

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 916

103RD GENERAL ASSEMBLY
2026

3834S.08T

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2 repealed and two new sections enacted in lieu thereof, to be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, **or an agent of the**
11 **Missouri department of transportation**, arising out of the
12 operation of motor vehicles or motorized vehicles within the
13 course of their employment;

14 (2) Injuries caused by the condition of a public
15 entity's property if the plaintiff establishes that the

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

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

46 3. **A statutory cause of action for damages against an**
47 **agent of the Missouri department of transportation is hereby**

48 created, replacing any such common law cause of action
49 against a private contractor, subcontractor, engineer, or
50 employee thereof for liability of claims arising from
51 design, condition, or maintenance of a Missouri department
52 of transportation project after execution of a contract to
53 perform work but prior to the commencement of construction
54 activities on the project site and for when construction
55 activities on the project site are approved and accepted by
56 the Missouri department of transportation. The Missouri
57 department of transportation shall be solely liable for
58 personal injury or death arising out of instances after
59 execution of a contract to perform work but prior to the
60 commencement of construction activities and after
61 construction activities on the project site are approved and
62 accepted by the Missouri department of transportation.

63 4. The immunity provided in subsection 3 of this
64 section shall not apply when any of the following conditions
65 exist:

66 (1) The work is so defective that it creates an
67 imminent danger to third parties;

68 (2) A defect in the work was concealed and not
69 discoverable by a reasonable inspection by the state
70 highways and transportation commission;

71 (3) The agent of the Missouri department of
72 transportation knew of the dangerous condition and did not
73 disclose it to the state highways and transportation
74 commission; or

75 (4) The plans or specifications followed were so
76 imperfect or improper that the agent of the Missouri
77 department of transportation should have known the work to
78 be done thereunder would result in an unsafe condition.

79 5. The Missouri standard specifications for highway
80 construction, or its successor, as published by the state
81 highway and transportation commission shall not include
82 provisions requiring a contractor to indemnify or defend the
83 state, the state highways and transportation commission,
84 employees of the Missouri department of transportation, or
85 an agent of the Missouri department of transportation prior
86 to the commencement of work under a contract. No contractor
87 shall be required to agree to an indemnification or a duty
88 to defend provision as a condition of any agreement to
89 perform work for the state highways and transportation
90 commission.

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

95 7. The term "agent of the Missouri department of
96 transportation" as used in this section shall mean any
97 private contractors, subcontractors, engineers or the
98 employees thereof performing work in accordance with the
99 plans and specifications approved by the Missouri department
100 of transportation.

101 8. The term "final inspection" as used in this section
102 shall mean the project engineer has made an inspection of
103 the project and determined that all construction
104 contemplated by the contract has been completed to the
105 engineer's satisfaction, and the engineer has notified the
106 contractor in writing of acceptance for maintenance as of
107 the date of that inspection, with the exception of items
108 covered by item specific performance bonds.

109 9. The phrase "after execution of a contract to
110 perform work but prior to the commencement of construction

111 activities" as used in this section shall apply as a period
112 of time when a contract is fully executed and signed by an
113 agent of the Missouri department of transportation and the
114 Missouri department of transportation but shall end when the
115 agent of the Missouri department of transportation first
116 begins performing work pursuant to the terms of the
117 contract, including the furnishing of labor, material,
118 equipment, and other incidentals necessary or convenient to
119 the successful completion of the project and the carrying
120 out of duties and obligations imposed by the contract.

121 10. The phrase "construction activities on the project
122 site are approved and accepted by the Missouri department of
123 transportation" as used in this section shall apply as a
124 fixed date in time when all corrections are completed by an
125 agent of the Missouri department of transportation and a
126 final inspection has been conducted by the engineer for the
127 Missouri department of transportation. Approval and
128 acceptance of the construction activities on the project
129 site shall be deemed approved and accepted for partial or
130 full acceptance of the work on a project site upon the
131 expiration of twenty business days after conducting the
132 final inspection by the Missouri department of
133 transportation.

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.

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

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