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BILL ANALYSIS

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Senate Bill 1475 (Substitute S-1 as reported)
Sponsor: Senator Wayne Kuipers
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 highway but would have to maintain a sidewalk adjacent to a municipal, county, or State highway 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). A municipality's liability arising from a duty to maintain a sidewalk would be limited by the following provision.

A discontinuity defect of less than two inches, measured vertically, in a sidewalk would create a rebuttable presumption that a municipality with a duty to maintain the sidewalk maintained it in reasonable repair. This presumption could be rebutted by evidence of specific facts showing that there was a dangerous condition in the sidewalk itself of a particular character that was a proximate cause of the injury.

"Sidewalk" would mean a public sidewalk, trailway, crosswalk, or other public installation intended for pedestrian, bicycle, or other nonmotorized transportation use, situated outside of 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: 11-8-10

Fiscal Analyst: Bill Bowerman

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Bill Analysis @ www.senate.michigan.gov/sfa

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