



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 132
[2011 Senate Bill 125]

**Municipal Liability for Damages
Caused by Highway Defects**

Under *current* law, a city, village, town, or county (municipality) may not be held liable for acts done in the exercise of its legislative, quasi-legislative, judicial, or quasi-judicial functions, acts courts have termed “discretionary.” A municipality may be held liable, under current law, for damages of up to \$50,000 that arise out of the performance of a nondiscretionary duty.

Additionally, current law provides that a municipality may also be held liable for damages of up to \$50,000 that “happen to any person or his or her property by reason of the insufficiency or want of repairs of any highway that any town, city, or village is bound to keep in repair.” Under this statutory provision, a municipality may not be held liable for damages sustained by reason of an accumulation of snow or ice upon a bridge or highway unless the accumulation has existed for three weeks or more.

2011 Wisconsin Act 132 eliminates the statutory provision under which municipalities may be held liable for damages resulting from the insufficiency or want of repair of a highway the municipality is bound to keep in repair. It retains the provision specifying that a municipality may not be held liable for damages sustained by reason of an accumulation of snow or ice upon a bridge or a highway unless the accumulation has existed for three weeks or more and subjects these claims to the general statute governing claims against governmental bodies.

Effective date: The Act first applies to actions arising on April 5, 2012.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.