

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE TILTON

TO: HB 104

1 Page 1, lines 7 - 8:

2 Delete "a fire department or"

3

4 Page 1, line 8, following "department.":

5 Insert "An action for tort or breach of a contractual duty based on the act or omission  
6 of an employee or member of a fire department in the execution of a function for which the  
7 department is established may not be maintained against a fire department unless the action  
8 alleges intentional misconduct or gross negligence."

9

10 Page 1, following line 12:

11 Insert a new bill section to read:

12 "\* **Sec. 2.** AS 09.65.070(d) is amended to read:

13 (d) **Notwithstanding (c) of this section, an** [AN] action for damages may not  
14 be brought against a municipality or any of its agents, officers, or employees if the  
15 claim

16 (1) is based on a failure of the municipality, or its agents, officers, or  
17 employees, when the municipality is neither owner nor lessee of the property  
18 involved,

19 (A) to inspect property for a violation of any statute, regulation,  
20 or ordinance, or a hazard to health or safety;

21 (B) to discover a violation of any statute, regulation, or  
22 ordinance, or a hazard to health or safety if an inspection of property is made;

23 or

1 (C) to abate a violation of any statute, regulation, or ordinance,  
2 or a hazard to health or safety discovered on property inspected;

3 (2) is based upon the exercise or performance or the failure to exercise  
4 or perform a discretionary function or duty by a municipality or its agents, officers, or  
5 employees, whether or not the discretion involved is abused;

6 (3) is based upon the grant, issuance, refusal, suspension, delay, or  
7 denial of a license, permit, appeal, approval, exception, variance, or other entitlement,  
8 or a rezoning;

9 (4) is based on the exercise or performance during the course of  
10 gratuitous extension of municipal services on an extraterritorial basis;

11 (5) is based upon the exercise or performance of a duty or function  
12 upon the request of, or by the terms of an agreement or contract with, the state to meet  
13 emergency public safety requirements; or

14 (6) is based on the exercise or performance of a duty in connection  
15 with an enhanced 911 emergency system and is not based on an intentional act of  
16 misconduct or on an act of gross negligence."