



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 201 (Substitute S-4 as reported by the Committee of the Whole)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

CONTENT

The bill would amend provisions of the governmental immunity law that address the liability of a municipality for defects in a sidewalk, to apply the two-inch rule (a rebuttable inference of reasonable repair if a defect is less than two inches deep) to sidewalks adjacent to municipal and State highways, in addition to sidewalks adjacent to county highways.

Currently, a municipality does not have a duty to repair or maintain a portion of a county highway outside the improved portion of a highway, including a sidewalk, trailway, crosswalk, unless the municipality knew or should have known of a defect at least 30 days before an injury, death, or damage, and the defect was a proximate cause of the injury, death, or damage. In addition, a discontinuity defect of less than two inches creates a rebuttable inference that the municipality maintained the sidewalk, trailway, or crosswalk in reasonable repair.

The bill provides, instead, that a municipality would not have a duty to repair or maintain a county or State highway. A municipality in which a sidewalk was installed adjacent to a municipal, county, or State highway would have to maintain the sidewalk in reasonable repair pursuant to Section 2(1) of the law (which imposes on all governmental agencies a duty to maintain highways under their jurisdiction in reasonable repair) and the following provision.

In a civil action, a municipality would be presumed to have maintained a sidewalk in reasonable repair. This presumption could be rebutted only by evidence showing that a proximate cause of the injury was 1) a vertical discontinuity defect of two inches or more in the sidewalk; and/or 2) a dangerous condition in the sidewalk itself of a particular character other than a vertical discontinuity.

"Sidewalk" would mean a paved public sidewalk intended for pedestrian use, situated outside of and adjacent to the improved portion of a highway designed for vehicular travel.

MCL 691.1401 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would result in indeterminate savings to local units of government related to future liability claims.

Date Completed: 6-21-11

Fiscal Analyst: David Zin