

SECOND REGULAR SESSION

# SENATE BILL NO. 916

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

3834S.03I

KRISTINA MARTIN, 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Section A. Section 537.600, RSMo, is repealed and one new  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

foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or wrongful act or omission of an employee of the public entity within the course of his employment created the dangerous condition or a public entity had actual or constructive notice of the dangerous condition in sufficient time prior to the injury to have taken measures to protect against the dangerous condition. In any action under this subdivision wherein a plaintiff alleges that he was damaged by the negligent, defective or dangerous design of a highway or road, which was designed and constructed prior to September 12, 1977, the public entity shall be entitled to a defense which shall be a complete bar to recovery whenever the public entity can prove by a preponderance of the evidence that the alleged negligent, defective, or dangerous design reasonably complied with highway and road design standards generally accepted at the time the road or highway was designed and constructed.

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

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

**4. When acting within the scope of a contract with the Missouri department of transportation, private contractors 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.

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