

**670.4 Claims exempted.**

1. The liability imposed by [section 670.2](#) shall have no application to any claim enumerated in [this section](#). As to any of the following claims, a municipality shall be liable only to the extent liability may be imposed by the express statute dealing with such claims and, in the absence of such express statute, the municipality shall be immune from liability:

a. Any claim by an employee of the municipality which is covered by the Iowa workers' compensation law.

b. Any claim in connection with the assessment or collection of taxes.

c. Any claim based upon an act or omission of an officer or employee of the municipality, exercising due care, in the execution of a statute, ordinance, or regulation whether the statute, ordinance or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the municipality or an officer or employee of the municipality, whether or not the discretion is abused.

d. Any claim against a municipality as to which the municipality is immune from liability by the provisions of any other statute or where the action based upon such claim has been barred or abated by operation of statute or rule of civil procedure.

e. Any claim for punitive damages.

f. Any claim for damages caused by a municipality's failure to discover a latent defect in the course of an inspection.

g. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a highway, secondary road, or street as defined in [section 321.1, subsection 78](#), that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under [this chapter](#) shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing highway, secondary road, or street, to new, changed, or altered design standards. In respect to highways and roads, sealcoating, asphaltting, patching, resurfacing, ditching, draining, repairing, graveling, rocking, blading, or maintaining an existing highway or road does not constitute reconstruction. This paragraph shall not apply to claims based upon gross negligence.

h. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public improvement as defined in [section 384.37, subsection 19](#), or other public facility that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under [this chapter](#) shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing public improvement or other public facility to new, changed, or altered design standards. This paragraph shall not apply to claims based upon gross negligence. This paragraph takes effect July 1, 1984, and applies to all cases tried or retried on or after July 1, 1984.

i. Any claim based upon an act or omission by an officer or employee of the municipality or the municipality's governing body, in the granting, suspension, or revocation of a license or permit, where the damage was caused by the person to whom the license or permit was issued, unless the act of the officer or employee constitutes actual malice or a criminal offense.

j. Any claim based upon an act or omission of an officer or employee of the municipality, whether by issuance of permit, inspection, investigation, or otherwise, and whether the statute, ordinance, or regulation is valid, if the damage was caused by a third party, event, or property not under the supervision or control of the municipality, unless the act or omission of the officer or employee constitutes actual malice or a criminal offense.

k. A claim based upon or arising out of an act or omission of a municipality in connection with an emergency response including but not limited to acts or omissions in connection with emergency response communications services. For the purposes of this paragraph, "municipality" includes a nonprofit corporation that delivers such emergency response services on behalf of a city, county, township, or benefited fire district pursuant to a written contract. The city, county, township, or benefited fire district shall file the written contract

and any amendment, modification, or notice of termination of the contract in an electronic format with the secretary of state within thirty days of the effective date of the contract, amendment, modification, or termination in a manner specified by the secretary of state.

*l.* A claim relating to a swimming pool or spa as defined in [section 135I.1](#) which has been inspected by a municipality or the state in accordance with [chapter 135I](#), or a swimming pool or spa inspection program which has been certified by the state in accordance with that chapter, whether or not owned or operated by a municipality, unless the claim is based upon an act or omission of an officer or employee of the municipality and the act or omission constitutes actual malice or a criminal offense.

*m.* A claim based on an act or omission by a county or city pursuant to [section 717.2A](#) or [chapter 717B](#) relating to either of the following:

- (1) Rescuing neglected livestock or another animal by a law enforcement officer.
- (2) Maintaining or disposing of neglected livestock or another animal by a county or city.

*n.* Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public facility designed for recreational activities that was constructed or reconstructed, reasonably and in good faith, in accordance with generally recognized engineering or safety standards or design theories in existence at the time of the construction or reconstruction.

*o.* Any claim for injuries or damages based upon or arising out of an act or omission of an officer or employee of the municipality or the municipality's governing body and arising out of a recreational activity occurring on public property where the claimed injuries or damages resulted from the normal and expected risks inherent in the recreational activity and the person engaging in the recreational activity was voluntarily on the public property where the injuries or damages occurred and knew or reasonably should have known that the recreational activity created a substantial risk of injuries or damages.

*p.* Any claim against a [chapter 28E](#) entity or an officer or employee of the entity in any way arising out of, or related to, the acts or omissions, operations, or acceptance of waste by the entity, at the request of federal or state agencies, or any political subdivision of this state, in response to a disaster emergency declared by the governor pursuant to [section 29C.6, subsection 1](#), in any way related to an infectious or contagious disease as defined in [section 163.2, subsection 5](#), unless the department of natural resources determines the entity materially deviated from the entity's direct responsibilities and duties under the special waste authorization issued by the department. A [chapter 28E](#) entity receiving waste under this paragraph shall not be responsible for actions or inactions of any other parties and shall have no duty to assess, challenge, or evaluate the efficacy or safety of the means of disposal pursuant to any governmental rule, order, special waste authorization, or directive.

*q.* Any claim relating to a constructed honeybee hive on municipal property, provided the municipality or beehive owner, if not the municipality, acted reasonably and in good faith.

*r.* Any claim arising from the performance, failure to perform, nature, age, condition, or packaging of any vehicle or equipment used in fire fighting, emergency medical response, or law enforcement which has been donated in good faith without payment to any organization engaged in fire fighting or emergency medical services, or to a law enforcement agency.

2. The remedy against the municipality provided by [section 670.2](#) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the officer, employee or agent whose act or omission gave rise to the claim, or the officer's, employee's, or agent's estate.

3. [This section](#) does not expand any existing cause of action or create any new cause of action against a municipality.

[C71, 73, 75, 77, 79, 81, §613A.4; 82 Acts, ch 1018, §4, 5]

83 Acts, ch 198, §24 – 27, 29; 86 Acts, ch 1211, §33; 88 Acts, ch 1177, §9, 10; 89 Acts, ch 291, §8

C93, §670.4

94 Acts, ch 1103, §6; 98 Acts, ch 1159, §1; 2003 Acts, ch 162, §2; 2013 Acts, ch 30, §196; 2015 Acts, ch 23, §1; 2015 Acts, ch 132, §49, 51; 2018 Acts, ch 1126, §2; 2019 Acts, ch 153, §1; 2020 Acts, ch 1027, §3; 2020 Acts, ch 1063, §371, 372

Referred to in §468.526A, 670.1, 670.7, 670.12

Exemption for exercise of due care under chapter 89B; see §89B.6

Legislative intent that subsection 1, paragraph g, not apply to areas of litigation other than highway or road construction or reconstruction; applicability of rule of exclusion; see 83 Acts, ch 198, §27