

HOUSE

AMENDMENT NO. _____

Offered by

_____ of _____

1 AMEND House Committee Substitute for House Bill No. 58, Page 23,
2 Section 447.640, Line 8, by inserting after all of said line the
3 following:

4 "537.600. 1. Such sovereign or governmental tort immunity
5 as existed at common law in this state prior to September 12,
6 1977, except to the extent waived, abrogated or modified by
7 statutes in effect prior to that date, shall remain in full force
8 and effect; except that, the immunity of the public entity from
9 liability and suit for compensatory damages for negligent acts or
10 omissions is hereby expressly waived in the following instances:

11 (1) Injuries directly resulting from the negligent acts or
12 omissions by public employees arising out of the operation of
13 motor vehicles or motorized vehicles within the course of their
14 employment;

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

Action Taken _____

Date _____

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

20 2. The express waiver of sovereign immunity in the
21 instances specified in subdivisions (1) and (2) of subsection 1
22 of this section are absolute waivers of sovereign immunity in all
23 cases within such situations whether or not the public entity was
24 functioning in a governmental or proprietary capacity and whether

1 or not the public entity is covered by a liability insurance for
2 tort.

3 3. The term "public entity" as used in this section shall
4 include any multi-state compact agency created by a compact
5 formed between this state and any other state which has been
6 approved by the Congress of the United States. [Sovereign
7 immunity, if any, is waived for the proprietary functions of such
8 multi-state compact agencies as of the date that the Congress of
9 the United States approved any such multi-state compact.

10 4. Pursuant to the prerogative of the general assembly to
11 declare the public policy of the state in matters concerning
12 liability in tort for public entities, the general assembly
13 declares that prior to September 12, 1977, there was no sovereign
14 or governmental immunity for the proprietary functions of
15 multistate compact agencies operating pursuant to the provisions
16 of sections 70.370 to 70.440, RSMo, and 238.030 to 238.110, RSMo,
17 including functions such as the operation of motor vehicles and
18 the maintenance of property, involved in the operation of a
19 public transit or public transportation system, and that policy
20 is hereby reaffirmed and declared to remain in effect.

21 5. Any court decision dated subsequent to August 13, 1978,
22 holding to the contrary of subsection 4 of this section
23 erroneously interprets the law and the public policy of this
24 state, and any claimant alleging tort liability under such

1 circumstances for an occurrence within five years prior to
2 February 17, 1988, shall in addition to the time allowed by the
3 applicable statutes of limitation or limitation of appeal, have
4 up to one year after July 14, 1989, to file or refile an action
5 against such public entity and may recover damages imposed by the
6 common law of this state as for any other person alleged to have
7 caused similar damages under similar circumstances.]

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

1 political subdivision of the state.

2 2. The liability of the state and its public entities on
3 claims within the scope of sections 537.600 to 537.650, shall not
4 exceed two million dollars for all claims arising out of a single
5 accident or occurrence and shall not exceed three hundred
6 thousand dollars for any one person in a single accident or
7 occurrence, except for those claims governed by the provisions of
8 the Missouri workers' compensation law, chapter 287, RSMo.

9 3. The remedy against any public entity under section
10 537.600 or 537.650 for injuries, death, or property damage
11 arising or resulting from the negligent acts or omissions of its
12 public employee is exclusive of any other civil action or
13 proceeding for money damages by reason of the same subject matter
14 against such employee or the employee's estate. Any other civil
15 action or proceeding for money damages arising out of or relating
16 to the same subject matter against the employee or the employee's
17 estate is precluded without regard to when the act or omission
18 occurred.

19 4. No award for damages on any claim against a public
20 entity within the scope of sections 537.600 to 537.650, shall
21 include punitive or exemplary damages.

22 [4.] 5. If the amount awarded to or settled upon multiple
23 claimants exceeds two million dollars, any party may apply to any
24 circuit court to apportion to each claimant his proper share of

1 the total amount limited by subsection 1 of this section. The
2 share apportioned each claimant shall be in the proportion that
3 the ratio of the award or settlement made to him bears to the
4 aggregate awards and settlements for all claims arising out of
5 the accident or occurrence, but the share shall not exceed three
6 hundred thousand dollars.

7 [5.] 6. The limitation on awards for liability provided for
8 in this section shall be increased or decreased on an annual
9 basis effective January first of each year in accordance with the
10 Implicit Price Deflator for Personal Consumption Expenditures as
11 published by the Bureau of Economic Analysis of the United States
12 Department of Commerce. The current value of the limitation
13 shall be calculated by the director of the department of
14 insurance, who shall furnish that value to the secretary of
15 state, who shall publish such value in the Missouri Register as
16 soon after each January first as practicable, but it shall
17 otherwise be exempt from the provisions of section 536.021, RSMo.

18 [6.] 7. Any claim filed against any public entity under
19 this section shall be subject to the penalties provided by
20 supreme court rule 55.03."; and

21 Further amend said title, enacting clause and intersectional
22 references accordingly.