

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5672 (Substitute H-2 as passed by the House)
Sponsor: Representative Andrew Richner
House Committee: Family and Civil Law
Senate Committee: Judiciary

Date Completed: 11-29-00

CONTENT

The bill would amend the governmental immunity Act to specify that an on-duty officer, while in the course of employment and while acting within the scope of his or her authority, would have the same immunity provided under the Act for the performance of an act or service that was a governmental function, even if a private entity reimbursed the governmental agency employing the officer for the expense of performing the act or service. The governmental agency of which the police officer was an officer or employee, and the governmental agency that was responsible for providing the funding for the officer's salary or wages also would have the same immunity even if a private entity reimbursed the agency for the expense. In determining if an act or service was a governmental function, a court could consider only the governmental agency's or on-duty officer's direct acts or direct services. It could not consider private activity that was the reason for the governmental agency's or on-duty officer's performance of the direct services as being separate from those acts or services.

The bill would not apply if an agreement between a private entity and a police officer or governmental agency covering an act or service of the officer or agency included a provision that indemnified or otherwise held harmless the private entity for an act or omission of the officer or agency.

The bill also would not apply if the private activity that was the reason for the governmental agency's or on-duty police officer's acts or services were a "labor dispute" or if the acts or services performed constituted a proprietary function. This exemption would not alter a governmental agency's or on-duty police officer's immunity from liability that was otherwise provided by law. ("Labor dispute" would include any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of employees in negotiating, fixing, maintaining, or changing terms or conditions of employment, regardless of whether the disputing parties stood in the proximate relation of employer and employee.)

Proposed MCL 691.1407c

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local governmental agencies. Should the bill have a negative effect on the success of lawsuits against these agencies, reductions of costs associated with legal judgments could be realized. The extent of these savings, if any, cannot be determined at this time.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.