

RESOLUTION NO.: 2017-68
INTRODUCED BY: MAYOR & COUNCIL

4056

A RESOLUTION OPPOSING PROPOSED HOUSE BILL NUMBER 267, INTRODUCED INTO THE 132nd GENERAL ASSEMBLY, WHICH PROPOSES TO ELIMINATE CERTAIN DEFENSES TO POLITICAL SUBDIVISION LIABILITY FOR AN EMPLOYEE'S NEGLIGENT OPERATION OF A MOTOR VEHICLE AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council have been advised of the introduction of House Bill Number 267 which amends Sections 2744.02 and 2744.05 of the Revised Code to eliminate certain defenses to political subdivision liability for an employee's negligent operation of a motor vehicle, and also reduces damages recoverable against a political subdivision in such actions by the contributory fault of the plaintiff or other parties (HB267); and

WHEREAS, a municipality is generally liable for injury, loss or death caused by negligent operation of a vehicle by its employees, but Ohio Revised Code Section 2744.02 provides a defense to such liability when the liability is responding to an emergency call; and

WHEREAS, HB267 would effectively eliminate sovereign immunity for all motor vehicle accidents involving a municipal employee, except in the rare case when the Plaintiff sustains injury, loss; or death while attempting to flee from a law enforcement officer so as to avoid apprehension for a criminal offense; and

WHEREAS, HB267 would effectively eliminate sovereign immunity for almost all motor vehicle accidents involving a municipal employee, leaving municipalities susceptible to expensive and time-intensive lawsuits; and

WHEREAS, although HB267 permits a reduction in damages based on a Plaintiff's compensatory negligence, the potential for reduced damages is inadequate to protect a municipality from significant liability claims; and

WHEREAS, insurance providers are likely to dramatically increase municipal insurance rates if the General Assembly enacts HB267; and

WHEREAS, HB267 will have serious adverse consequences when police, fire and emergency medical personnel are responding to emergencies of any kind, and likely increase the response time to respond to such emergencies; and

WHEREAS, HB 267 will cause more lawsuits to be filed, particularly those that have no

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merit, alleging negligence by the emergency responder, increasing the amount of time municipal employees will have to appear in court and defend legal proceedings which will also increase, significantly, the cost of obtaining liability insurance for the municipality; and

WHEREAS, the General Assembly could pass better suited legislation that would mandate that insurance companies offer motor vehicle coverage in Ohio to provide liability coverage to the driver of a vehicle who is not found to be at fault when injury, death or property damage occurs as a result of the operation of a motor vehicle by police, fire and emergency medical service agencies; and

WHEREAS, current law providing immunity to police, fire and emergency medical service personnel has not resulted in an increase in injury, death or property damage to third parties who are not fault, and when such personnel cause injury, death or property damage as a result of reckless or intentional acts recourse through the courts of Ohio already exists; and

WHEREAS, the Village of Chagrin Falls strenuously objects to any legislation that will impair emergency personnel in responding to emergencies and increase the cost of operating emergency departments, and discourage employment as a police, fire or emergency medical officer as well as discourage retention of such personnel as a result of the loss of immunity as provided for in HB267; and

WHEREAS, the General Assembly should defeat HB267 at the earliest possible time.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:

SECTION 1. The Ohio General Assembly should immediately take steps to defeat HB267, after holding hearings on the matter and giving political subdivisions in the State of Ohio an opportunity to present their position why HB267 is ill advised and alternative remedies are available and in accordance with legislative process take the necessary steps to bar HB267 from being adopted by the General Assembly.

SECTION 2. The Clerk of Council is hereby directed to forward a certified copy of this Resolution to the Speaker of the Ohio House of Representatives, to the Chairman of the Civil Justice Committee, Jim Butler, to the Vice Chair of the Civil Justice Committee, Jim Hughes, and the ranking member of the Civil Justice Committee, Christian Boggs, and to the Ohio Municipal League Executive Director Kent Scarrett and to Garry E. Hunter, Executive Director and General Counsel of the Ohio Municipal Attorneys Association, expressing the objections of the Village of Chagrin Falls to HB267.

SECTION 3. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

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SECTION 4. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Resolution shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 5. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason that the General Assembly needs to be advised as soon as possible of the Village's objections to HB267 and the negative impact it will have on political subdivisions while the matter is still pending in the Civil Justice Committee; wherefore provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Resolution shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

Passed this 27 day of November, 2017.



Mayor William Tomko
Attest:



Karl Maersch, President of Council



Fiscal Officer David B. Bloom

I certify that Resolution No. 2017-68 was duly enacted on the 27th day of November, 2017 by the Council of the Village of South Russell and posted in accordance with the Resolutions of the Village



Fiscal Officer