

Legislative Analysis



LOCAL GOVERNMENT EMERGENCY SERVICES: CHARGE GROSSLY NEGLIGENT INDIVIDUAL

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House Bill 4856 (reported from committee as Substitute H-1)
Sponsor: Rep. Brandon Dillon

House Bill 4857 (reported from committee without amendment)
Sponsor: Rep. Rob VerHeulen
Committee: Local Government

First Analysis (10-25-13)

BRIEF SUMMARY: The bills would allow a municipality to charge an individual for emergency and rescue services if a rescue had occurred during a state of emergency and was necessary because the individual had been grossly negligent.

FISCAL IMPACT: The bills, as written, would allow local units to recoup expenditures on essential services (police, fire, EMS) in some cases. It is not possible to estimate the amount, but it is likely to be very small. There would be no impact on state revenues or expenditures.

THE APPARENT PROBLEM:

In April and May of 2013, the governor declared a state of emergency for 19 Michigan counties and two cities, Grand Rapids and Ionia, due to flooding. See **Background Information**. The river having the highest crest was the Grand River in Kent County, on whose banks the state's second largest city, Grand Rapids, is located. There, volunteers filled and placed more than 100,000 sandbags along the river bank in the downtown to protect public buildings--including the Ford Presidential Library--from the river water that crested at 21.85 feet, the highest since 1985. Despite volunteer efforts countywide, about 700 residents within Kent County were evacuated from their homes, including 200 people from Wyoming and Comstock Park alone, 150 of whom had to be rescued by boat.

When flooding conditions cause a river to overflow its banks, the river water is extremely hazardous. Generally, the water is filled with toxic substances, human waste, and lethal unseen objects swept from their moorings further upstream. Consequently local government leaders warn residents to steer clear of the swollen river as it overflows its banks. To better ensure compliance, barriers are often set to contain dangerous areas, and citizens are asked not to cross them. During the Grand Rapids flooding, the Kent County Health Department issued a "No Contact Advisory" for the Grand River, because of dangerous river debris, and contamination from several sources.

Although residents were asked to avoid the Grand River during the state of emergency, some defied the "No Contact" order. Instead, they boated on the water, using kayaks or

canoes. Others ignored barriers, only to strand themselves. In all, according to committee testimony, six citizen rescues were undertaken in Kent County that would not have been necessary had those rescued obeyed repeated health and safety warnings. These rescues diverted the time and attention of first-responders when few resources in manpower or resources could be spared.

Legislation has been introduced to allow local governments to recover costs for rescues required when citizens demonstrate gross negligence, by ignoring health and safety warnings during a declared state of emergency.

THE CONTENT OF THE BILLS:

The bills would, taken together, allow a municipality to charge for emergency and rescue services to an individual who was rescued during a state of emergency when the rescue was required due to grossly negligent conduct by the individual.

The bills would add two new sections to Public Act 33 of 1951 (MCL 41.801 to 41.813), a law that provides for police and fire protection in cities, villages, and townships. The bills are tie-barred to each other, so that neither could take effect unless both were enacted into law. A description of each bill follows.

House Bill 4856 (H-1) would add Section 6b to specify that if a municipality or the governor declares that a state of emergency exists in a municipality, and emergency and rescue services are provided to rescue an individual during that state of emergency for conduct by that individual that is grossly negligent, then the municipality may charge that individual for the cost of providing those emergency and rescue services.

Under the bill, the term "grossly negligent" would be defined to mean conduct so reckless as to demonstrate a substantial lack of concern for whether injury results.

Finally, the bill requires that a municipality provide procedures for appealing a charge under this section of the law.

House Bill 4857 would add Section 6c to specify that a municipality may only charge an individual under Section 6b, described above, for the cost of providing the following emergency and rescue services in relation to the rescue event:

- the *salaries, wages, or other compensation, including overtime pay*, of fire department and emergency medical service personnel (including volunteer firefighters or volunteer emergency medical service personnel) for time spent in responding to and providing firefighting, rescue, and emergency medical services; and,
- the *medical supplies* lost or expended by fire department and emergency medical service personnel (including volunteer firefighters or volunteer emergency medical service personnel).

BACKGROUND INFORMATION:

2013 Declaration of Emergency. Nineteen counties were covered in Governor Snyder's emergency declaration due to the flooding that took place April 9-May 3, 2013. Those counties were: Baraga, Barry, Benzie, Genesee, Gogebic, Gratiot, Houghton, Ionia, Kent, Keweenaw, Marquette, Mecosta, Midland, Muskegon, Newago, Ontonagon, Osceola, Ottawa, and Saginaw.

ARGUMENTS:

For:

During a state of emergency, reckless citizens who do not obey health and safety warnings should pay a price for their grossly negligent behavior. These bills are intended to be a deterrent to reckless behavior; they allow local government officials to bill the cost of their rescues to all citizens who flout emergency warnings, endangering their lives and those of others. During a state of emergency, first-responders are overwhelmed by the crisis. Those whose thoughtless actions exacerbate the crisis should be penalized for their selfish behavior.

Against:

One opponent of the legislation argued the bills may encourage local officials to charge elderly, home-bound citizens who repeatedly call on local Emergency Medical Services personnel to help them recover from falls in their homes.

Response:

The legislation pertains only in times of declared states of emergency when the resources of first responders--their time, attention, and material--must be allocated in an effective and cost-efficient manner.

POSITIONS:

The Michigan Townships Association supports the bills. (10-17-13)

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