

HOUSE BILL No. 5454

(As passed the Senate, May 22, 2002)

November 27, 2001, Introduced by Reps. Bishop, Vander Veen, Pappageorge, Vander Roest and Shackleton and referred to the Committee on Civil Law and the Judiciary.

A bill to amend 1964 PA 170, entitled

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts,"

by amending the title and sections 8 and 9 (MCL 691.1408 and 691.1409), the title as amended by 1986 PA 175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to make uniform the liability of municipal corpora-
3 tions, political subdivisions, and the state, its agencies and
4 departments, officers, employees, and volunteers thereof, and
5 members of certain boards, councils, and task forces when engaged
6 in the exercise or discharge of a governmental function, for
7 injuries to property and persons; to define and limit this
8 liability; to define and limit the liability of the state when
9 engaged in a proprietary function; to authorize the purchase of
10 liability insurance to protect against loss arising out of this
11 liability; to provide for defending certain claims made against
12 public officers, EMPLOYEES, AND VOLUNTEERS and FOR paying damages
13 sought or awarded against them; to provide for the legal defense
14 of public officers, ~~and~~ employees, AND VOLUNTEERS; to provide
15 for reimbursement of public officers and employees for certain
16 legal expenses; and to repeal ~~certain~~ acts and parts of acts.

17 Sec. 8. (1) Whenever a claim is made or a civil action is
18 commenced against an officer, ~~or~~ employee, OR VOLUNTEER of a
19 governmental agency for injuries to persons or property caused by
20 negligence of the officer, ~~or~~ employee, OR VOLUNTEER while in
21 the course of employment WITH OR ACTIONS ON BEHALF OF THE GOVERN-
22 MENTAL AGENCY and while acting within the scope of his or her
23 authority, the governmental agency may pay for, engage, or fur-
24 nish the services of an attorney to advise the officer, ~~or~~
25 employee, OR VOLUNTEER as to the claim and to appear for and rep-
26 resent the officer, ~~or~~ employee, OR VOLUNTEER in the action.
27 The governmental agency may compromise, settle, and pay the claim

1 before or after the commencement of a civil action. Whenever a
2 judgment for damages is awarded against an officer, ~~or~~
3 employee, OR VOLUNTEER of a governmental agency as a result of a
4 civil action for personal injuries or property damage caused by
5 the officer, ~~or~~ employee, OR VOLUNTEER while in the course of
6 employment and while acting within the scope of his or her
7 authority, the governmental agency may indemnify the officer,
8 ~~or~~ employee, OR VOLUNTEER or pay, settle, or compromise the
9 judgment.

10 (2) When a criminal action is commenced against an officer
11 or employee of a governmental agency based upon the conduct of
12 the officer or employee in the course of employment, if the
13 employee or officer had a reasonable basis for believing that he
14 or she was acting within the scope of his or her authority at the
15 time of the alleged conduct, the governmental agency may pay for,
16 engage, or furnish the services of an attorney to advise the
17 officer or employee as to the action, and to appear for and rep-
18 resent the officer or employee in the action. An officer or
19 employee who has incurred legal expenses after December 31, 1975
20 for conduct prescribed in this subsection may obtain reimburse-
21 ment for those expenses under this subsection.

22 (3) This section ~~shall~~ DOES not impose ~~any~~ liability on
23 a governmental agency.

24 Sec. 9. (1) ~~The purchase of~~ A GOVERNMENTAL AGENCY MAY
25 PURCHASE liability insurance to indemnify and protect THE govern-
26 mental ~~agencies~~ AGENCY against loss or to protect THE
27 governmental ~~agencies and some or all of its agents, officers,~~

1 ~~and employees~~ AGENCY AND AN AGENT, OFFICER, EMPLOYEE, OR
2 VOLUNTEER OF THE GOVERNMENTAL AGENCY against loss on account of
3 ~~any~~ AN ADVERSE judgment ~~secured against it, or them, arising~~
4 ~~out of any~~ ARISING FROM A claim for personal injury or property
5 damage caused by ~~such~~ THE governmental agency ~~, its officers,~~
6 ~~or employees, is authorized, and all governmental agencies are~~
7 ~~authorized to~~ OR ITS AGENT, OFFICER, EMPLOYEE, OR VOLUNTEER. A
8 GOVERNMENTAL AGENCY MAY pay premiums for the insurance AUTHORIZED
9 BY THIS SECTION out of current funds.

10 (2) The existence of ~~any policy of~~ AN insurance POLICY
11 indemnifying ~~any~~ A governmental agency against liability for
12 damages is not a waiver of ~~any~~ A defense otherwise available to
13 the governmental agency in the defense of the claim.