

Senate Bill 106: Political Subdivision Tort Liability

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- What: Senate Bill 106
- Why: To expand and clarify Public Entity immunities and defenses found in ORC 2744.
- Who: Passed by the Ohio Legislature and signed by the Governor.
- When: Becomes effective April 08, 2003

The Ohio Supreme Court, over the past few years, has decided a number of cases against Ohio Public Entities. The decisions have diluted or removed some immunities and defenses afforded to school districts by Ohio Revised Code (ORC) 2744. The adverse affects of those decisions continue to influence school districts' pocket books. It appears the Legislature found it necessary to pass SB 106 in order to clarify the intent of certain defenses and immunities afforded to school districts.

The following are the key changes to ORC 2744 imposed by SB 106:

- The Legislation added school athletic facilities, school auditoriums, and gymnasiums to the list of recreational areas which school districts will now have immunity under 2744.01 (C) (2) (u).
- The Legislature, in passing SB 106, clarified the intent of exception 2744.02 (B)(4): a school district's liability is limited to injuries associated with physical defects on public grounds. This in essence neutralizes the damaging effects of the Ohio Supreme Court's decision in *Hubbard v. Canton City Schools* in which they opined that a school district had no immunity for any negligent act on public grounds.
- In the past, school districts were liable for damages caused by the negligent operation of motor vehicles *on public roads*. SB 106 makes it clear that school districts are also responsible for negligent operation of motor vehicles *off road*.
- SB 106 added back the immediate appeal to 2744.02 (C). If a Court denies a school district an immunity or defense, an immediate appeal can be taken. Without this, the school district is forced to go through costly preparation and trial on liability issues in order to be able to eventually appeal the Court's denial of immunity.
- SB 106 also makes it clear a school district has a duty to defend an employee when there is a claim for damages and the employee was acting in good faith and not manifestly outside the scope of employment. This is a change to 2744.07.

