Report on Public Policy Position

Name of section:
Negligence Law Section

Contact person:
Todd Tennis

E-Mail:
ttennis@capitolservices.org

Bill Number:
HB 4686 (Santana) Torts; governmental immunity; sidewalk injury claims; allow use of "open and obvious" defense. Amends sec. 2a of 1964 PA 170 (MCL 691.1402a).

Date position was adopted:
October 28, 2015

Process used to take the ideological position:
Position adopted after discussion and vote at a scheduled meeting

Number of members in the decision-making body:
15

Number who voted in favor and opposed to the position:
8 Voted for position
0 Voted against position
0 Abstained from vote
7 Did not vote (absent)

Position:
Oppose

Explanation of the position, including any recommended amendments:
HB 4686 would add the "open and obvious" doctrine as an admissible defense in personal injury cases related to municipal sidewalks. The Legislature recently enacted liability restrictions to such cases (known colloquially as the "two-inch rule") that already limit exposure of municipalities to litigation stemming from poorly maintained sidewalks. HB 4686 would, for all practical purposes, make municipalities completely immune from lawsuits made by persons injured by defective sidewalks. This merely shifts the responsibility for paying for these injuries onto private or public health insurers, and removes the impetus for local governments to properly maintain sidewalks in a safe manner.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.
http://legislature.mi.gov/doc.aspx?2015-HB-4686

NEGLIGENCE LAW SECTION
Respectfully submits the following position on:

*

HB 4686

*

The Negligence Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Negligence Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Negligence Law Section is 1,929.

The position was adopted after a discussion and vote at a scheduled meeting. The number of members in the decision-making body is 15. The number who voted in favor to this position was 8. The number who voted opposed to this position was 0.