



SELECT PROVISIONS FROM THE NEW JERSEY TORT CLAIMS ACT

New Jersey Statutes Annotated **Title 59. Claims Against Public Entities** *New Jersey Tort Claims Act*

Chapter 2: Immunity and Liability of Public Entity

59:2-1. Immunity of public entity generally

- a. Except as otherwise provided by this act, a public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person.
- b. Any liability of a public entity established by this act is subject to any immunity of the public entity and is subject to any defenses that would be available to the public entity if it were a private person.

59:2-2. Liability of public entity

- a. A public entity is liable for injury proximately caused by an act or omission of a public employee within the scope of his employment in the same manner and to the same extent as a private individual under like circumstances.
- b. A public entity is not liable for an injury resulting from an act or omission of a public employee where the public employee is not liable.

59:2-3. Discretionary activities

- a. A public entity is not liable for an injury resulting from the exercise of judgment or discretion vested in the entity;
- b. A public entity is not liable for legislative or judicial action or inaction, or administrative action or inaction of a legislative or judicial nature;
- c. A public entity is not liable for the exercise of discretion in determining whether to seek or whether to provide the resources necessary for the purchase of equipment, the construction or maintenance of facilities, the hiring of personnel and, in general, the provision of adequate governmental services;
- d. A public entity is not liable for the exercise of discretion when, in the face of competing demands, it determines whether and how to utilize or apply existing resources, including those allocated for equipment, facilities and personnel unless a court concludes that the determination of the public entity was palpably unreasonable. Nothing in this section shall exonerate a public entity for negligence arising out of acts or omissions of its employees in carrying out their ministerial functions.

59:2-4. Adoption or failure to adopt or enforce a law

A public entity is not liable for any injury caused by adopting or failing to adopt a law or by failing to enforce any law.



59:2-5. Issuance, denial, suspension or revocation of permit, license, etc.

A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where the public entity or public employee is authorized by law to determine whether or not such authorization should be issued, denied, suspended or revoked.

59:2-6. Failure to inspect, or negligent inspection of, property

A public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection of any property; provided, however, that nothing in this section shall exonerate a public entity from liability for negligence during the course of, but outside the scope of, any inspection conducted by it, nor shall this section exonerate a public entity from liability for failure to protect against a dangerous condition as provided in chapter 4.

Chapter 3: Liability and Immunity of Public Employee

59:3-1. Generally

- a. Except as otherwise provided by this act, a public employee is liable for injury caused by his act or omission to the same extent as a private person.
- b. The liability of a public employee established by this act is subject to any immunity of a public employee provided by law and is subject to any defenses that would be available to the public employee if he were a private person.
- c. A public employee is not liable for an injury where a public entity is immune from liability for that injury.

59:3-2. Discretionary activities

- a. A public employee is not liable for an injury resulting from the exercise of judgment or discretion vested in him;
- b. A public employee is not liable for legislative or judicial action or inaction, or administrative action or inaction of a legislative or judicial nature;
- c. A public employee is not liable for the exercise of discretion in determining whether to seek or whether to provide the resources necessary for the purchase of equipment, the construction or maintenance of facilities, the hiring of personnel and, in general, the provision of adequate governmental services;
- d. A public employee is not liable for the exercise of discretion when, in the face of competing demands, he determines whether and how to utilize or apply existing resources, including those allocated for equipment, facilities and personnel unless a court concludes that the determination of the public employee was palpably unreasonable.

Nothing in this section shall exonerate a public employee for negligence arising out of his acts or omissions in carrying out his ministerial functions.

59:3-3. Execution or enforcement of laws

A public employee is not liable if he acts in good faith in the execution or enforcement of any law. Nothing in this section exonerates a public employee from liability for false arrest or false imprisonment.



59:3-4. Acting under unconstitutional, invalid or inapplicable laws

If a public employee acts under the apparent authority of a law that is unconstitutional, invalid or inapplicable, he is not liable for an injury caused thereby except to the extent that he would have been liable had the law been constitutional, valid and applicable.

59:3-5. Adoption or failure to adopt or enforce any law

A public employee is not liable for an injury caused by his adoption of or failure to adopt any law or by his failure to enforce any law.

59:3-6. Issuance, denial, suspension or revocation of permit, license, etc.

A public employee is not liable for an injury caused by his issuance, denial, suspension or revocation of, or by his failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where he is authorized by law to determine whether or not such authorization should be issued, denied, suspended or revoked.

59:3-7. Failure to inspect, or negligent inspection of, property

A public employee is not liable for injury caused by his failure to make an inspection, or by reason of making an inadequate or negligent inspection of any property; provided, however, that nothing in this section shall exonerate a public employee from liability for negligence during the course of, but outside the scope of, any inspection conducted by him, nor shall this section exonerate a public employee from liability for failure to protect against a dangerous condition as provided in chapter 4.

Chapter 4. Conditions of Public Property Liability of the Public Entity

59:4-1. Definitions

As used in this chapter:

- a. "Dangerous condition" means a condition of property that creates a substantial risk of injury when such property is used with due care in a manner in which it is reasonably foreseeable that it will be used.
- b. "Protect against" includes repairing, remedying or correcting a dangerous condition, providing safeguards against a dangerous condition, or warning of a dangerous condition.
- c. "Public property" means real or personal property owned or controlled by the public entity, but does not include easements, encroachments and other property that are located on the property of the public entity but are not owned or controlled by the public entity.

59:4-2. Liability generally

A public entity is liable for injury caused by a condition of its property if the plaintiff establishes that the property was in dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:

- a. a negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or
- b. a public entity had actual or constructive notice of the dangerous condition under [section 59:4-3](#) a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.



Nothing in this section shall be construed to impose liability upon a public entity for a dangerous condition of its public property if the action the entity took to protect against the condition or the failure to take such action was not palpably unreasonable.

59:4-3. Actual notice; constructive notice

a. A public entity shall be deemed to have actual notice of a dangerous condition within the meaning of subsection b. of [section 59:4-2](#) if it had actual knowledge of the existence of the condition and knew or should have known of its dangerous character.

b. A public entity shall be deemed to have constructive notice of a dangerous condition within the meaning of subsection b. of [section 59:4-2](#) only if the plaintiff establishes that the condition had existed for such a period of time and was of such an obvious nature that the public entity, in the exercise of due care, should have discovered the condition and its dangerous character.

59:4-4. Failure to provide emergency warning signals

Subject to [section 59:4-2](#) of this act, a public entity shall be liable for injury proximately caused by its failure to provide emergency signals, signs, markings or other devices if such devices were necessary to warn of a dangerous condition which endangered the safe movement of traffic and which would not be reasonably apparent to, and would not have been anticipated by, a person exercising due care.

59:4-5. Failure to provide ordinary traffic signals; Immunity

Neither a public entity nor a public employee is liable under this chapter for an injury caused by the failure to provide ordinary traffic signals, signs, markings or other similar devices.

59:4-6. Plan or design immunity

a. Neither the public entity nor a public employee is liable under this chapter for an injury caused by the plan or design of public property, either in its original construction or any improvement thereto, where such plan or design has been approved in advance of the construction or improvement by the Legislature or the governing body of a public entity or some other body or a public employee exercising discretionary authority to give such approval or where such plan or design is prepared in conformity with standards previously so approved.

59:4-7. Weather conditions; effect on use of streets and highways; immunity

Neither a public entity nor a public employee is liable for an injury caused solely by the effect on the use of streets and highways of weather conditions.

CREDIT(S)

L.1972, c. 45, § 59:4-1, eff. July 1, 1972.

