

**Representative Peter C. Knudson** proposes to substitute the following bill:

**LIMITS OF MUNICIPAL LIABILITY**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Peter C. Knudson**

AN ACT RELATING TO CITIES AND TOWNS; LIMITING THE LIABILITY OF A MUNICIPALITY UNDER CERTAIN CIRCUMSTANCES; AND MAKING CONFORMING CHANGES TO IMMUNITY PROVISIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**63-30-8**, as last amended by Chapter 76, Laws of Utah 1991

**63-30-9**, as last amended by Chapter 76, Laws of Utah 1991

ENACTS:

**10-1-401**, Utah Code Annotated 1953

**10-1-402**, Utah Code Annotated 1953

**10-1-403**, Utah Code Annotated 1953

**10-1-404**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **10-1-401** is enacted to read:

**Part 4. Limitation on Municipal Liability**

**10-1-401. Definitions.**

As used in this part:

(1) "Person" includes an individual, regardless of age, maturity, ability, capability, or experience, and a corporation, partnership, limited liability company, or any other form of business enterprise.

(2) "Undeveloped" means:

1 (a) substantially unchanged from its natural condition; or

2 (b) developed but not suitable for the sport or recreational activity without further  
3 development, improvement, or alteration of condition.

4 (3) (a) "Without charge" means that a person is not required to pay any sum of money to  
5 use the land owned by the municipality for the sport or recreational activity.

6 (b) The determination under Subsection (3)(a) made shall be without regard to any taxes  
7 or fees a person pays to the municipality for a reason other than the use of the land for the sport  
8 or recreational activity.

9 Section 2. Section **10-1-402** is enacted to read:

10 **10-1-402. Limitation on liability.**

11 (1) A municipality that allows a person to develop, improve, or alter the condition of  
12 undeveloped land owned by the municipality so that it may be used by the public without charge  
13 for a sport or recreational activity may not be held liable for any personal injury or property  
14 damage resulting from the use of the land for the sport or recreational activity.

15 (2) A municipality does not lose the protection against liability provided by Subsection  
16 (1) by:

17 (a) issuing a building permit for an improvement on the land; or

18 (b) approving an improvement on the land as complying with applicable building code  
19 requirements.

20 Section 3. Section **10-1-403** is enacted to read:

21 **10-1-403. No affect on person's obligation to use due care.**

22 Nothing in this part may be construed to relieve a person using the recreational facilities  
23 from an obligation that the person would have in the absence of this part to exercise due care in  
24 the use of the recreational facilities or from the legal consequences of a failure to use due care.

25 Section 4. Section **10-1-404** is enacted to read:

26 **10-1-404. No affect on obligation of person or firm that improves land.**

27 Nothing in this part may be construed to relieve the person that develops, improves, or  
28 alters the condition of land owned by a municipality from an obligation that the person would have  
29 in the absence of this part to exercise due care in developing, improving, or altering the condition  
30 of the land.

31 Section 5. Section **63-30-8** is amended to read:

1           **63-30-8. Waiver of immunity for injury caused by defective, unsafe, or dangerous**  
2 **condition of highways, bridges, or other structures.**

3           Unless the injury arises out of one or more of the exceptions to waiver set forth in Section  
4 10-1-402 or 63-30-10, immunity from suit of all governmental entities is waived for any injury  
5 caused by a defective, unsafe, or dangerous condition of any highway, road, street, alley,  
6 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them.

7           Section 6. Section **63-30-9** is amended to read:

8           **63-30-9. Waiver of immunity for injury from dangerous or defective public building,**  
9 **structure, or other public improvement -- Exception.**

10           Unless the injury arises out of one or more of the exceptions to waiver set forth in Section  
11 10-1-402 or 63-30-10, immunity from suit of all governmental entities is waived for any injury  
12 caused from a dangerous or defective condition of any public building, structure, dam, reservoir,  
13 or other public improvement.