

Amendment to SB 421

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 New Paragraph; Bodily Injury Actions Against Governmental Units; Definitions. Amend
4 RSA 507-B:1 by inserting after paragraph I the following new paragraph:

5 I-a. "Employee or official of a governmental unit" means any member or officer of its
6 governing board, administrative staff, or agencies, including but not limited to selectmen, school
7 board members, chartered public school trustees, city councilors and aldermen, town councilors,
8 town and city managers, mayors, regional planning commissioners, town and city health officials,
9 police officers, overseers of public welfare, superintendents of schools, and all other employees and
10 officials whether elected or appointed, and whether paid or unpaid, provided he or she is acting
11 within the scope of his or her official duties.

12 2 Bodily Injury Actions Against Governmental Units; Definitions. Amend RSA 507-B:1, III and
13 IV to read as follows:

14 III. "Personal injury" means:

15 (a) Any injury to the feelings or reputation of a natural person, including but not
16 limited to, false arrest, detention or imprisonment, malicious prosecution, libel, slander, or the
17 publication or utterance of other defamatory or disparaging material, invasion of an individual's
18 right of privacy, invasion of the right of private occupancy, wrongful entry or eviction, mental
19 injury, mental anguish, shock, and, except when against the public policy or the laws of New
20 Hampshire, or both, discrimination; and

21 (b) Any injury to intangible property sustained by any ~~[organization]~~ **person** as a result
22 of false eviction, malicious prosecution, libel, slander, or defamation. The term "personal injury"
23 shall not include "bodily injury" or "property damage."

24 IV. "Property damage" means a loss through injury to, or destruction of, tangible property
25 **or real estate.**

26 3 Bodily Injury Actions Against Governmental Units; Snow, Ice, and Other Weather Hazards.
27 Amend RSA 507-B:2-b to read as follows:

28 507-B:2-b Snow, Ice, and Other Weather Hazards. Notwithstanding RSA 507-B:2, a
29 ~~[municipality or school district]~~ **governmental unit** shall not be liable for damage arising from
30 insufficiencies or hazards on any premises owned, occupied, maintained, or operated by it, even if it
31 has actual notice of them, when such hazards are caused solely by snow, ice, or other inclement
32 weather, and the ~~[municipality's or school district's]~~ **governmental unit's** failure or delay in

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removing or mitigating such hazards is the result of its implementation, absent gross negligence or reckless disregard of the hazard, of a winter or inclement weather maintenance policy or set of priorities with respect to such premises, adopted in good faith by the official responsible for such policy. All ~~[municipal or school district employees]~~ **governmental units**, officials, and agents shall be presumed to be acting pursuant to such a policy or set of priorities in the absence of proof to the contrary.

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

507-B:4 Limit of Liability.

I. Liability of a governmental unit for bodily injury, personal injury or property damage sustained by any one person in actions brought under this chapter is limited to ~~[\$275,000]~~ **\$325,000**. Such limit applies in the aggregate to any and all actions to recover for bodily injury, personal injury or property damage ~~[arising out of bodily injury, personal injury or property damage]~~ sustained by one person in a single incident or occurrence. Liability of a governmental unit for bodily injury, personal injury or property damage sustained by any number of persons in a single incident or occurrence is limited to ~~[\$925,000]~~ **\$1,000,000**. The limits applicable to any action shall be the limits in effect at the time of the judgment or stipulated settlement.

II. The court shall award no punitive damages against a governmental unit for bodily injury, personal injury or property damage.

III. The jury shall not be informed of the limits in paragraph I but the court shall abate any verdict to the extent it exceeds the limits prescribed in this section. In actions consolidated under RSA 507-B:3, in the event the verdicts exceed the limits prescribed in this section, the verdicts shall be abated pro rata. Interest and costs may be recovered as in any civil action, in addition to the limits prescribed in this section.

IV. If any claim is made or any civil action is commenced against a present or former employee, trustee, or official of a ~~[municipality or chartered public school]~~ **governmental unit** seeking equitable relief or claiming damages, the liability of said employee or official shall be governed by the same principles and provisions of law and shall be subject to the same limits as those which govern ~~[municipal]~~ **governmental unit** liability, so long as said employee or official was acting within the scope of his **or her** office and ~~[in good faith]~~ **reasonably believed in the legality of his or her actions**.

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

507-B:7-a ~~[Insurance]~~ Policies Procured by Governmental Agency.

I. It shall be lawful for ~~[the state or]~~ any ~~[municipal subdivision thereof, including any county, city, town, school district, school administrative unit or other district,]~~ **governmental unit** to procure the policies of insurance described in RSA 412 **or programs for pooled risks under**

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1 ***RSA 5-B.***

2 ***II.*** In any action against ~~[the state or any municipal subdivision thereof]~~ ***a governmental***
3 ***unit covered by a policy of insurance described in RSA 412*** to enforce liability on account of a
4 risk so insured against, the insuring ~~[company]~~ ***entity*** or ~~[state or municipal subdivision thereof]~~
5 ***governmental unit*** shall not be allowed to plead as a defense immunity from liability for damages
6 resulting from the performance of governmental functions, and its liability shall be determined as in
7 the case of a private corporation except when a standard of care differing from that of a private
8 corporation is set forth by statute.

9 ***III. If covered by a policy of insurance described in RSA 412, the liability of a***
10 ***governmental unit in connection with any claim filed under this chapter***~~[- provided,~~
11 ~~however, that liability in any such case]~~ shall not exceed the limits of coverage specified in the
12 policy of insurance ~~[or as to governmental units defined in RSA 507-B, liability shall not exceed the~~
13 ~~policy limit]~~ ***or*** specified in RSA 507-B:4, ~~[if applicable,]~~ whichever is higher, and the court shall
14 abate any verdict in any such action to the extent that it exceeds such ~~[limit]~~ ***limits.***

15 6 New Section; Limitation of Actions; State as Plaintiff. Amend RSA 508 by inserting after
16 section 4-g the following new section:

17 508:4-h State as Plaintiff. Except as otherwise provided by law, all personal actions or civil
18 enforcement actions in which the state is a plaintiff may be brought only within 3 years of the date
19 when the plaintiff agency, department, authority, or official possessed actual knowledge of the act,
20 omission, or violation complained of, provided the defendant demonstrates that the delay was
21 unreasonable and prejudicial and that the detriment to the defendant caused by the delay
22 outweighs the detriment to the public that would be caused by dismissal of the action. Such
23 limitation shall not apply to any violation or wrong that is ongoing or has otherwise not been
24 corrected.

25 7 Defense and Indemnification of State Officers and Employees. Amend RSA 99-D:3 to read as
26 follows:

27 99-D:3 Insurance. The state, or any department or agency thereof, shall self-insure against all
28 such damages, losses and expenses except to the extent that insurance coverage is obtained under
29 the authority of RSA ~~[507-B]~~ ***9:27***. The fiscal committee of the general court shall study alternative
30 means to self-insurance by the state and shall report its findings to the general court not later than
31 January 31, 1979. The fiscal committee shall be free to seek the assistance of the insurance
32 department, the attorney general's office, and any other resource individuals.

33 8 Claims Against the State. Amend RSA 541-B:14, I to read as follows:

34 I. All claims arising out of any single incident against any agency for damages in tort
35 actions shall be limited to an award not to exceed \$475,000 per claimant and \$3,750,000 per any
36 single incident, or the proceeds from any insurance policy procured pursuant to RSA ~~[507-B]~~ ***9:27***,
37 whichever amount is greater; except that no claim for punitive damages may be awarded under this

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1 chapter. The limits applicable to any action shall be the limits in effect at the time of the judgment
2 or stipulated settlement.

3 9 Effective Date. This act shall take effect January 1, 2017.