

FISCAL IMPLICATIONS

This bill limits the liability associated with skateboarding and inline skating. There is a positive fiscal impact in that public agencies will be exempt from potential liability and the associated costs of that liability.

ADMINISTRATIVE IMPLICATIONS

The bill defines the meaning of a “skate park” located on public property. This facility would require posting a sign in the designated area stating that it is a “skate park.” The agency would have to install this signage in any areas if this activity were allowed to occur in state or municipal parks in order to limit liability.

TECHNICAL ISSUES

According to the AG:

1. Page 1, line 20 strikes out Section 5-14-4 and replaces it with 41-4-4. This correction already exists in current statute.
2. Page 1, line 25 lists “except for a skate park” in the middle of a series of items. The existing provisions of the Tort Claims Act use a two sentence approach. The first sentence lists the locations where immunity is waived. The second sentence lists the exceptions to the first sentence.
3. Page 2, lines 4-7 repeats the substance of Page 1, line 25, but also is inconsistent with the above-mentioned two sentence approach.
4. Page 2, line 8 deals with authority and permission issues. This type of sentence appears to be unique to the entire Tort Claims Act.
5. Page 2, lines 7-15 deal with the posting of signs. Blackburn v. State, 98 NM 34 (Ct. App. 1982) appears to state that signs are considered a subset of “maintenance” and whether appropriate signs have been posted is a question of fact for a jury.

OTHER SUBSTANTIVE ISSUES

Per the AG, page 2, line 7-15 appears to create governmental immunity at a skate park. By inference, it seems to admit to governmental liability for all other skate board injuries on government owned and controlled property. On page 2, line 3 could read: “maintenance of a skate park or works used for diversion or storage of water...”

Per RMD, bill offers defense by immunity—cash law may ultimately deteriorate strength and intent of bill.

GG/yr