Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2315
(Senators Campbell, Anderson, Luick)
(Representatives Monson, Paur, Trottier)

AN ACT to amend and reenact section 32-12.1-03 of the North Dakota Century Code, relating to liability of political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-03. Liability of political subdivisions - Limitations.

1. Each political subdivision is liable for money damages for injuries when the injuries are proximately caused by the negligence or wrongful act or omission of any employee acting within the scope of the employee's employment or office under circumstances in which the employee would be personally liable to a claimant in accordance with the laws of this state, or injury caused from some condition or use of tangible property, real or personal, under circumstances in which the political subdivision, if a private person, would be liable to the claimant. The enactment of a law, rule, regulation, or ordinance to protect any person's health, safety, property, or welfare does not create a duty of care on the part of the political subdivision, its employees, or its agents, if that duty would not otherwise exist.

2. The liability of political subdivisions under this chapter is limited to a total of two hundred fifty thousand dollars per person and ~~five hundred thousand~~one million dollars for ~~injury to three or more persons during~~any number of claims arising from any single occurrence regardless of the number of political subdivisions, or employees of such political subdivisions, which are involved in that occurrence. A political subdivision may not be held liable, or be ordered to indemnify an employee held liable, for punitive or exemplary damages.

3. A political subdivision or a political subdivision employee may not be held liable under this chapter for any of the following claims:

   a. A claim based upon an act or omission of a political subdivision employee exercising due care in the execution of a valid or invalid statute or regulation.

   b. The decision to undertake or the refusal to undertake any legislative or quasi-legislative act, including the decision to adopt or the refusal to adopt any statute, charter, ordinance, order, regulation, resolution, or resolve.

   c. The decision to undertake or the refusal to undertake any judicial or quasi-judicial act, including the decision to grant, to grant with conditions, to refuse to grant, or to revoke any license, permit, order, or other administrative approval or denial.

   d. The decision to perform or the refusal to exercise or perform a discretionary function or duty, whether or not such discretion is abused and whether or not the statute, charter, ordinance, order, resolution, regulation, or resolve under which the discretionary function or duty is performed is valid or invalid.

   e. Injury directly or indirectly caused by a person who is not employed by the political subdivision.

f. A claim relating to injury directly or indirectly caused by the performance or nonperformance of a public duty, including:

(1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so act regarding compliance with or the violation of any law, rule, regulation, or any condition affecting health or safety.

(2) Enforcing, monitoring, or failing to enforce or monitor conditions of sentencing, parole, probation, or juvenile supervision.

(3) Providing or failing to provide law enforcement services in the ordinary course of a political subdivision's law enforcement operations.

(4) Providing or failing to provide fire protection services in the ordinary course of a political subdivision's fire protection operations.

g. "Public duty" does not include action of the political subdivision or a political subdivision employee under circumstances in which a special relationship can be established between the political subdivision and the injured party. A special relationship is demonstrated if all of the following elements exist:

(1) Direct contact between the political subdivision and the injured party.

(2) An assumption by the political subdivision, by means of promises or actions, of an affirmative duty to act on behalf of the party who allegedly was injured.

(3) Knowledge on the part of the political subdivision that inaction of the political subdivision could lead to harm.

(4) The injured party's justifiable reliance on the political subdivision's affirmative undertaking, occurrence of the injury while the injured party was under the direct control of the political subdivision, or the political subdivision action increases the risk of harm.

4. This chapter does not obligate political subdivisions for an amount that is more than the limitations upon liability imposed by this chapter. Subject to this chapter, any payments to persons constitute payment in full of any compromised claim or judgment or any final judgment under this chapter.

5. Notwithstanding this chapter, a political subdivision or its insurance carrier is not liable for any claim arising out of the conduct of a ridesharing arrangement, as defined in section 8-02-07.

6. A political subdivision is not liable for any claim based on an act or omission in the designation, repair, operation, or maintenance of a minimum maintenance road if that designation has been made in accordance with sections 24-07-35 through 24-07-37 and if the road has been maintained at a level to serve occasional and intermittent traffic.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2315.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 88	Nays 0	Absent 6

Secretary of the Senate

Received by the Governor at 2:44 P.M. on March 24, 2015.

Approved at 2:55 P.M. on March 25, 2015.

Governor

Filed in this office this 25th day of March, 2015,

at 3:45 o'clock P M.

Secretary of State