



March 5, 2024

Chair Dziedzic and Members of the Senate State and Local Government and Veterans Committee:

The League of Minnesota Cities appreciates the opportunity to provide comments outlining concerns about SF 4126 (Limmer) that would allow a person to bring an action against a municipality to recover damages if an agent or employee of the municipality committed an act or failed to commit an act that resulted in a sewer backup on the person's property, notwithstanding Minn. Stat. § 466.03, subd. 6.

Currently, state statute provides discretionary immunity for claims based on the performance of a discretionary function or duty. Discretionary immunity is premised on the idea that municipal officials and their constituents are best equipped to weigh the social, economic, and practical implications of local decisions and expenditures. Removal of this provision for sewer claims could create liability for cities even when an employee acted with reasonable care. A city could potentially also be liable for damages caused as a result of a blockage that was not found despite a city following its policies for inspections.

We are concerned that the failure to commit an act language in the bill could create liability for failing to replace or upgrade infrastructure. Cities develop capital improvement plans and prioritize projects based on economic realities, the condition of existing infrastructure, and development and capacity needs, and we believe these are the type of decisions that should be afforded discretionary immunity.

Thank you for your consideration of these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Brooke Bordson", written in a cursive style.

Brooke Bordson  
League of Minnesota Cities