

HB 171-FN - AS INTRODUCED

2023 SESSION

23-0614

02/05

HOUSE BILL ***171-FN***

AN ACT relative to bodily injury actions against governmental units.

SPONSORS: Rep. B. Boyd, Hills. 12

COMMITTEE: Judiciary

ANALYSIS

This changes the definition of an employee or official of a governmental unit for purposes of determining liability of a governmental unit under RSA 507-B. It also removes language restricting liability to only injuries occurring from the operation of a motor vehicle or premise-related injury.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to bodily injury actions against governmental units.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Bodily Injury Actions Against Governmental Units; Definitions. Amend RSA 507-B:1, I-a to
2 read as follows:

3 I-a. "Employee or official of a governmental unit" means any member or officer of its
4 governing board, administrative staff, or agencies, including but not limited to county employees,
5 selectmen, school board members, chartered public school trustees, city councilors and aldermen,
6 town councilors, town and city managers, mayors, regional planning commissioners, town and city
7 health officials, police officers, overseers of public welfare, superintendents of schools, and all other
8 employees and officials whether elected or appointed, and whether paid or unpaid, provided he or
9 she is acting within the scope of his or her official duties ***and his or her decisions, acts, or***
10 ***omissions are discretionary, rather than ministerial, and not made in a wanton or reckless***
11 ***manner.***

12 2 Bodily Injury Actions Against Governmental Units; Liability for Negligence. Amend RSA 507-
13 B:2 to read as follows:

14 507-B:2 Liability for Negligence. A governmental unit may be held liable for damages in an
15 action to recover for bodily injury, personal injury or property damage caused by its fault or by fault
16 attributable to it[, arising out of ownership, occupation, maintenance or operation of all motor
17 vehicles, and all premises; provided, however, that the liability of any governmental unit with
18 respect to its sidewalks, streets, and highways shall be limited as provided in RSA 231 and the
19 liability of any governmental unit with respect to publicly owned airport runways and taxiways shall
20 be limited as set forth in RSA 422].

21 3 Effective Date. This act shall take effect 60 days after its passage.

**HB 171-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to bodily injury actions against governmental units.

FISCAL IMPACT: ☐ State ☒ County ☒ Local ☐ None

COUNTY:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This changes the definition of an employee or official of a governmental unit for purposes of determining liability of a governmental unit under RSA 507-B. It also removes language restricting liability to only injuries occurring from the operation of a motor vehicle or premise-related injury.

The New Hampshire Association of Counties indicates, by using 507-B's employee definition as the vehicle, this bill would raise the bar for qualifying for the much more broadly applicable 507-B protections by substituting the official immunity definition. The bill also removes the premises and vehicle scope limitation, opening up all contexts for negligence suits based on claims of negligent performance of ministerial work. The bill would facilitate a wide range of new lawsuits that would be far costlier to defend and settle without the current RSA 507-B protections.

The New Hampshire Municipal Association states this bill would change the definition of an "employee or official of a governmental unit" in RSA chapter 507-B:1, I-a, and expand the circumstances under which a governmental unit could be held liable for damages. The definition of "employee or official of a governmental unit" is a threshold eligibility requirement for immunity protection under RSA chapter 507-B. The bill would change the definition by adding the requirement that the employee or official's acts, decisions, or omissions be discretionary,

rather than ministerial, and not made in a wanton or reckless manner. This would allow lawsuits for ministerial functions, which would expand liability exposure for governmental units. This legislation would also broaden the scope of municipality liability arising from bodily injury, personal injury, or property damage by striking language from RSA 507-B:2. This bill would limit immunity protection and increase the number of lawsuits that could be brought against a governmental unit, which would increase local expenditures.

It is assumed that any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

New Hampshire Association of Counties and New Hampshire Municipal Association