

SECOND REGULAR SESSION

SENATE BILL NO. 747

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LYBYER.

Read 1st time January 15, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3264.011

AN ACT

To repeal sections 537.705 and 537.756, RSMo 1994, relating to claims against the state, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Sections 537.705 and 537.756, RSMo 1994, are repealed and two new sections enacted in lieu thereof, to be known as sections 537.705 and 537.756, to read as follows:

537.705. 1. All public entities in Missouri shall have the option of participating in the fund and making annual contributions to the fund in the amount determined by the board in accordance with the provisions of section 379.470, RSMo, relating to rates established by insurers. Participation in the fund has the same effect as purchase of insurance by the public entity, as otherwise provided by law, and shall have the same effect as a self-insurance plan adopted by the governing body of any political subdivision of the state. Moneys in the fund shall be available for:

(1) The payment and settlement of all claims for which coverage has been obtained by any public entity in accordance with coverages offered by the board;

(2) The payment and settlement of tort claims against any officer or employee of a participating public entity **for which coverage has been obtained by any public entity in accordance with coverages offered by the board** when the claim is upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the participating public entity;

(3) Attorney's fees and expenses incurred in the settlement and defense of such entities and persons for claims specified in this subsection.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. No amount in excess of the amount specified by section 537.756 shall be paid from the fund for the payment and settlement of claims arising out of any single occurrence.

3. The board of trustees of the fund will negotiate the settlement of and provide the defense of any claim **for which coverage has been obtained by any public entity in accordance with coverages offered by the board.** The board of trustees of the fund shall make the final determination on the settlement of any claim, or any portion of any claim, which requires payment from the fund. For any year in which any public entity does not make a yearly contribution to the fund, the board of trustees of the fund shall not be responsible, in any way, for negotiating the settlement of any claim arising from an occurrence in that year, providing any defense of any claim arising from an occurrence in that year, making any payment on any claim arising from an occurrence in that year, or making any payment on any judgment on any claim arising from an occurrence in that year. Any public entity which discontinues its participation in the fund may not resume participation for a period of three years from the date it discontinues participation.

4. All staff for the Missouri public entity risk management fund shall be provided by the office of administration except as otherwise specifically determined by the board. The fund shall reimburse the office of administration for all costs of providing staff required by this subsection. Such reimbursement shall be made on an annual basis, pursuant to contract negotiated between the fund and the office of administration. As established in section 537.700, the Missouri public entity risk management fund is a body corporate and politic, and the state of Missouri shall not be liable in any way with respect to claims made against the fund or against entities or individuals covered by the fund, nor with respect to any expense of operation of the fund. Money in the fund is not state money nor is it money collected or received by the state.

5. Each participating public entity shall notify the board of trustees of the fund within seven working days of the time notice is received that a claim from an occurrence has been made against the entity, or one of its officers or employees. The public entity shall supply information to the board of trustees of the fund concerning any claim upon request. It shall also notify the board of trustees of the fund upon the closing of any claim.

6. The board may contract with independent insurance agents, authorizing such agents to accept contributions to the fund from public entities on behalf of the board upon such terms and conditions as the board deems necessary, and may provide a reasonable method of compensating such agents.

537.756. The [maximum] amount which may be paid from the fund, as defined in section 537.700, for the payment and settlement of claims arising out of any single occurrence[, is one million dollars.] **shall not exceed the limits of liability as provided in sections 537.600 to 537.610.**

✓

Unofficial

Bill

Copy