

Legislative Analysis



GOVERNMENTAL IMMUNITY: SIDEWALK CLAIMS

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<http://www.house.mi.gov/hfa>

House Bill 4686 as introduced
Sponsor: Rep. Harvey Santana
1st Committee: Judiciary
2nd Committee: Local Government
Complete to 11-4-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4686 would amend Public Act 170 of 1964, which among other things sets uniform standards for municipal liability. The bill specifies that in a civil action, a municipal corporation that has a duty to maintain a sidewalk may assert, in addition to any other defense available to it, any defense available under the common law with respect to a premises liability claim, including, but not limited to, a defense that the condition was 'open and obvious'.

Now under the law, a municipal corporation in which a sidewalk is installed adjacent to a municipal, county, or state highway must maintain that sidewalk in reasonable repair. Under current law, a municipal corporation is not liable for breach of duty to maintain the sidewalk unless the plaintiff proves that at least 30 days before a particular injury, death, or damage, officials knew or should have known of the sidewalk's defect. House Bill 4686 would retain all of these provisions.

Current law also specifies that in a civil action, a municipal corporation is presumed to have maintained the sidewalk, and this presumption can only be rebutted by facts showing that the cause of injury was a vertical discontinuity of two-inches or more, and/or there was a dangerous condition in the sidewalk, itself. House Bill 4686 also would retain this presumption.

As noted above a new defense within House Bill 4686 specifies that in a civil action, a municipal corporation that has a duty to maintain a sidewalk may assert, in addition to any other defense available to it, any defense available under the common law with respect to a premises liability claim, including, but not limited to, a defense that the condition was open and obvious.

MCL 691.1402a

FISCAL IMPACT:

A fiscal analysis is in process.

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