

# HOUSE BILL No. 6102

June 5, 2018, Introduced by Reps. Phelps and Neeley and referred to the Committee on Judiciary.

A bill to amend 1964 PA 170, entitled

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts,"

by amending section 1 (MCL 691.1401), as amended by 2012 PA 50, and by adding section 6b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

2       (a) "Governmental agency" means this state or a political

1 subdivision.

2 (b) "Governmental function" means an activity that is  
3 expressly or impliedly mandated or authorized by constitution,  
4 statute, local charter or ordinance, or other law. Governmental  
5 function includes an activity performed on public or private  
6 property by a sworn law enforcement officer within the scope of the  
7 law enforcement officer's authority, as directed or assigned by his  
8 or her public employer for the purpose of public safety.

9 (c) "Highway" means a public highway, road, or street that is  
10 open for public travel. Highway includes a bridge, sidewalk,  
11 trailway, crosswalk, or culvert on the highway. Highway does not  
12 include an alley, tree, or utility pole.

13 (d) "Municipal corporation" means a city, village, or township  
14 or a combination of 2 or more of these when acting jointly.

15 (e) "Political subdivision" means a municipal corporation,  
16 county, county road commission, school district, community college  
17 district, port district, metropolitan district, or transportation  
18 authority or a combination of 2 or more of these when acting  
19 jointly; a district or authority authorized by law or formed by 1  
20 or more political subdivisions; or an agency, department, court,  
21 board, or council of a political subdivision.

22 (f) "Sidewalk", except as used in subdivision (c), means a  
23 paved public sidewalk intended for pedestrian use situated outside  
24 of and adjacent to the improved portion of a highway designed for  
25 vehicular travel.

26 (g) "State" means this state and its agencies, departments,  
27 commissions, courts, boards, councils, and statutorily created task

1 forces. State includes a public university or college of this  
2 state, whether established as a constitutional corporation or  
3 otherwise.

4 (h) "Township" means a general law township or a charter  
5 township.

6 (i) "Volunteer" means an individual who is specifically  
7 designated as a volunteer and who is acting solely on behalf of a  
8 governmental agency.

9 **(J) "WATER EMERGENCY" MEANS A STATE OF EMERGENCY PROCLAIMED BY**  
10 **THE GOVERNOR UNDER THE EMERGENCY MANAGEMENT ACT, 1976 PA 390, MCL**  
11 **30.401 TO 30.421, BECAUSE OF HARMFUL EFFECTS OF UNTREATED DRINKING**  
12 **WATER ON A MUNICIPAL CORPORATION'S WATER INFRASTRUCTURE, WHICH**  
13 **CAUSED THE LEACHING OF LEAD INTO THE WATER, WHICH CAUSED DAMAGE TO**  
14 **THE WATER SYSTEM AND POTENTIAL NEGATIVE HEALTH IMPACTS TO RESIDENTS**  
15 **OF THE MUNICIPAL CORPORATION.**

16 **SEC. 6B. IF THE NEGLIGENCE OF AN OFFICER, AGENT, OR EMPLOYEE**  
17 **OF THIS STATE RESULTS IN A WATER EMERGENCY, THIS STATE IS LIABLE**  
18 **FOR BODILY INJURY AND PROPERTY DAMAGE THAT ARE PROXIMATELY CAUSED**  
19 **BY THE NEGLIGENCE OF THE OFFICER, AGENT, OR EMPLOYEE.**

20 Enacting section 1. This amendatory act applies retroactively  
21 to conduct that resulted in the declaration after January 1, 2016  
22 of a water emergency.