



House of Representatives

General Assembly

File No. 279

January Session, 2007

House Bill No. 5269

House of Representatives, April 3, 2007

The Committee on Planning and Development reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING CIVIL LIABILITY FOR CERTAIN DISTRICTS
AND THEIR EMPLOYEES, OFFICERS AND AGENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-557n of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) (1) Except as otherwise provided by law, a political subdivision
4 of the state shall be liable for damages to person or property caused by:
5 (A) The negligent acts or omissions of such political subdivision or any
6 employee, officer or agent thereof acting within the scope of his
7 employment or official duties; (B) negligence in the performance of
8 functions from which the political subdivision derives a special
9 corporate profit or pecuniary benefit; and (C) acts of the political
10 subdivision which constitute the creation or participation in the
11 creation of a nuisance; provided, no cause of action shall be
12 maintained for damages resulting from injury to any person or
13 property by means of a defective road or bridge except pursuant to
14 section 13a-149. (2) Except as otherwise provided by law, a political

15 subdivision of the state shall not be liable for damages to person or
16 property caused by: (A) Acts or omissions of any employee, officer or
17 agent which constitute criminal conduct, fraud, actual malice or wilful
18 misconduct; or (B) negligent acts or omissions which require the
19 exercise of judgment or discretion as an official function of the
20 authority expressly or impliedly granted by law.

21 (b) Notwithstanding the provisions of subsection (a) of this section,
22 a political subdivision of the state or any employee, officer or agent
23 acting within the scope of his employment or official duties shall not
24 be liable for damages to person or property resulting from: (1) The
25 condition of natural land or unimproved property; (2) the condition of
26 a reservoir, dam, canal, conduit, drain or similar structure when used
27 by a person in a manner which is not reasonably foreseeable; (3) the
28 temporary condition of a road or bridge which results from weather, if
29 the political subdivision has not received notice and has not had a
30 reasonable opportunity to make the condition safe; (4) the condition of
31 an unpaved road, trail or footpath, the purpose of which is to provide
32 access to a recreational or scenic area, if the political subdivision has
33 not received notice and has not had a reasonable opportunity to make
34 the condition safe; (5) the initiation of a judicial or administrative
35 proceeding, provided that such action is not determined to have been
36 commenced or prosecuted without probable cause or with a malicious
37 intent to vex or trouble, as provided in section 52-568; (6) the act or
38 omission of someone other than an employee, officer or agent of the
39 political subdivision; (7) the issuance, denial, suspension or revocation
40 of, or failure or refusal to issue, deny, suspend or revoke any permit,
41 license, certificate, approval, order or similar authorization, when such
42 authority is a discretionary function by law, unless such issuance,
43 denial, suspension or revocation or such failure or refusal constitutes a
44 reckless disregard for health or safety; (8) failure to make an inspection
45 or making an inadequate or negligent inspection of any property, other
46 than property owned or leased by or leased to such political
47 subdivision, to determine whether the property complies with or
48 violates any law or contains a hazard to health or safety, unless the
49 political subdivision had notice of such a violation of law or such a

50 hazard or unless such failure to inspect or such inadequate or
 51 negligent inspection constitutes a reckless disregard for health or
 52 safety under all the relevant circumstances; (9) failure to detect or
 53 prevent pollution of the environment, including groundwater,
 54 watercourses and wells, by individuals or entities other than the
 55 political subdivision; or (10) conditions on land sold or transferred to
 56 the political subdivision by the state when such conditions existed at
 57 the time the land was sold or transferred to the political subdivision.

58 (c) Any person who serves as a member of any board, commission,
 59 committee or agency of a municipality and who is not compensated for
 60 such membership on a salary or prorated equivalent basis, shall not be
 61 personally liable for damage or injury occurring on or after October 1,
 62 1992, resulting from any act, error or omission made in the exercise of
 63 such person's policy or decision-making responsibilities on such board,
 64 commission, committee or agency if such person was acting in good
 65 faith, and within the scope of such person's official functions and
 66 duties, and was not acting in violation of any state, municipal or
 67 professional code of ethics regulating the conduct of such person, or in
 68 violation of subsection (a) of section 9-369b or subsection (b) or (c) of
 69 section 1-206. The provisions of this subsection shall not apply if such
 70 damage or injury was caused by the reckless, wilful or wanton
 71 misconduct of such person.

72 (d) As used in this section, "political subdivision" includes any
 73 district wholly within the boundaries of a municipality that (1)
 74 performs a government function, (2) has a defined geographic area,
 75 and (3) has its own governing body.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	52-557n

PD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill clarifies the liability of certain special districts.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5269*****AN ACT CONCERNING CIVIL LIABILITY FOR CERTAIN DISTRICTS AND THEIR EMPLOYEES, OFFICERS AND AGENTS.*****SUMMARY:**

This bill subjects certain special districts and their employees, officers, and agents, to the same civil liability provisions that apply to political subdivisions of the state. The bill applies to any district that is entirely within the boundaries of a municipality and that (1) performs a government function, (2) has a defined geographic area, and (3) has its own governing body.

EFFECTIVE DATE: October 1, 2007

CIVIL LIABILITY

Under the bill, the affected districts, except as otherwise provided in law, are liable for damages to person or property caused by: (1) the negligent acts or omissions of the district and its employees, officers, or agents acting within the scope of employment or official duties; (2) negligence in performing functions that give the district special corporate profit or pecuniary benefit; and (3) the district's acts that create or help create a nuisance. But, no cause of action can be maintained for damages resulting from injury to any person or property from a defective road or bridge except as provided by law.

On the other hand, except as otherwise provided by law, a district is not liable for damages caused by (1) acts or omissions of any employee, officer, or agent that constitute criminal conduct, fraud, actual malice or willful misconduct or (2) negligent acts or omissions requiring the exercise of judgment or discretion as an official function of the authority expressly or impliedly granted by law.

In addition, a district and its employees, officers, and agents acting within the scope of employment or official duties are not liable for damages resulting from:

1. the condition of natural land or unimproved property;
2. the condition of a reservoir, dam, and similar structures when used in a way that is not reasonably foreseeable;
3. the temporary condition of a road or bridge that results from weather, if the district has not received notice and has not had a reasonable opportunity to make the condition safe;
4. the condition of an unpaved road, trail, or footpath that provides access to a recreational or scenic area, if the district has not received notice and has not had a reasonable opportunity to make the condition safe;
5. the initiation of a judicial or administrative proceeding, unless it was filed or prosecuted without probable cause or with a malicious intent to vex or trouble;
6. the act or omission of someone other than the district's employees, officers, or agents;
7. the issuance, denial, suspension, or revocation of (or failure to take any such action on) any permit or similar authorization when such authority is a discretionary function by law, unless the action constitutes a reckless disregard for health or safety;
8. failure to make an inspection or making an inadequate or negligent inspection of any property, other than property owned, leased by, or leased to the district, to determine whether it complies with or violates any law or contains a hazard to health or safety, unless (a) the district had notice of such a violation or hazard or (b) such failure to inspect or such inadequate or negligent inspection constitutes a reckless disregard for health or safety under all the relevant

circumstances;

9. failure to detect or prevent pollution of the environment by individuals or entities other than the district; or

10. conditions on land the state sold or transferred to the district when such conditions existed at the time of sale or transfer.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 20 Nay 0 (03/19/2007)