

SECOND REGULAR SESSION

# HOUSE BILL NO. 1353

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PRATT.

Read 1st time January 11, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3840L.01I

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### AN ACT

To repeal section 537.600, RSMo, and to enact in lieu thereof one new section relating to sovereign immunity.

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

Section A. Section 537.600, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.600, to read as follows:

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

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

(2) Injuries caused by the condition of a public entity's property if the plaintiff establishes that the property was in dangerous condition at the time of the injury, that the injury directly resulted from the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or wrongful act or omission of an employee of the public entity within the course of his employment created the dangerous condition or a public entity had actual or constructive notice of the dangerous condition in sufficient time prior to the injury to have taken measures to protect

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 against the dangerous condition. In any action under this subdivision wherein a plaintiff alleges  
17 that he was damaged by the negligent, defective or dangerous design of a highway or road, which  
18 was designed and constructed prior to September 12, 1977, the public entity shall be entitled to  
19 a defense which shall be a complete bar to recovery whenever the public entity can prove by a  
20 preponderance of the evidence that the alleged negligent, defective, or dangerous design  
21 reasonably complied with highway and road design standards generally accepted at the time the  
22 road or highway was designed and constructed.

23         2. The express waiver of sovereign immunity in the instances specified in subdivisions  
24 (1) and (2) of subsection 1 of this section are absolute waivers of sovereign immunity in all cases  
25 within such situations whether or not the public entity was functioning in a governmental or  
26 proprietary capacity and whether or not the public entity is covered by a liability insurance for  
27 tort.

28         3. The term "public entity" as used in this section shall include any multistate compact  
29 agency created by a compact formed between this state and any other state which has been  
30 approved by the Congress of the United States **and any not-for-profit organization that**  
31 **provides or contracts for ambulance services pursuant to authority granted to such not-**  
32 **for-profit organization by a city, county, town, or village and of which a majority of the**  
33 **governing body consists of elected officials or individuals appointed by the mayor, board**  
34 **of alderman, city council, county commission, or county legislature. Such not-for-profit**  
35 **organization shall be entitled to sovereign or governmental tort immunity under sections**  
36 **537.600 to 537.650 as limited by such sections.**

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