

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 916

103RD GENERAL ASSEMBLY

3834S.05C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 537.600 and 537.610, RSMo, and to enact in lieu thereof two new sections relating to sovereign immunity.

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

Section A. Sections 537.600 and 537.610, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 537.600 and 537.610, 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 contract with the**
48 **Missouri department of transportation, private contractors**
49 **and subcontractors performing work in accordance with the**

50 plans and specifications approved by the Missouri department
51 of transportation shall have sovereign or governmental tort
52 immunity to the same extent as a public entity, including
53 any limitation on awards for liability provided for in
54 section 537.610. The immunity provided under this
55 subsection, for any claims arising thereof, shall commence
56 upon the official notice to proceed and such immunity shall
57 continue after the Missouri department of transportation
58 formally accepts the completed project. Such immunity shall
59 be subject to the exceptions that are set forth in this
60 section.

537.610. 1. The commissioner of administration,
2 through the purchasing division, and the governing body of
3 each political subdivision of this state, notwithstanding
4 any other provision of law, may purchase liability insurance
5 for tort claims, made against the state or the political
6 subdivision, but the maximum amount of such coverage shall
7 not exceed two million dollars for all claims arising out of
8 a single occurrence and shall not exceed three hundred
9 thousand dollars for any one person in a single accident or
10 occurrence, except for those claims governed by the
11 provisions of the Missouri workers' compensation law,
12 chapter 287, and no amount in excess of the above limits
13 shall be awarded or settled upon. Sovereign immunity for
14 the state of Missouri and its political subdivisions is
15 waived only to the maximum amount of and only for the
16 purposes covered by such policy of insurance purchased
17 pursuant to the provisions of this section and in such
18 amount and for such purposes provided in any self-insurance
19 plan duly adopted by the governing body of any political
20 subdivision of the state. **For purposes of this section as**
21 **it relates to political subdivisions, the term "purchase"**

22 **refers only to the direct acquisition by a governing body of**
23 **a political subdivision of this state of insurance coverage**
24 **from an insurance company or other business entity and does**
25 **not include any indirect action by contract or otherwise**
26 **including, but not limited to, requiring additional insured**
27 **coverage or insured status under the insurance policy of**
28 **another person or entity.**

29 2. The liability of the state and its public entities
30 on claims within the scope of sections 537.600 to 537.650,
31 shall not exceed two million dollars for all claims arising
32 out of a single accident or occurrence and shall not exceed
33 three hundred thousand dollars for any one person in a
34 single accident or occurrence, except for those claims
35 governed by the provisions of the Missouri workers'
36 compensation law, chapter 287.

37 3. No award for damages on any claim against a public
38 entity within the scope of sections 537.600 to 537.650,
39 shall include punitive or exemplary damages.

40 4. If the amount awarded to or settled upon multiple
41 claimants exceeds two million dollars, any party may apply
42 to any circuit court to apportion to each claimant his
43 proper share of the total amount limited by subsection 1 of
44 this section. The share apportioned each claimant shall be
45 in the proportion that the ratio of the award or settlement
46 made to him bears to the aggregate awards and settlements
47 for all claims arising out of the accident or occurrence,
48 but the share shall not exceed three hundred thousand
49 dollars.

50 5. The limitation on awards for liability provided for
51 in this section shall be increased or decreased on an annual
52 basis effective January first of each year in accordance
53 with the Implicit Price Deflator for Personal Consumption

54 Expenditures as published by the Bureau of Economic Analysis
55 of the United States Department of Commerce. The current
56 value of the limitation shall be calculated by the director
57 of the department of commerce and insurance, who shall
58 furnish that value to the secretary of state, who shall
59 publish such value in the Missouri Register as soon after
60 each January first as practicable, but it shall otherwise be
61 exempt from the provisions of section 536.021. **The**
62 **applicable limitation on awards for liability provided for**
63 **in this section as to a given claim shall be the limitation**
64 **then in effect on the date of the accident or occurrence**
65 **giving rise to the claim.**

66 6. Any claim filed against any public entity under
67 this section shall be subject to the penalties provided by
68 supreme court rule 55.03, or any successor rule.

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