



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4686 (as passed by the House)
Sponsor: Representative Harvey Santana
First House Committee: Judiciary
Second House Committee: Local Government
Senate Committee: Government Operations

Date Completed: 11-9-16

CONTENT

The bill would amend provisions of the governmental immunity law that address the liability of a municipality for sidewalk defects, to allow a municipality to assert any defense available under the common law with respect to a premises liability claim, including that the condition was open and obvious.

Under the law, a municipal corporation (a city, village, or township) in which a sidewalk is installed adjacent to a municipal, county, or State highway has a duty to maintain the sidewalk in reasonable repair. A municipal corporation is not liable for a breach of that duty unless the plaintiff proves that, at least 30 days before the injury, death, or damage occurred, the municipal corporation knew or, in the exercise of reasonable diligence, should have known that the sidewalk defect existed. In a civil action, a municipal corporation is presumed to have maintained a sidewalk in reasonable repair. This presumption may be rebutted only by evidence that a proximate cause of the injury was one or both of the following:

- A vertical discontinuity defect of two inches or more in the sidewalk.
- A dangerous condition in the sidewalk itself of a particular character other than solely a vertical discontinuity.

The bill provides that, in a civil action, a municipality having a duty to maintain a sidewalk could 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 a defense that the condition was open and obvious.

MCL 691.1402a

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce the cost to cities, villages, and townships of settlements, judgments, and litigation expenses, by adding additional defenses against a "slip and fall" lawsuit on a public sidewalk. The amount of any savings would depend on the condition of local sidewalks, the frequency of claims, the amounts paid, and whether the outcome of individual cases was affected by the additional defenses provided by the bill.

Fiscal Analyst: Elizabeth Pratt

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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.