applied:

1. the injury or damage was caused by the person while in the course of employment or service or while acting on behalf of the municipal corporation;
2. the person was acting (or reasonably believed he or she was acting) within the scope of his or her authority;
3. the municipal corporation was engaged in the exercise or discharge of a governmental function; and
4. the person's conduct did not amount to gross negligence that is the proximate cause of the injury or damage ("gross negligence" would be defined to mean conduct so reckless as to demonstrate a substantial lack of concern for whether an injury or substantial damage results).

House Bill 4469 (9-21-99)

The bill's grant of immunity would not apply with respect to an action for damages in a action based upon the provision of medical care or treatment to a patient, except medical care or treatment provided in a hospital owned or operated by the Department of Community Health or the Department of Corrections.

The bill specifies that it could not be construed as modifying or restricting the immunity of a governmental agency (a term that includes the state, a political subdivision, or a municipal corporation) otherwise provided in the act. Further, it would not limit the authority of a municipal corporation to enter into an agreement to waive or limit its immunity as described in the bill, if such an agreement contained provisions that the municipal corporation found appropriate on the issue of its liability, damages, or both.

MCL 691.1401

Analyst: D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.