

FIRST REGULAR SESSION

HOUSE BILL NO. 121

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NANCE (Sponsor) AND NOLTE (Co-sponsor).

Pre-filed December 14, 2006 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0703L.01I

AN ACT

To repeal section 537.610, RSMo, and to enact in lieu thereof one new section relating to the state's maximum liability for certain types of tort claims.

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Section A. Section 537.610, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.610, to read as follows: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 division, and the governing body of each political subdivision of this state, notwithstanding any other provision of law, may purchase liability insurance for tort claims, made against the state or the political subdivision, but the maximum amount of such coverage shall not exceed two million dollars for all claims arising out of a single occurrence and shall not exceed three hundred thousand dollars for any one person in a single accident or occurrence, except for those claims governed by the provisions of the Missouri workers' compensation law, chapter 287, RSMo, and no amount in excess of the above limits shall be awarded or settled upon. Sovereign immunity for the state of Missouri and its political subdivisions is waived only to the maximum amount of and only for the purposes covered by such policy of insurance purchased pursuant to the provisions of this section and in such amount and for such purposes provided in any self-insurance plan duly adopted by the governing body of any political subdivision of the state.

2. The liability of the state and its public entities on claims within the scope of sections 537.600 to 537.650, shall not exceed two million dollars for all claims arising out of a single accident or occurrence and shall not exceed three hundred thousand dollars for any one person

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 in a single accident or occurrence, except for those claims governed by the provisions of the
17 Missouri workers' compensation law, chapter 287, RSMo.

18 **3. The liability of the state or its public entities and any agent, officer, or employer**
19 **of the state or its public entities arising out of the operation of a motor vehicle being**
20 **operated within the course and scope of their office, employment or agency with the state**
21 **or its public entities, shall not exceed two million dollars for all claims against all such**
22 **entities or individuals arising out of a single accident or occurrence. When a claim against**
23 **the state or one of its public entities arises out of the operation of a motor vehicle as**
24 **described in subdivision (1) of subsection 1 of section 537.600 and a claim is also brought**
25 **against an agent, officer, or employee of the state or its public entities arising out of the**
26 **same accident or occurrence, the maximum allowable recovery against the state, one of its**
27 **public entities, or any agent, officer, or employee of the state or its public entities shall be**
28 **reduced by any amount paid towards the claim by the state, its public entities, agent,**
29 **officers, or employees of the same, or anyone acting on their behalf.**

30 **4. The liability of the state or its public entities and any agent, officer, or employee**
31 **of the state or its political entities arising out of any dangerous condition of property which**
32 **the agent, officer, or employee allegedly caused or contributed to cause, shall not exceed**
33 **two million dollars for all claims against all such entities or individuals arising out of the**
34 **single accident or occurrence, and shall not exceed three hundred thousand dollars for any**
35 **one person in a single accident or occurrence. When a claim against the state or its public**
36 **entities arises out of a dangerous condition of property as described in subdivision (2) of**
37 **subsection 1 of section 537.600, and the claim is also brought against an agent, officer, or**
38 **employee of the state or its public entities for causing or contributing to cause the**
39 **dangerous condition, then the maximum allowable recovery against the state or its public**
40 **entities or any agent, officer, or employee who allegedly caused or contributed to cause the**
41 **dangerous condition shall be reduced by any amount paid toward the claim made by the**
42 **state, its public entities, any agent, officer, or employee of the state or its public entities, or**
43 **anyone acting on their behalf.**

44 **5. The liability of the state or its public entities for operation of a motor vehicle is**
45 **vicarious to the liability of the operator of the motor vehicle. Should the operator of the**
46 **motor vehicle owned or operated on behalf of the state or its public entities be found to be**
47 **immune from liability for operation of a motor vehicle because of official immunity or**
48 **otherwise, the state or its public entities shall also have no liability arising from the**
49 **operation of the motor vehicle.**

50 [3.] **6. No award for damages on any claim against a public entity within the scope of**
51 **sections 537.600 to 537.650, shall include punitive or exemplary damages.**

52 [4.] 7. If the amount awarded to or settled upon multiple claimants exceeds two million
53 dollars, any party may apply to any circuit court to apportion to each claimant his proper share
54 of the total amount limited by subsection 1 of this section. The share apportioned each claimant
55 shall be in the proportion that the ratio of the award or settlement made to him bears to the
56 aggregate awards and settlements for all claims arising out of the accident or occurrence, but the
57 share shall not exceed three hundred thousand dollars.

58 [5.] 8. The limitation on awards for liability provided for in this section shall be
59 increased or decreased on an annual basis effective January first of each year in accordance with
60 the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau
61 of Economic Analysis of the United States Department of Commerce. The current value of the
62 limitation shall be calculated by the director of the department of insurance, who shall furnish
63 that value to the secretary of state, who shall publish such value in the Missouri Register as soon
64 after each January first as practicable, but it shall otherwise be exempt from the provisions of
65 section 536.021, RSMo.

66 [6.] 9. Any claim filed against any public entity under this section shall be subject to the
67 penalties provided by supreme court rule 55.03.

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