

Fiscal Estimate Narratives

DOR 6/21/2011

LRB Number	11-2039/1	Introduction Number	SB-125	Estimate Type	Original
Description Liability of cities, villages, towns, and counties for damages caused by an insufficiency or want of repair of a highway					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, if a person or a person's property is damaged due to insufficient repairs on or lack of repairs to a highway that a town, village, or city has the responsibility to maintain, that person may bring suit against the town, village, or city to recover the damages. If the damage occurred on a highway that the county is responsible for maintaining, the suit may be brought against the county. If the damage occurs on a highway that two or more towns, villages, cities, or counties are responsible for maintaining, any suit must be brought against all the entities responsible for maintaining the highway. A person may not bring suit against any town, village, city, or county for damages resulting from the accumulation of snow or ice on any bridge or highway unless the snow or ice that has accumulated on the bridge or highway has existed for 3 weeks. If the person is awarded damages, the damages and costs must be paid by the responsible municipality or county in the proportion to which they are liable for the repairs. The amount that may be awarded to any person may not exceed \$50,000.

Under current law, if a person or a person's property is damaged due to a defect in any highway or other public ground, or from any other cause for which a town village, city, or county would be liable, and the damage is caused by or is due to the wrong, default, or negligence of any person or private corporation, such person or private corporation shall be primarily liable for the damage. Although the town, village, city, or county may be sued with the person or private corporation, if the town, village, city, or county denies its primary liability and proves upon whom such liability rests, judgment must be rendered against all of the defendants shown to be liable for the damages. Any judgment against the town, village, city, or county is not enforceable until execution has been issued against the party(ies) found to be primarily liable and returned unsatisfied in whole or in part. On such return being made, the defendant town, village, city, or county must be bound by the judgment.

Under the bill, the ability of a person to bring suit against a town, village, city, or county for damages caused by insufficient repairs on or lack of repairs to a highway is repealed except for suits related to snow that has accumulated for 3 weeks or more. In addition, the provisions relating to damages where a person or private corporation can be deemed primarily liable and a town, village, city, or county secondarily liable are repealed.

This bill may reduce the number of lawsuits brought against towns, villages, cities, and counties. This could reduce these entities' legal costs, damage awards, and insurance premiums. The financial reports filed with the Department of Revenue (DOR) by municipalities and counties do not contain information on highway-related legal costs, damage awards, and insurance costs. The DOR is therefore unable to estimate the reduction in these costs that this bill could engender.

Long-Range Fiscal Implications