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BILL ANALYSIS

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Senate Bill 1318 (as introduced 6-23-04)
Sponsor: Senator Tony Stamas
Committee: Judiciary

Date Completed: 9-27-04

CONTENT

The bill would amend the governmental immunity Act to specify that, except as otherwise provided in the bill, a municipal corporation, organized fire department, or agent of a municipal corporation or organized fire department that acted reasonably in donating qualified fire control or rescue equipment to an organized fire department would not be liable for damages for personal injury, death, or property damage proximately caused after the donation by a defect in the equipment.

In addition, except as otherwise provided in the bill, a governmental agency or an agent of a governmental agency that acted reasonably in distributing qualified fire control or rescue equipment to an organized fire department would not be liable for damages for personal injury, death, or property damage proximately caused after the distribution by a defect in the equipment.

The immunity described above also would apply for donated or distributed fire control or rescue equipment that had not been recertified by an authorized technician under one of the following circumstances:

- The organized fire department that received the equipment did not attempt to have it recertified.
- The equipment failed recertification and the organized fire department that received it did not, after the failure, return the equipment to the person that donated or distributed it.

The immunity provided under the bill would not apply in any of the following circumstances:

- The defect resulted from an act or omission of the donor or distributor that constituted gross negligence or intentional misconduct.
- The donor or distributor was the manufacturer of the equipment.
- The donor or distributor modified or altered the equipment after it was donated and recertified by an authorized technician as meeting the manufacturer's original specifications.

"Qualified fire control or rescue equipment" would mean fire control or rescue equipment that was distributed through a governmental agency to an organized fire department and recertified by an authorized technician as meeting the manufacturer's original specifications.

"Organized fire department" would mean that term as defined in the Fire Prevention Code (MCL 29.1). (Under the Code, "organized fire department" means an organization or department that provides fire suppression and other fire-related services within a city,

village, or township, and is a fire department of a city, village, or township or a fire service designated by a city, village, or township, pursuant to a contract. The term includes a department of county employees who are responsible for fire suppression and other fire-related services for an airport operated by the county or a county agency.)

“Authorized technician” would mean a technician who was certified by the manufacturer of fire control or rescue equipment to inspect the equipment, regardless of whether he or she was employed by the governmental agency distributing or receiving the equipment.

MCL 691.1401 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on local units of government to the extent that it would prevent potential future liability.

Fiscal Analyst: Bill 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.