

LAW ALERT

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SB1025 Amending Section 12-820.03 Relating to Immunity for Public Entities

On May 1, 2017, Governor Ducey approved SB1025. This Bill amends A.R.S. § 12-820.03, which provides immunity to public entities and employees for claims arising from a plan or design for construction, maintenance, or improvement to transportation facilities, including highways, roads, streets, bridges, or rights-of-way. If that plan or design conforms with the generally accepted engineering or design standards in effect at the time the design or plan was prepared, then the public entity or employee that reasonably warns the public of any unreasonably dangerous hazard is entitled to immunity for claims of damages allegedly caused by that design or plan. The amended statute requires the issues of liability and damages to be bifurcated if a court finds a material question of fact as to whether or not the public entity has fulfilled the requirements for immunity set forth above.

This important amendment allows municipalities to have the immunity issue determined prior to beginning an expensive and perhaps risky damages trial. Frequently, the damages portion of the trial evokes sympathy from jurors, as many of these cases involve serious injuries or fatalities. Further, the damages portion of the claim can be extremely time-consuming and expensive. The amendment removes the danger that the jury will overlook a valid immunity defense due to sympathy for a seriously injured plaintiff or fatality. The amendment also allows for a more efficient resolution of the liability phase before forcing a municipality to incur the cost of trying the expensive damages portion of a serious injury claim.



ABOUT THE AUTHOR

John DiCaro joined Jones, Skelton & Hochuli in 1997, and has been a Partner since 2003. He practices in governmental liability, personal injury, civil rights, and insurance defense. Mr. DiCaro has tried cases for the City of Phoenix, Mesa, several insurance carriers and a number of private clients. In 2007 he was recognized as having obtained one of Arizona's top 10 defense verdicts while defending the Billet Bar in a Dram Shop action. He is a faculty member of the Arizona Trial College.

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