

# MINNESOTA STATUTES 1978

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TORT LIABILITY, POLITICAL SUBDIVISIONS 466.04

## CHAPTER 466

### TORT LIABILITY, POLITICAL SUBDIVISIONS

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**466.01 DEFINITIONS.** Subdivision 1. For the purposes of sections 466.01 to 466.15, "municipality" means any city, whether organized under home rule charter or otherwise, any county, town, public authority, public corporation, special district, school district, however organized, county agricultural society organized pursuant to chapter 38, or other political subdivision.

Subd. 2. For the purposes of sections 466.01 to 466.15, the "governing body of a town" means the board of supervisors thereof; "school district" includes an unorganized territory as defined in Minnesota Statutes 1961, Section 120.02, Subdivision 17.

[ 1963 c 798 s 1; 1973 c 123 art 5 s 7; 1978 c 659 s 3 ]

**466.02 TORT LIABILITY.** Subject to the limitations of sections 466.01 to 466.15, every municipality is subject to liability for its torts and those of its officers, employees and agents acting within the scope of their employment or duties whether arising out of a governmental or proprietary function.

[ 1963 c 798 s 2; 1976 c 2 s 142 ]

**466.03 EXCEPTIONS.** Subdivision 1. **Scope.** Section 466.02 does not apply to any claim enumerated in this section. As to any such claim every municipality shall be liable only in accordance with the applicable statute and where there is no such statute, every municipality shall be immune from liability.

Subd. 2. **Workers' compensation claims.** Any claim for injury to or death of any person covered by the workers' compensation act.

Subd. 3. **Tax claims.** Any claim in connection with the assessment and collection of taxes.

Subd. 4. **Accumulations of snow and ice.** Any claim based on snow or ice conditions on any highway or other public place, except when the condition is affirmatively caused by the negligent acts of the municipality.

Subd. 5. **Execution of statute.** Any claim based upon an act or omission of an officer or employee, exercising due care, in the execution of a valid or invalid statute, charter, ordinance, resolution, or regulation.

Subd. 6. **Discretionary acts.** Any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused.

Subd. 7. **Other immunity.** Any claim against a municipality as to which the municipality is immune from liability by the provisions of any other statute.

[ 1963 c 798 s 3; 1975 c 359 s 23 ]

**466.04 MAXIMUM LIABILITY.** Subdivision 1. **Limits; punitive damages.** Liability of any municipality on any claim within the scope of sections 466.01 to 466.15 shall not exceed

(a) \$100,000 when the claim is one for death by wrongful act or omission and \$100,000 to any claimant in any other case;

(b) \$300,000 for any number of claims arising out of a single occurrence.

No award for damages on any such claim shall include punitive damages.

Subd. 1a. **Officers and employees.** The liability of an officer or an employee of any municipality for a tort arising out of an alleged act or omission occurring in the performance of duty shall not exceed the limits set forth in subdivision 1, unless the officer or employee provides professional services and also is employed in his profession for compensation by a person or persons other than the municipality.

Subd. 1b. **Total claim.** The total liability of the municipality on a claim against it and against its officers or employees arising out of a single occurrence shall not exceed the limits set forth in subdivision 1.

Subd. 2. **Inclusions.** The limitation imposed by this section on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

Subd. 3. **Disposition of multiple claims.** Where the amount awarded to or settled upon multiple claimants exceeds \$300,000, any party may apply to any district court to apportion to each claimant his proper share of the total amount limited by subdivision 1. The share apportioned each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims arising out of the occurrence.

[ 1963 c 798 s 4; 1976 c 264 s 1-3 ]

**466.05 NOTICE OF CLAIM.** Subdivision 1. **Notice required.** Except as provided in subdivisions 2 and 3, every person who claims damages from any municipality for or on account of any loss or injury within the scope of section 466.02 shall cause to be presented to the governing body of the municipality within 180 days after the alleged loss or injury is discovered a notice stating the time, place and circumstances thereof, and the amount of compensation or other relief demanded. Actual notice of sufficient facts to reasonably put the governing body of the municipality or its insurer on notice of a possible claim shall be construed to comply with the notice requirements of this section. Failure to state the amount of compensation or other relief demanded does not invalidate the notice; but in such case, the claimant shall furnish full information regarding the nature and extent of the injuries and damages within 15 days after demand by the municipality. No action therefor shall be maintained unless such notice has been given and unless the action is commenced within one year after such notice. The time for giving such notice does not include the time, not exceeding 90 days, during which the person injured is incapacitated by the injury from giving the notice.

Subd. 2. **Exceptions to the notice requirement.** Notice shall not be required to maintain an action for damages for or on account of any loss or injury within the scope of section 466.02 if such injury or loss:

(a) arises out of an intentional tort committed by an officer, employee or agent of the municipality; or

(b) involves a motor vehicle or other equipment owned by the municipality or operated by an officer, employee or agent of the municipality.

Where no notice of claim is required under this chapter, no action shall be maintained unless the action is commenced within two years after the date of the incident, accident or transaction out of which the cause of action arises.

Subd. 3. **Claims for wrongful death; notice.** When the claim is one for death by wrongful act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin, or the consular officer of the foreign country of which the deceased was a citizen, within one year after the alleged injury or loss resulting in such death; if the person for whose death the claim is made has presented a notice that would have been sufficient had he lived an action for wrongful death may be brought without any additional notice.

[ 1963 c 798 s 5; 1974 c 311 s 1; 1976 c 264 s 4,5 ]

**466.06 LIABILITY INSURANCE.** The governing body of any municipality may procure insurance against liability of the municipality and its officers, employees, and agents for damages resulting from its torts and those of its officers, employees, and agents, including torts specified in section 466.03 for which the municipality is immune from liability; and such insurance may provide protection in excess of the limit of liability imposed by section 466.04. If the municipality has the authority to levy taxes, the premium costs for such insurance may be levied in excess of any per capita or millage tax limitation imposed by statute or charter; provided, a school district may not levy for premium costs pursuant to this section. Any independent board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly procure liability insurance with respect to the field of its operation. The procurement of such insurance constitutes a waiver of the defense of governmental immunity to the extent of the lia-

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bility stated in the policy but has no effect on the liability of the municipality beyond the coverage so provided.

[ 1963 c 798 s 6; 1977 c 447 art 6 s 11 ]

**466.07 INDEMNIFICATION.** Subdivision 1. **Authority to indemnify.** The governing body of any municipality may defend, save harmless, and indemnify any of its officers and employees, whether elective or appointive, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty. Any independent board or commission of the municipality having authority to disburse funds for a particular function without approval of the governing body may similarly defend, save harmless, and indemnify its officers and employees against such tort claims or demands.

Subd. 2. **Exceptions.** The provisions of subdivision 1 do not apply in case of malfeasance in office or wilful or wanton neglect of duty.

Subd. 3. **Effect on other laws.** This section does not repeal or modify Minnesota Statutes 1961, Sections 471.44, 471.45 and 471.86.

[ 1963 c 798 s 7 ]

**466.08 COMPROMISE OF CLAIMS.** The governing body of any municipality may compromise, adjust and settle tort claims against the municipality for damages under section 466.02 and may, subject to procedural requirements imposed by law or charter, appropriate money for the payment of amounts agreed upon. When the amount of a settlement exceeds \$2,500, the settlement shall not be effective until approved by the district court.

[ 1963 c 798 s 8 ]

**466.09 PAYMENT OF JUDGMENTS.** When a judgment is entered against or a settlement is made by a municipality for a claim within the scope of section 466.02, payment shall be made and the same remedies shall apply in case of nonpayment as in the case of other judgments or settlements against the municipality. If the municipality has the authority to levy taxes and the judgment or settlement is unpaid at the time of the annual tax levy, the governing body shall, if it finds that other funds are not available for payment of the judgment, levy a tax sufficient to pay the judgment or settlement and interest accruing thereon to the expected time of payment. Such tax may be levied in excess of any per capita or millage tax limitation imposed by statute or charter.

[ 1963 c 798 s 9 ]

**466.10 PRIOR CLAIMS.** Laws 1963, Chapter 798, does not apply to any claim against any municipality arising before the effective date of Laws 1963, Chapter 798. Any such claim may be presented and enforced to the same extent and subject to the same procedure and restrictions as if Laws 1963, Chapter 798, had not been adopted.

[ 1963 c 798 s 10 ]

**466.11 RELATION TO CHARTERS AND SPECIAL LAWS.** Sections 466.01 to 466.15 are exclusive of and supersede all home rule charter provisions and special laws on the same subject heretofore and hereafter adopted.

[ 1963 c 798 s 11 ]

**466.12 SCHOOL DISTRICTS AND CERTAIN TOWNS.** Subdivision 1. Sections 466.01 to 466.11, except as otherwise provided for in this section, do not apply to any school district, however organized, or to a town not exercising the powers of a statutory city under the provisions of Minnesota Statutes 1961, Section 368.01, as amended.

Subd. 2. The doctrine of "governmental immunity from tort liability" as a rule of the decisions of the courts of this state is hereby enacted as a rule of statutory law applicable to all school districts and towns not exercising powers of statutory cities in the same manner and to the same extent as it was applied in this state to school districts and such towns on and prior to December 13, 1962.

As used in this subdivision the doctrine of "governmental immunity from tort liability" means the doctrine as part of the common law of England as adopted by the courts of this state as a rule of law exempting from tort liability school districts and towns not exercising the powers of statutory cities regardless of whether they are en-

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gaged in either governmental or proprietary activities, subject however, to such modifications thereof made by statutory enactments heretofore enacted, and subject to the other provisions of this section.

Subd. 3. A town not exercising the powers of a statutory city may procure insurance as provided for in section 466.06, and if a town not exercising the powers of a statutory city procures such insurance it shall otherwise be subject to all the terms and provisions of sections 466.02 to 466.09 to the extent of the liability coverage afforded. Cancellation or expiration of any liability policy shall restore immunity as herein provided as of the date of such cancellation or expiration.

Subd. 3a. A school district shall procure insurance as provided in section 466.06, meeting the requirements of section 466.04, if it is able to obtain insurance and the cost thereof does not exceed \$1.50 per pupil per year for the average number of pupils. If, after a good faith attempt to procure such insurance, a school district is unable to do so, and the commissioner of insurance certifies that such insurance is unobtainable, it shall be subject to the provisions of subdivisions 1 and 2. If the school district fails to make a good faith attempt to procure such insurance and the commissioner of insurance does not certify that such insurance is unobtainable, then in that event section 466.12 shall not apply to such a school district and it shall be subject to all of the other applicable provisions of chapter 466.

Subd. 4. This section is in effect on January 1, 1964, but all of its provisions shall expire on July 1, 1974, except that as to towns not exercising municipal powers pursuant to section 368.01, the provisions of this section shall expire on July 1, 1975. Prior to that date, the affected towns may take action individually, or jointly, or collectively through the Minnesota Association of Township Officers, to procure insurance against the liability imposed by this chapter to the extent of the limits of section 466.04.

The town board of an affected town may call a special town meeting at any time prior to October 1, 1974, for the purpose of voting a tax to pay the cost of procuring the insurance required by this section. The special meeting may be called by filing with the town clerk a written statement setting forth the reasons and necessity for the meeting. The provisions of law applicable to the conduct of special town meetings generally shall apply to a special town meeting held pursuant to the authority granted in this section.

[ 1963 c 798 s 12; 1965 c 748 s 1; 1969 c 826 s 1-3; 1973 c 123 art 5 s 7; 1974 c 472 s 1 ]

466.13 [ Expired ]

466.14 [ Expired ]

**466.15 CIVIL DAMAGES ACT, APPLICATION.** Sections 466.01 to 466.15 do not modify section 340.95.

[ 1963 c 798 s 15 ]