



## Legislation Text

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**File #:** Res. 2018-127, **Version:** 1

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**City Council Meeting Date:** December 4, 2018

**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 approves the attached Resolution retaining (not-waiving) statutory tort limits and not purchasing excess liability insurance coverage for fiscal year 2019.

**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. When the city chooses the “waive” 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 (risk for on-sale liquor sales is greater than off-sale) and claims based on

land use regulations. These types of claims could cause an entity to purchase Excess Liability Insurance to cover judgments in excess of the statutory tort limits. The City of Northfield has \$2,000,000 in coverage under our existing insurance.

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. As of August 1, 2018, approximately 30% of LMCIT members purchase excess liability. The 2017 quote for excess liability annual premium for the City of Northfield is as follows:

Coverage Amount	Cost
\$1,000,000	\$23,094
\$2,000,000	\$34,658
\$3,000,000	\$40,431

Staff has not obtained a quote for 2018. If Council would prefer, staff could request a quote for excess liability. However, it will be based on prior year figures. 2019 costs will not be known until the renewal is completed and premium costs are received from LMCIT. We typically receive renewal rates in the first quarter of the New Year.

#### **Alternative Options:**

The City Council could waive the statutory limits as legislated by Minnesota Statutes §466.04 and/or authorize the purchase of excess liability insurance for 2019. The City Council could choose to retain the statutory tort limits and authorize the purchase of excess liability insurance to cover those items not covered by statutory tort limits noted above.

#### **Financial Impacts:**

LMCIT will charge approximately 3% more in additional premium if the city waives the statutory tort limit. In addition, 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. The cost estimate for excess liability annual premium noted above is based on 2017 figures.

#### **Tentative Timelines:**

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