

HB 1064-FN - AS INTRODUCED

2026 SESSION

26-2298

09/08

HOUSE BILL ***1064-FN***

AN ACT relative to liability of governmental units.

SPONSORS: Rep. Kuttab, Rock. 17; Rep. Lynn, Rock. 17; Rep. Berch, Ches. 6; Rep. Gregg, Hills. 7; Rep. Drago, Rock. 4; Rep. Litchfield, Rock. 32; Sen. Birdsell, Dist 19

COMMITTEE: Judiciary

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ANALYSIS

This bill:

I. Modifies the standards and amounts for which a governmental unit may be held liable for negligence resulting in personal injury or property damage.

II. Requires political subdivisions to indemnify employees absent wanton or reckless conduct for negligent conduct resulting in personal injury or property damage, if the action was within the scope of the employment.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struck through.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty-Six*

AN ACT relative to liability of governmental units.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Bodily Injury Actions Against Governmental Units; Liability for Negligence RSA 507-B:2 is  
2 repealed and reenacted to read as follows:

3 507-B:2 Liability for Negligence.

4 I. A governmental unit may be held liable for damages for:

5 (a) Bodily injury, personal injury, death, or property damages caused by the failure of  
6 the governmental unit or its officials or employees acting within the scope of their authority to follow  
7 the appropriate standard of care when that duty was owed to the person making the claim, including  
8 any right of action for money damages which either expressly or by implication arises from any law,  
9 unless another remedy for such claim is expressly provided by law; or

10 (b) Property damages suffered by a governmental unit employee or official during the  
11 performance of that employee's or official's duties while on the governmental unit's business where  
12 compensation is appropriate under principles of equity and good conscience;

13 (c) Provided, however, that the liability of any governmental unit with respect to its  
14 sidewalks, streets, and highways shall be limited as provided in RSA 231 and the liability of any  
15 governmental unit with respect to publicly owned airport runways and taxiways shall be limited as  
16 set forth in RSA 422.

17 II. The provisions of this chapter shall not apply to:

18 (a) Any claim based upon an act or omission of an employee or official of a governmental  
19 unit when such employee or official is exercising due care in the execution of any statute or any  
20 regulation of a public employer, or any municipal ordinance.

21 (b) Any claim based upon the exercise or performance or the failure to exercise or  
22 perform a discretionary executive or planning function or duty on the part of an employee or official  
23 of a governmental unit acting within the scope of his office or employment.

24 2 Bodily Injury Actions Against Governmental Units; Limit of Liability. Amend RSA 507-B:4, I  
25 to read as follows:

26 I. Liability of a governmental unit for bodily injury, personal injury or property damage  
27 sustained by any one person in actions brought under this chapter is limited to [~~\$325,000~~] **\$475,000**  
28 ***per claimant and \$1,425,000 per any single incident, or the proceeds from any insurance***  
29 ***policy, whichever amount is greater.*** Such limit applies in the aggregate to any and all actions to  
30 recover for bodily injury, personal injury or property damage sustained by one person in a single  
31 incident or occurrence. [~~Liability of a governmental unit for bodily injury, personal injury, or~~

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1 ~~property damage sustained by any number of persons in a single incident or occurrence is limited to~~  
2 ~~[\$1,000,000.]~~ The limits applicable to any action shall be the limits in effect at the time of the  
3 judgment or settlement.

4 3 Bodily Injury Actions Against Governmental Units; Insurance Policies Procured by  
5 Governmental Agency. Amend RSA 507-B:7-a to read as follows:

6 507-B:7-a Insurance Policies Procured by Governmental Agency. It shall be lawful for the state  
7 or any municipal subdivision thereof, including any county, city, town, school district, school  
8 administrative unit or other district, to procure the policies of insurance described in RSA 412 **or**  
9 **participate in pooled risk management, or self-insurance, pursuant to RSA 5-B.** In any  
10 action against the state or any municipal subdivision thereof to enforce liability on account of a risk  
11 so insured against, the insuring company or state or municipal subdivision thereof shall not be  
12 allowed to plead as a defense immunity from liability for damages resulting from the performance of  
13 governmental functions, and its liability shall be determined as in the case of a private corporation  
14 except when a standard of care differing from that of a private corporation is set forth by statute **or**  
15 **common law**; provided, however, that liability in any such case shall not exceed the limits of  
16 coverage specified in the policy of insurance or as to governmental units defined in RSA 507-B,  
17 liability shall not exceed the policy **or pooled risk** limit or the limit specified in RSA 507-B:4, if  
18 applicable, whichever is higher, **or for self-insurance, the limit specified in RSA 507-B:4,** and  
19 the court shall abate any verdict in any such action to the extent that it exceeds such limit.

20 4 Political Subdivision Employees; Indemnification for Damages. Amend RSA 31:105 to read as  
21 follows:

22 31:105 Indemnification for Damages. A city, town, county, village district or precinct, school  
23 district, chartered public school, school administrative unit, or any other municipal corporation or  
24 political subdivision [~~may by a vote of the governing body~~] **shall** indemnify and save harmless for  
25 loss or damage [~~occurring after said vote~~] any person employed by it and any member or officer of its  
26 governing board, administrative staff or agencies including but not limited to selectmen, school  
27 board members, chartered public school trustees, city councilors and aldermen, town and city  
28 managers, regional planning commissioners, town and city health officers, overseers of public  
29 welfare, and superintendents of schools from personal financial loss and expense including  
30 reasonable legal fees and costs, if any, arising out of any claim, demand, suit, or judgment by reason  
31 of negligence or other act resulting in accidental injury to a person or accidental damage to or  
32 destruction of property if the indemnified person at the time of the accident resulting in the injury,  
33 damage, or destruction was acting in the scope of employment or office **and such acts were not**  
34 **wanton or reckless.**

35 5 Effective Date. This act shall take effect January 1, 2027.

**HB 1064-FN- FISCAL NOTE  
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AN ACT relative to liability of governmental units.

**FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.**

<b>Estimated State Impact</b>				
	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>
<b>Revenue</b>	\$0	Indeterminable Decrease		
<i>Revenue Fund(s)</i>	Internal Service Fund			
<b>Expenditures*</b>	\$0	Indeterminable Increase		
<i>Funding Source(s)</i>	Various Agency Funds			
<b>Appropriations*</b>	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	N/A			

\*Expenditure = Cost of bill

\*Appropriation = Authorized funding to cover cost of bill

<b>Estimated Political Subdivision Impact</b>				
	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>
<b>County Revenue</b>	\$0	\$0	\$0	\$0
<b>County Expenditures</b>	\$0	Indeterminable Increase		
<b>Local Revenue</b>	\$0	\$0	\$0	\$0
<b>Local Expenditures</b>	\$0	Indeterminable Increase (more than \$10,000 to \$100,000 or less per municipality)		

**METHODOLOGY:**

This bill raises governmental liability for injury, death, or property damages caused by negligence of the governmental entity. Additionally, local government entities must financially protect their employees from personal liability if they are sued for causing bodily injury or property damage while doing their job, unless the employee acted recklessly. This bill also raises the limits applicable for claims from \$375,000 per claimant and \$1 million per incident to \$475,000 per claimant and \$1.475 million per incident.

The Department of Administrative Services (DAS) states the fiscal impact indeterminable. Both state revenues and expenditures could be affected, but the extent depends on variables such as the number of claims, insurance arrangements, and agency transfers.

The New Hampshire Municipal Association (NHMA) states the bill could lead to indeterminable increases in local expenditures, primarily due to anticipated rises in property and liability insurance premiums. These increases could range from \$10,000 to \$100,000 per municipality over time, depending on the size and risk profile of the municipality. NHMA does not anticipate changes in local revenues.

The New Hampshire Association of Counties indicates the bill could result in an indeterminable increase in expenditures for public bodies found negligent due to the increases in the maximum payout. Variables such as the number of claims and insurance arrangements make it difficult to determine the impact this bill might have on county expenditures.

**AGENCIES CONTACTED:**

New Hampshire Municipal Association, New Hampshire Association of Counties, and Department of Administrative Services