



March 20, 2024

Chair Latz and Members of the Senate Judiciary and Public Safety Committee:

The League of Minnesota Cities appreciates the opportunity to provide comments outlining concerns about SF 4126 (Limmer) that purports to 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 does not bar all causes of action for damage for sewer backups. The League of Minnesota Cities Insurance Trust (LMCIT) currently receives, investigates, and pays these claims for which it and its members are legally responsible. In fact, LMCIT has incurred average costs of roughly \$815,000 per year in sewer backup costs in the last several years.

LMCIT and its members are public entities, however, and do not have private owners or shareholders. As a result, those payments come from public funds, primarily property taxes. Recognizing this, the Legislature created discretionary immunity under Minn. Stat. § 466.03, subd. 6. This 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, including decisions about how to allocate limited local tax dollars among sewer infrastructure, streets, police, fire, and parks and recreation programs.

The proposed legislation could create liability for cities even when an employee acted with reasonable care, or for a blockage that occurred despite a city following its policies for inspections. It could even 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. These are the precise types of actions and decisions that discretionary immunity is designed to protect.

Thank you for your consideration of these concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brooke Bordson", is written over a light blue horizontal line.

Brooke Bordson
League of Minnesota Cities