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GOVERNMENTAL IMMUNITY; YEAR 2000 COMPUTER PROBLEMS

House Bill 4588

Sponsor: Rep. Marc Shulman

Committee: Family and Civil Law

Complete to 9-20-99

A SUMMARY OF HOUSE BILL 4588 AS INTRODUCED 4-27-99

The bill would amend the governmental immunity act to provide immunity from liability for the state and 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. The bill would grant broad immunity to local governments, and a more limited immunity (dealing only with the provision of medical care or treatment) to the state.

(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 political subdivision (a city, village, township, school district, authority, or an agency of one of these) 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 and commissions of political subdivisions would also be immune from liability under the same circumstances, if all of the following applied:

1. the person was acting (or reasonably believed he or she was acting) within the scope of his or her authority;
2. the political subdivision was engaged in the exercise or discharge of a governmental function; and
3. 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).

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Further, under the bill, a governmental agency would be immune from liability in an action to recover damages with respect to providing medical care or treatment to a patient resulting directly or indirectly from a computer date failure. (The term “governmental agency” is defined to mean the state, a political subdivision, or a municipal corporation [a city, village, township, or charter township].) Further, without regard to the discretionary or ministerial nature of the conduct in question, governmental agency officers, employees, volunteers, and members of boards, commissions, and statutorily created task forces would be immune from liability in the same actions, if all of the following applied:

4. the person was acting (or reasonably believed he or she was acting) within the scope of his or her authority;
5. the political subdivision was engaged in the exercise or discharge of a governmental function; and
6. 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).

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

MCL 691.1401 et al.

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.