



## Waiver of Sovereign and Official Immunity Talking Points

During the 2025 legislative session, the Georgia General Assembly introduced several laws that would have waived local governments' sovereign and/or official immunity.<sup>1</sup> This is of concern to ACCG and GMA. The waiver of these immunities going forward should be carefully considered for the reasons below.

### What is sovereign and official immunity?

*Sovereign immunity*<sup>2</sup> protects the “entity” (a county or city) from

- 1- going through a lawsuit/trial<sup>3</sup> and, if the “entity” loses,
- 2- paying a money judgment to the plaintiff (the person who filed suit).

**Example:** John Doe v. Lowndes County, the City of Valdosta, and the State of Georgia

*Official immunity* protects a county or city “official” or employee (the person) from

- 1- going through a lawsuit/trial, and, if that official or employee loses,
- 2- paying a money judgment to the plaintiff (the person who filed suit).

**Example:** Jane Doe v. Thomas L. Jones, Jr., in his individual capacity as a police officer employed by Lowndes County.

### Waiver of Immunity in State Statutes: Why It Happens

**Why?** To add a “stick” that ensures that cities, counties, and local officials comply with specific state laws. These immunity waivers are designed to “punish” cities and counties and local government officials if they do not comply with a particular state law.

**Immunity Waivers punish taxpayers and hurt frontline law enforcement workers.**

**1<sup>st</sup> Common Misconception- “You won’t be sued if you just follow the law. You have nothing to worry about.”**

**Reality - Lawsuits are filed all the time when the government and its officials have obeyed the law and when sovereign or official immunity applies. Immunity waivers lead to more lawsuits.**<sup>4</sup>

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<sup>1</sup> Sometimes the immunity waiver is only for a particular class of officials, type of conduct, or limited time period.

<sup>2</sup> Sovereign and official immunity have legal definitions, and many lawyers do not fully understand the two concepts. This outline is designed for a broader audience; it is not written to address the legal issues, nuances, and intricacies associated with waiver of these two complicated legal concepts.

<sup>3</sup> This outline is limited to a discussion of those lawsuits filed against a city, county or local government official arising out of the performance or non-performance of their local government-related duties. This outline does not address lawsuits arising from the use of county or city vehicles.

<sup>4</sup> Sovereign or official immunity may keep a county, city, or local government official from having to go to trial once sued or having to pay a money judgment, but these immunities do not keep them from being sued and named in the lawsuit in the first place.

**Example:** If Cherokee County and its Sheriff are complying with a state statute, they still may be sued concerning their compliance. The county will have to pay money to defend or win that lawsuit. If sovereign and official immunities are waived, defending these suits costs more.

## **2<sup>nd</sup> Common Misconception- “Immunity waivers punish governments.”**

**Reality: Immunity Waivers punish taxpayers - More lawsuits mean higher legal costs and insurance premiums - These costs are passed on to taxpayers through higher taxes or cutting services. Taxpayer money needs to be used to provide services rather than paying lawyers.**

### **Think of it like car insurance:**

- If you have multiple claims/accidents, your premium goes up—often even if the accidents/claims weren’t your fault.
- Similarly, more lawsuits mean higher premiums for local governments, which leads to higher taxes or cutting services.
- Private insurers do *NOT* insure cities and counties when it relates to law enforcement- ACCG and GMA provide such coverage, but new immunity waivers will result in higher premiums<sup>5</sup> for every covered county and city even if they obeyed the law.

## **3<sup>rd</sup> Common Misconception – Immunity waivers punish noncompliant elected officials.**

**Reality:** Waivers often hurt frontline workers like police officers, EMTs, and firefighters.

- These individuals can be sued even when doing their jobs correctly and, if official immunity is waived, they will be sued more often.
- The idea of being sued for doing your job further discourages people from applying to work in the law enforcement or emergency services arena at a time when hiring and keeping law enforcement officers is at an all-time low.

### **What are we asking State Legislators to do?**

Waivers of sovereign and official immunity are blunt and often unnecessary tools. They punish taxpayers and hard-working public servants rather than achieving local government compliance with a particular law. If immunity waivers are truly necessary, they should be:

- Carefully crafted;
- Limited in scope; and
- Aligned with existing law and waivers.

Counties and cities aren’t saying immunity should never be waived—but any waiver should be thoughtfully designed to meet legislative goals without harming communities and taxpayers. Remember, “bad actor officials” do not have official immunity based on the legal test already firmly in place in Georgia law. “Bad actors” get sued; plaintiffs win and recover money judgments for those bad acts.

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<sup>5</sup> ACCG and GMA’s pooled risk arrangements are often the insurer of last resort and immunity waivers mean the pool’s risk is higher, which equal higher premiums for each county or city member of the pool.