

HOUSE BILL 257

Introduced by Toole, et al.

1/19	Introduced
1/20	Referred to Judiciary
1/20	First Reading
1/20	Fiscal Note Requested
1/25	Fiscal Note Received
1/27	Hearing
1/28	Fiscal Note Printed
2/02	Tabled in Committee

1 House BILL NO. 257
2 INTRODUCED BY Theresa L. Larson
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING LOCAL
5 GOVERNMENTS LIABLE FOR CAUSING OR CONTRIBUTING TO PERSONAL
6 INJURY BY FAILING TO DEVELOP METHODS FOR QUICKLY RESPONDING
7 TO EMERGENCY MEDICAL SITUATIONS; AND AMENDING SECTION
8 2-9-111, MCA."

9
10 WHEREAS, communications and transportation technologies
11 for emergency services have enabled emergency medical
12 responses to become increasingly more rapid and efficient,
13 even in areas underserved by law enforcement services, fire
14 services, and other services; and

15 WHEREAS, the boundaries between local government
16 jurisdictions have in the past dictated which entity
17 responded to a particular medical emergency, even when a
18 facility in an adjacent jurisdiction was closer to the
19 emergency site and better able to give a quick response; and

20 WHEREAS, local governments are able, after study and
21 analysis, to determine the best source for an emergency
22 medical response in underserved and other areas, including
23 areas near jurisdictional boundaries, which in some cases
24 are better and more quickly served by a responding entity
25 from an adjacent jurisdiction; and

1 WHEREAS, it is not good public policy to allow
2 government inaction in developing interlocal agreements for
3 a quick response to medical emergencies to influence the
4 outcome of any emergency, particularly in a life-or-death
5 situation.
6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Section 2-9-111, MCA, is amended to read:

9 "2-9-111. Immunity from suit for legislative acts and
10 omissions. (1) As used in this section:

11 (a) the term "governmental entity" means only the
12 state, counties, municipalities, school districts, and any
13 other local government entity or local political subdivision
14 vested with legislative power by statute;

15 (b) the term "legislative body" means only the
16 legislature vested with legislative power by Article V of
17 The Constitution of the State of Montana and that branch or
18 portion of any other local governmental entity or local
19 political subdivision empowered by law to consider and enact
20 statutes, charters, ordinances, orders, rules, policies,
21 resolutions, or resolves;

22 (c) (i) the term "legislative act" means:

23 (A) actions by a legislative body that result in
24 creation of law or declaration of public policy;

25 (B) other actions of the legislature authorized by

Article V of The Constitution of the State of Montana; or

(C) actions by a school board that result in adoption of school board policies pursuant to 20-3-323(1);

(ii) the term legislative act does not include administrative actions undertaken in the execution of a law or public policy.

(2) A governmental entity is immune from suit for a legislative act or omission by its legislative body, or any member or staff of the legislative body, engaged in legislative acts.

(3) Any member or staff of a legislative body is immune from suit for damages arising from the lawful discharge of an official duty associated with legislative acts of the legislative body.

(4) The acquisition of insurance coverage, including self-insurance or group self-insurance, by a governmental entity does not waive the immunity provided by this section.

(5) The immunity provided for in this section does not extend to:

(a) any tort committed by the use of a motor vehicle, aircraft, or other means of transportation; or

(b) any act or omission that results in or contributes to personal injury or property damage caused by contamination or other alteration of the physical, chemical, or biological properties of surface water or ground water,

for which a cause of action exists in statutory or common law or at equity. This subsection (b) does not create a separate or new cause of action.

(c) a local government entity or local political subdivision that causes or contributes to personal injury because of its failure to develop methods for:

(i) quickly responding to emergency medical situations to which it has a duty to respond and to which it is called on to respond; or

(ii) providing for a response by another public or private entity through interlocal and other agreements."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0257, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act making local governments liable for causing or contributing to personal injury by failing to develop methods for quickly responding to emergency medical situations.

FISCAL IMPACT: No known state impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The fiscal impact of additional exposure of local governments to liability suits cannot be determined. Most county and city liability policies contain a \$30,000 reserve for defense costs in liability suits.

The fiscal impact is minimized by the fact that the Department of Administration requires 911 local agreements to contain descriptions of service districts so that emergency medical services can be quickly delivered. The bill appears to encourage greater use of interlocal agreements as a means of reducing interjurisdictional problems relating to emergency response service (EMS) activities.

Dave Lewis

1-25-93

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

HOWARD TOOLE, PRIMARY SPONSOR DATE

Fiscal Note for HB0257, as introduced.

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