



Testimony
Bart Russell, Executive Director
Connecticut Council of Small Towns
Before the Judiciary Committee
April 4, 2011

RE: OPPOSE - SB-1232, An Act Concerning Municipal Immunity for the Negligent Acts of Omissions or Employees, Officers and Agents

The Connecticut Council of Small Towns (COST) *opposes* SB-1232, **An Act Concerning Municipal Immunity for the Negligent Acts or Omissions of Employees, Officers and Agents**, which would expose towns and cities to considerable liability by significantly narrowing long-standing and well-established liability protections available to municipalities.

Under current law, municipalities are not liable for negligent acts or omissions requiring the exercise of judgment or discretion as an official function of authority granted by law. The court in *Popow v. Town of Stratford* noted that “municipal officials are immune from liability for negligence arising out of their discretionary acts in part because of the danger that a more expansive exposure to liability would cramp the exercise of official discretion beyond the limits desirable in our society.”

Municipal employees and officers must be able to perform their governmental duties—those involving supervisory or discretionary functions that are executed for the public's benefit, not for a specific person to whom a special duty is owed – without fear of liability. The immunity from liability for the performance of discretionary acts by a municipal employee is already limited under three exceptions or circumstances under which liability may attach even though the act was discretionary: (1) where the circumstances make it apparent to the public officer that his failure to act would be likely to subject an identifiable person to imminent harm; (2) where a statute specifically provides for a cause of action against a municipality or municipal official for failure to enforce certain laws; and (3) where the alleged acts involve malice, wantonness or intent to injure, rather than negligence.

These qualified immunity provisions strike the appropriate balance needed to ensure that government officers and employees can exercise judgment and discretion in their official functions without fear of lawsuits. **We therefore urge rejection of SB-1232, which would subject municipalities to tremendous liability and make it virtually impossible for government officers and employees to exercise judgment and discretion in carrying out their duties.**