



Legislation Details (With Text)

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**File created:** 11/21/2016      **In control:** City Council

**On agenda:** 12/6/2016      **Final action:**

**Title:** Consider Retaining Statutory Tort Limits and Not Purchasing Excess Liability Insurance.

**Sponsors:**

**Indexes:**

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**Attachments:** 1. 1 - Retaining statutory tort limits - Resolution

Date	Ver.	Action By	Action	Result
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**City Council Meeting Date:** December 6, 2016

**To:** Mayor and City Council  
City Administrator

**From:** Deb Little, City Clerk

**Subject:**  
Consider Retaining Statutory Tort Limits and Not Purchasing Excess Liability Insurance.

**Action Requested:**  
The Northfield City Council is being asked to approve the attached resolution retaining (not-waiving) statutory tort limits and not purchasing excess liability insurance coverage for fiscal year 2017.

**Summary Report:**  
The League of Minnesota Cities Insurance Trust (LMCIT) insures the City of Northfield for liability and property damage. Cities obtaining liability coverage from LMCIT must decide whether or not to waive the statutory tort limits to the extent of the coverage purchased. The decision to waive or not to waive the statutory limits has the following effects:

- If the city does not waive the statutory tort limits, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total, which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply, would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether or not the city purchases the optional excess liability coverage.
- If the city waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could potentially recover up to \$2,000,000 on a single occurrence. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.
- If the city waives the statutory tort limits and purchases excess liability coverage, a single claimant

could potentially recover an amount up to the limit of the coverage purchased. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Only about 18% of LMCIT members have chosen to waive the statutory limits. For cities that do choose to waive the statutory limits, they can be sued for greater dollar amounts. When the city chooses the “waiver” option, the city waives the protection of the statutory limits, up to the amount of coverage the city has. In addition, if the city waives the statutory tort limit, LMCIT will charge approximately 3% more in additional premium for the option.

By retaining (not waiving) statutory tort limits the need for excess liability insurance coverage is limited to federal civil rights law violations, claims for tort liability assumed by contract, claims for actions in another state, claims based on liquor sales and claims based on land use regulations. These types of claims would cause an entity to purchase Excess Liability Insurance to cover judgments in excess of the \$1,500,000. Historically, however, the City has not had claims for the above exclusions.

The City of Northfield has not exceeded the statutory tort limit on any type of liability claim and has never utilized the Excess Liability Insurance when purchased. The City Council discontinued purchasing Excess Liability insurance in 2010 due to budget constraints.

**Alternative Options:**

The City Council could waive the statutory limits as legislated by Minnesota Statutes §466.04 and authorize the purchase of excess liability insurance for 2017.

**Financial Impacts:**

LMCIT will charge approximately 3% more in additional premium if the city waives the statutory tort limit. The cost of the excess liability coverage is about 25% greater if the city waives the statutory tort limits. The cost difference is proportionally greater than the cost difference at the primary level because for a city that carries excess coverage, waiving the statutory tort limits increases both the per-claimant exposure and the per-occurrence exposure. Past estimates have been approximately \$35,000 - \$40,000 annually.

**Tentative Timelines:**

Action on this item is needed at this meeting so that the information can be included with insurance renewal documents.