

FIRST REGULAR SESSION

SENATE BILL NO. 78

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0047S.02I

AN ACT

To repeal section 537.610, RSMo, and to enact in lieu thereof one new section relating to tort claim liability for government entities.

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

Section A. Section 537.610, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 537.610, to read as follows:

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

15 2. The liability of the state and its public entities on claims within the
16 scope of sections 537.600 to 537.650, shall not exceed two million dollars for all
17 claims arising out of a single accident or occurrence and shall not exceed three
18 hundred thousand dollars for any one person in a single accident or occurrence,
19 except for those claims governed by the provisions of the Missouri workers'

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

20 compensation law, chapter 287, RSMo.

21 3. The liability of the state or its public entities and any agent,
22 officer, or employee of the state or its public entities arising out of the
23 operation of a motor vehicle being operated within the course and scope
24 of their office, employment, or agency with the state or its public
25 entities shall not exceed two million dollars for all claims against all
26 such entities or individuals arising out of a single accident or
27 occurrence, and shall not exceed three hundred thousand dollars for any
28 one person in a single accident or occurrence, except for those claims
29 governed by the provisions of the Missouri workers' compensation law,
30 chapter 287, RSMo. When a claim against the state or one of its public
31 entities arises out of the operation of a motor vehicle as described in
32 subdivision (1) of subsection 1 of section 537.600, and a claim is also
33 brought against an agent, officer, or employee of the state or its public
34 entities arising out of the same accident or occurrence, the maximum
35 allowable recovery against the state, one of its public entities, or any
36 agent, officer, or employee of the state or its public entities shall be
37 reduced by any amount paid towards the claim by the state, its public
38 entities, agents, officers or employees of the same, or anyone acting on
39 their behalf.

40 4. The liability of the state or its public entities and any agent,
41 officer, or employee of the state or its political entities arising out of any
42 dangerous condition of property which the agent, officer, or employee
43 allegedly caused or contributed to cause shall not exceed two million
44 dollars for all claims against all such entities or individuals arising out
45 of the single accident or occurrence, and shall not exceed three hundred
46 thousand dollars for any one person in a single accident or occurrence,
47 except for those claims governed by the provisions of the Missouri
48 workers' compensation law, chapter 287, RSMo. When a claim against
49 the state or its public entities arises out of a dangerous condition of
50 property as described in subdivision (2) of subsection 1 of section
51 537.600, and the claim is also brought against an agent, officer or
52 employee of the state or its public entities for causing or contributing
53 to cause the dangerous condition, then the maximum allowable recovery
54 against the state or its public entities or any agent, officer, or employee
55 who allegedly caused or contributed to cause the dangerous condition
56 shall be reduced by any amount paid toward the claim made by the

57 state, its public entities, any agent, officer, or employee of the state or
58 its public entities, or anyone acting on their behalf.

59 **5. The liability of the state or its public entities for operation of**
60 **a motor vehicle is vicarious to the liability of the operator of a motor**
61 **vehicle that is operated as described by subsection 3 of this**
62 **section. Notwithstanding the provisions of section 537.600, should the**
63 **operator of the motor vehicle owned or operated on behalf of the state**
64 **or its public entities be found to be immune from liability for operation**
65 **of a motor vehicle because of official immunity or otherwise, the state**
66 **or its public entities shall also have no liability arising from the**
67 **operation of the motor vehicle.**

68 **6. No award for damages on any claim against a public entity within the**
69 **scope of sections 537.600 to 537.650, shall include punitive or exemplary damages.**

70 **[4.] 7. If the amount awarded to or settled upon multiple claimants**
71 **exceeds two million dollars, any party may apply to any circuit court to apportion**
72 **to each claimant his proper share of the total amount limited by subsection 1 of**
73 **this section. The share apportioned each claimant shall be in the proportion that**
74 **the ratio of the award or settlement made to him bears to the aggregate awards**
75 **and settlements for all claims arising out of the accident or occurrence, but the**
76 **share shall not exceed three hundred thousand dollars.**

77 **[5.] 8. The limitation on awards for liability provided for in this section**
78 **shall be increased or decreased on an annual basis effective January first of each**
79 **year in accordance with the Implicit Price Deflator for Personal Consumption**
80 **Expenditures as published by the Bureau of Economic Analysis of the United**
81 **States Department of Commerce. The current value of the limitation shall be**
82 **calculated by the director of the department of insurance, who shall furnish that**
83 **value to the secretary of state, who shall publish such value in the Missouri**
84 **Register as soon after each January first as practicable, but it shall otherwise be**
85 **exempt from the provisions of section 536.021, RSMo.**

86 **[6.] 9. Any claim filed against any public entity under this section shall**
87 **be subject to the penalties provided by supreme court rule 55.03.**

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