



**House
Legislative
Analysis
Section**

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**GOVERNMENTAL LIABILITY FOR
ROAD DESIGN**

House Bill 6358

Sponsor: Rep. Dale Sheltrown

Committee: Civil Law and the Judiciary

Complete to 11-26-02

A SUMMARY OF HOUSE BILL 6358 AS INTRODUCED 9-24-02

Currently the Government Immunity Act (MCL 691.1402) specifies that a governmental agency (the state, a political subdivision, and a municipal corporation) is obligated to maintain a highway under its jurisdiction in reasonable repair, but has no obligation to repair or maintain any portion of the highway outside the improved portion. (Under the act, "highway" means the improved portion of the highway that is used for vehicular traffic, and does not include sidewalks, crosswalks, or any other installation outside the improved portion.) Under the act, a person may recover damages from a governmental agency who fails to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel.

House Bill 6358 would amend the act to specify that, in order to ensure that a highway was reasonably safe, fit, and convenient for public travel, each governmental agency with jurisdiction over the highway would have a duty to carry out all of the following: (a) Use appropriate standards and care, if the governmental agency undertook to design or construct the highway; (b) Maintain the highway in reasonable repair; and (c) Provide for, install, and maintain traffic control devices.

In addition, the bill would specify that a person who sustained bodily injury or property damage could recover damages from a governmental agency that failed to perform any of the above duties. The liability, procedure, and remedy as to county roads would be as provided in Chapter IV of the county roads act (MCL 224.21). Further, the duty of the state and the county road commissions to repair and maintain highways would be extended to include the highway design and construction, but would not include repairing and maintaining traffic control devices.

Currently, the state and the county road commission's liability extends only to the improved portion of a highway designed for vehicular travel. Under the bill, the liability would include, but not be limited to, a shoulder area adjacent to a travel lane. This provision would also apply to the liability of municipal corporations.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

House Bill 6358 (11-26-02)