



# House of Representatives

General Assembly

**File No. 780**

January Session, 2019

Substitute House Bill No. 7185

*House of Representatives, April 25, 2019*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING LIABILITY OF A POLITICAL SUBDIVISION  
AND ITS 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 Section 52-557n of the general statutes is repealed and the  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, 2019*):

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 or her  
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 or her employment or official duties shall  
24 not 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 For purposes of this subsection, "all the relevant circumstances"  
 59 includes a consideration of the balance between the magnitude of the  
 60 danger and the burden of performing an inspection.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	52-557n

**JUD**      *Joint Favorable Subst.*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes a clarifying change to municipal liability statute. This has no fiscal impact, as it is not anticipated to change the number of lawsuits a municipality is party to.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sHB 7185*****AN ACT CONCERNING LIABILITY OF A POLITICAL SUBDIVISION AND ITS EMPLOYEES, OFFICERS AND AGENTS.*****SUMMARY**

This bill provides guidance on applying the term “all relevant circumstances” under the municipal liability statute.

Existing law provides municipalities and their officials, employees, and agents immunity from liability for personal or property damage resulting from certain actions or omissions if the official, employee, or agent was acting within the scope of his or her official duties or employment when the damage occurred. Actions for which these individuals and municipalities have immunity include failure to inspect or inadequately or negligently inspecting a property, other than property the municipality owns or leases, to determine if it violates any law or contains a health or safety hazard. However, there is an exception to this immunity if the (1) municipality had notice of the violation or hazard or (2) municipality’s failure to inspect or inadequate or negligent inspection constitutes a reckless disregard for health or safety under all relevant circumstances.

The bill specifies that in this context, “all relevant circumstances” includes a consideration of the balance between the magnitude of the danger and the burden of performing an inspection.

EFFECTIVE DATE: October 1, 2019

**BACKGROUND*****State Supreme Court Case***

Among other things, the Court, in *Williams v. Housing Authority of Bridgeport* (327 Conn. 338 (2017)) applied the municipal liability law to

a specific fact pattern. It specifically examined the exception to immunity if a municipality fails to inspect or inadequately or negligently inspects a property and those actions or omissions constitute a reckless disregard for health and safety under all relevant circumstances. In doing so, the Court noted:

“[a]lthough the statute itself provides no guidance as to the specific types of circumstances that are to be taken into account when assessing the recklessness of a municipality’s decision not to conduct a health or safety inspection, the legislature’s use of the modifying phrase ‘under *all* the relevant circumstances’...suggests that we are to view the exception through a broad lens.”

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0 (04/10/2019)