

Senate Fiscal Agency  
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Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

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House Bill 4010 (Substitute H-2 as passed by the House)  
Sponsor: Representative Marc Shulman  
House Committee: Family and Civil Law  
Senate Committee: Judiciary

Date Completed: 10-18-99

### **CONTENT**

The bill would amend the governmental immunity Act to specify that, except as otherwise provided, a "municipal corporation" would have no duty to repair or maintain, and would not be liable for injuries arising from, a portion of a county highway outside of the improved portion of the highway designed for vehicular travel, including a sidewalk, trailway, crosswalk, or other installation. This provision would not prevent or limit a municipal corporation's liability if both of the following were true:

- At least 30 days before the occurrence of the relevant injury, death, or damage, the municipal corporation knew or, in the exercise of reasonable diligence, should have known of the existence of a defect in a sidewalk, trailway, crosswalk, or other installation outside of the improved portion of the highway designed for vehicular travel.
- The defect described above was a proximate cause of the injury, death, or damage.

A discontinuity defect of less than two inches would create a rebuttable inference that the municipal corporation maintained in reasonable repair the sidewalk, trailway, crosswalk, or other installation outside of the improved portion of the highway designed for vehicular travel.

"Municipal corporation" means a city, village, township, or charter township, or any combination of those entities, when acting jointly.

In addition, the Act specifically includes bridges, sidewalks, crosswalks, and culverts on a highway in the definition of "highway". It also provides that the duty of the State and the county road commissions to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel. The bill would add "trailways" to the Act's definition of "highway" and to the list of items explicitly excluded from the improved portion of the highway designed for vehicular travel. (The bill specifies that these amendments would apply only to a cause of action arising on or after the bill's effective date.)

MCL 691.1401 et al.

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate impact on local units of government. Savings would depend on potential future liability avoided by the bill.

Fiscal Analyst: B. Bowerman

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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.