

By: Representative Simpson (By Request)

To: Judiciary A

HOUSE BILL NO. 1372

1 AN ACT TO AMEND SECTION 11-3-23, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT THE STATUTORY APPEAL PENALTY SHALL NOT APPLY TO
 3 CLAIMS AGAINST THE STATE OR ITS POLITICAL SUBDIVISIONS MADE UNDER
 4 THE TORTS CLAIM ACT; TO AMEND SECTION 11-46-18, MISSISSIPPI CODE
 5 OF 1972, TO ALLOW THE DEPUTY DIRECTORS OF CERTAIN STATE AGENCIES
 6 TO ATTEND AND VOTE AT MEETINGS OF THE TORT CLAIMS BOARD WHEN SO
 7 DIRECTED BY THE MEMBER DIRECTOR OF THE AGENCY; AND FOR RELATED
 8 PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. Section 11-3-23, Mississippi Code of 1972, is
 11 amended as follows:

12 11-3-23. (1) In case the judgment or decree of the court
 13 below be affirmed, or the appellant fails to prosecute his appeal
 14 to effect, the Supreme Court shall render judgment against the
 15 appellant for damages, at the rate of fifteen percent (15%), as
 16 follows: If the judgment or decree affirmed be for a sum of
 17 money, the damages shall be upon such sum. If the judgment or
 18 decree be for the possession of real or personal property, the
 19 damages shall be assessed on the value of the property. If the
 20 judgment or decree be for the dissolution of an injunction or
 21 other restraining process at law or in chancery, the damages shall
 22 be computed on the amount due the appellee which was enjoined or
 23 restrained. If the judgment or decree be for the dissolution of
 24 an injunction or other restraining process as to certain property,
 25 real or personal, or a certain interest in property, or be a
 26 judgment or decree for the sale of property, or some interest in
 27 it, to satisfy a sum out of the proceeds of sale, or to enforce or
 28 establish a lien or charge or claim upon or some interest in
 29 property, and the only matter complained of on the appeal is the

30 decree as to some particular property or claim on it, the damages
31 shall be computed on the value of the property or the interest in
32 it, if the value of the property or interest in it be less than
33 the judgment or decree against it; but if the value of the
34 property or interest in it be greater than the amount of the
35 judgment or decree against it, the damages shall be upon the
36 amount of the judgment or decree; provided, however, the above
37 penalty shall not be assessed against any condemnee appealing from
38 a special court of eminent domain in any circumstances.

39 (2) This section shall not apply to an appeal of a judgment
40 entered in a claim under Title 11, Chapter 46.

41 SECTION 2. Section 11-46-18, Mississippi Code of 1972, is
42 amended as follows:

43 11-46-18. (1) There is created a board which shall be known
44 as the Mississippi Tort Claims Board. The board shall consist of
45 seven (7) members as follows:

46 (a) The Governor, subject to the advice and consent of
47 the Senate, shall appoint one (1) member who shall serve at the
48 will and pleasure of the Governor and who shall serve as chairman
49 of the board.

50 (b) The Director of the Department of Environmental
51 Quality shall be a member of the board.

52 (c) The Commissioner of Insurance shall be a member of
53 the board.

54 (d) The Director of the Department of Finance and
55 Administration shall be a member of the board, shall serve as the
56 executive director to the board, and shall be authorized to
57 conduct the administrative affairs of the board.

58 (e) The Attorney General shall be a member of the
59 board.

60 (f) The Commissioner of Public Safety shall be a member
61 of the board and may designate a deputy director to attend
62 meetings of the board in his absence with full voting authority.

63 (g) The State Treasurer shall be a member of the board.

64 (2) The member of the board appointed by the Governor shall
65 receive per diem as provided by Section 25-3-69 and reimbursement
66 of travel expenses as provided in Section 25-3-41 for expenses
67 incurred in carrying out his duties as a member of the Mississippi
68 Tort Claims Board.

69 (3) The board, by majority vote, shall determine the place
70 and time of its meetings and shall spread the same on its minutes.
71 A majority of the members shall constitute a quorum, and final
72 action of the board shall require the affirmative vote of a
73 majority of those present and voting. The board shall elect a
74 vice chairman who shall preside in the absence or incapacity of
75 the chairman and such other officers as it deems necessary and as
76 established by its rules of order. Extraordinary meetings may be
77 held upon call of the chairman or upon petition of any four (4)
78 members of the board should the chairman refuse to call a meeting.
79 The initial meeting of the board shall convene upon call of the
80 chairman.

81 (4) The Lieutenant Governor may designate one (1) Senator
82 and the Speaker of the House of Representatives may designate one
83 (1) Representative to attend any meeting of the Tort Claims Board.
84 The appointing authorities may designate alternate members from
85 their respective houses to serve when the regular designees are
86 unable to attend such meetings of the board. Such legislative
87 designees shall have no jurisdiction or vote on any matter within
88 the jurisdiction of the board. For attending meetings of the
89 board, such legislators shall receive per diem and expenses which
90 shall be paid from the contingent expense funds of their
91 respective houses in the same amounts as provided for committee
92 meetings when the Legislature is not in session; however, no per
93 diem and expenses for attending meetings of the board will be paid
94 while the Legislature is in session. No per diem and expenses

95 will be paid, except for attending meetings of the board, without
96 prior approval of the proper committee in their respective houses.

97 SECTION 3. This act shall take effect and be in force from
98 and after its passage.