

SENATE BILL NO. 832

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR LUETKEMEYER.

3708S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 537.600, RSMo, and to enact in lieu thereof one new section relating to liability of private contractors.

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Section A. Section 537.600, RSMo, is repealed and one new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

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

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

13 (2) Injuries caused by the condition of a public
14 entity's property if the plaintiff establishes that the
15 property was in dangerous condition at the time of the
16 injury, that the injury directly resulted from the dangerous
17 condition, that the dangerous condition created a reasonably
18 foreseeable risk of harm of the kind of injury which was

19 incurred, and that either a negligent or wrongful act or
20 omission of an employee of the public entity within the
21 course of his employment created the dangerous condition or
22 a public entity had actual or constructive notice of the
23 dangerous condition in sufficient time prior to the injury
24 to have taken measures to protect against the dangerous
25 condition. In any action under this subdivision wherein a
26 plaintiff alleges that he was damaged by the negligent,
27 defective or dangerous design of a highway or road, which
28 was designed and constructed prior to September 12, 1977,
29 the public entity shall be entitled to a defense which shall
30 be a complete bar to recovery whenever the public entity can
31 prove by a preponderance of the evidence that the alleged
32 negligent, defective, or dangerous design reasonably
33 complied with highway and road design standards generally
34 accepted at the time the road or highway was designed and
35 constructed.

36 2. The express waiver of sovereign immunity in the
37 instances specified in subdivisions (1) and (2) of
38 subsection 1 of this section are absolute waivers of
39 sovereign immunity in all cases within such situations
40 whether or not the public entity was functioning in a
41 governmental or proprietary capacity and whether or not the
42 public entity is covered by a liability insurance for tort.

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

47 **4. When acting within the scope of a government**
48 **contract, private contractors of a public entity, excluding**
49 **those private contractors provided for in section 210.114,**
50 **shall have sovereign or governmental tort immunity to the**

51 same extent as a public entity, including any limitation on
52 awards for liability provided for in section 537.610.

✓