

FIRST REGULAR SESSION

SENATE BILL NO. 497

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR O'LAUGHLIN.

Read 1st time February 28, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2408S.01I

AN ACT

To repeal section 537.600, RSMo, and to enact in lieu thereof one new section relating to sovereign immunity for contractors performing governmental services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 537.600, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 537.600, to read as follows:

537.600. 1. Such sovereign or governmental tort immunity as existed at
2 common law in this state prior to September 12, 1977, except to the extent
3 waived, abrogated or modified by statutes in effect prior to that date, shall
4 remain in full force and effect; except that, the immunity of the public entity from
5 liability and suit for compensatory damages for negligent acts or omissions is
6 hereby expressly waived in the following instances:

7 (1) Injuries directly resulting from the negligent acts or omissions by
8 public employees arising out of the operation of motor vehicles or motorized
9 vehicles within the course of their employment;

10 (2) Injuries caused by the condition of a public entity's property if the
11 plaintiff establishes that the property was in dangerous condition at the time of
12 the injury, that the injury directly resulted from the dangerous condition, that the
13 dangerous condition created a reasonably foreseeable risk of harm of the kind of
14 injury which was incurred, and that either a negligent or wrongful act or
15 omission of an employee of the public entity within the course of his employment
16 created the dangerous condition or a public entity had actual or constructive
17 notice of the dangerous condition in sufficient time prior to the injury to have
18 taken measures to protect against the dangerous condition. In any action under
19 this subdivision wherein a plaintiff alleges that he was damaged by the negligent,
20 defective or dangerous design of a highway or road, which was designed and

21 constructed prior to September 12, 1977, the public entity shall be entitled to a
22 defense which shall be a complete bar to recovery whenever the public entity can
23 prove by a preponderance of the evidence that the alleged negligent, defective, or
24 dangerous design reasonably complied with highway and road design standards
25 generally accepted at the time the road or highway was designed and constructed.

26 2. The express waiver of sovereign immunity in the instances specified in
27 subdivisions (1) and (2) of subsection 1 of this section are absolute waivers of
28 sovereign immunity in all cases within such situations whether or not the public
29 entity was functioning in a governmental or proprietary capacity and whether or
30 not the public entity is covered by a liability insurance for tort.

31 **3. The sovereign immunity or governmental tort immunity**
32 **specified in subsection 1 of this section shall include and apply to any**
33 **general contractor of the Missouri department of transportation, and**
34 **any of its subcontractors, who is performing governmental services**
35 **previously performed by the Missouri department of transportation,**
36 **including but not limited to snow removal, maintenance of the surfaces**
37 **of state lettered highways, asphalt paving, road and bridge**
38 **construction and repairs, and the mowing of the right of ways of the**
39 **state of Missouri, in tort actions where the injury occurred on or after**
40 **August 28, 2019.**

41 4. The term "public entity" as used in this section shall include any
42 multistate compact agency created by a compact formed between this state and
43 any other state which has been approved by the Congress of the United States.

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