HOUSE BILL NO. 1140

AN ACT TO CREATE THE COMMUNITY AND JUNIOR COLLEGES PROPERTY AND CASUALTY FUND; TO REQUIRE EACH COMMUNITY AND JUNIOR COLLEGE TO PARTICIPATE IN A PLAN OF INSURANCE ADMINISTERED BY THE TORT CLAIMS BOARD WHICH SHALL PROVIDE INSURANCE COVERAGE ON BUILDINGS AND CONTENTS; TO REQUIRE EACH COMMUNITY AND JUNIOR COLLEGE TO MAKE PAYMENTS AS DETERMINED BY THE TORT CLAIMS BOARD TO PROVIDE SUFFICIENT FUNDS FOR 25% OF THE DEDUCTIBLE AMOUNT OF THE PLAN; TO PROVIDE THAT THE REMAINING PORTION OF THE DEDUCTIBLE SHALL BE PAID FROM FUNDS APPROPRIATED BY THE LEGISLATURE; TO AMEND SECTION 11-46-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE TORT CLAIMS BOARD TO ADMINISTER SUCH PROPERTY AND CASUALTY INSURANCE PLAN; AND FOR RELATED PURPOSES.

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

SECTION 1. There is hereby created in the State Treasury a special fund to be known as the "Community and Junior Colleges Property and Casualty Fund." All such monies as the Mississippi Tort Claims Board shall receive and collect under the provisions of this section and all such funds as the Legislature may appropriate for use by the board in administering the provisions of this section shall be deposited in the fund. All interest earned from the investment of monies in the fund shall be credited to the fund. Monies remaining in such fund at the end of a fiscal year shall not lapse into the State General Fund.

(2) From and after July 1, 2003, each community and junior college shall participate in a plan of insurance administered by the Tort Claims Board and consisting of one or more policies of property insurance covering the buildings and contents of the community and junior colleges. The plan shall provide insurance on buildings and contents in an amount and manner to be determined by the Tort Claims Board. The plan shall have a deductible in an amount not less than Three Hundred Thousand Dollars ($300,000.00) nor more than Five Hundred Thousand Dollars ($500,000.00).
community and junior college shall make premium payments to the Community and Junior Colleges Property and Casualty Fund in such amounts, times and manner as determined by the Tort Claims Board to provide sufficient funds for the payment of twenty-five percent (25%) of the deductible amount. The remaining portion of the deductible shall be paid from funds appropriated by the Legislature and deposited into the Community and Junior Colleges Property and Casualty Fund for the specific purpose of deductible payments.

(3) Policies of property insurance purchased by the Tort Claims Board for the protection of buildings and contents of community and junior colleges shall be purchased pursuant to the competitive bidding procedures provided in the Mississippi Public Purchasing Law, Section 31-7-13.

SECTION 2. Section 11-46-19, Mississippi Code of 1972, is amended as follows:

11-46-19. (1) The board shall have the following powers:

(a) To provide oversight over the Tort Claims Fund;

(b) To approve any award made from the Tort Claims Fund;

(c) To pay all necessary expenses attributable to the operation of the Tort Claims Fund from such fund;

(d) To assign litigated claims against governmental entities other than political subdivisions to competent attorneys unless such governmental entity has a staff attorney who is competent to represent the governmental entity and is approved by the board; the board shall give primary consideration to attorneys practicing in the jurisdiction where the claim arose in assigning cases; attorneys hired to represent a governmental entity other than a political subdivision shall be paid according to the department fee schedule;

(e) To approve all claimants' attorney fees in claims against the state;
(f) To employ on a full-time basis a staff attorney who shall possess the minimum qualifications required to be a member of the Mississippi Bar, and such other staff as it may deem necessary to carry out the purposes of this chapter; the employees in the positions approved by the board shall be hired by the director, shall be employees of the department, and shall be compensated from the Tort Claims Fund;

(g) To contract with one or more reputable insurance consulting firms as may be necessary;

(h) To purchase any policies of liability insurance and to administer any plan of self-insurance or policies of liability insurance required for the protection of the state against claims and suits brought under this chapter;

(i) To expend money from the Tort Claims Fund for the purchase of any policies of liability insurance and the payment of any award or settlement of a claim against the state under the provisions of this chapter or of a claim against any school district, junior college or community college district, or state agency, arising from the operation of school buses or other vehicles, under the provisions of Section 37-41-42;

(j) To cancel, modify or replace any policy or policies of liability insurance procured by the board;

(k) To issue certificates of coverage to governmental entities, including any political subdivision participating in any plan of liability protection approved by the board;

(l) To review and approve or reject any plan of liability insurance or self-insurance reserves proposed or provided by political subdivisions if such plan is intended to serve as security for risks of claims and suits against them for which immunity has been waived under this chapter;

(m) To administer disposition of claims against the Tort Claims Fund;
(n) To withhold issuance of any warrants payable from funds of a participating state entity should such entity fail to make required contributions to the Tort Claims Fund in the time and manner prescribed by the board;

(o) To develop a comprehensive statewide list of attorneys who are qualified to represent the state and any employee thereof named as a defendant in a claim brought under this chapter against the state or such employee;

(p) To develop a schedule of fees for paying attorneys defending claims against the state or an employee thereof;

(q) To adopt and promulgate such reasonable rules and regulations and to do and perform all such acts as are necessary to carry out its powers and duties under this chapter;

(r) To establish and assess premiums to be paid by governmental entities required to participate in the Tort Claims Fund;

(s) To contract with a third-party administrator to process claims against the state under this chapter;

(t) To annually submit its budget request to the Legislature as a state agency; * * *

(u) To dispose of salvage obtained in settlement or payment of any claim at fair market value by such means and upon such terms as the board may think best;

(v) To administer an insurance plan and purchase any policies of insurance to cover buildings and contents of community and junior colleges for the protection of such buildings and contents from damage and/or destruction as required by Section 1 of House Bill No. ____, 2003 Regular Session; and

(w) To determine the amount of premium to be paid by each community and junior college for the purchase of property insurance protection, to deposit such amounts collected for premium payments in the Community and Junior College Property and
Casualty Fund, and to expend monies from the fund for the purchase of such insurance protection.

(2) Policies of liability insurance purchased for the protection of governmental entities against claims and suits brought under this chapter shall be purchased pursuant to the competitive bidding procedures set forth in Section 31-7-13.

(3) The department shall have the following powers and duties:

(a) To annually report to the Legislature concerning each comprehensive plan of liability protection established pursuant to Section 11-46-17(2). Such report shall include a comprehensive analysis of the cost of the plan, a breakdown of the cost to participating state entities, and such other information as the department may deem necessary.

(b) To provide the board with any staff and meeting facilities as may be necessary to carry out the duties of the board as provided in this chapter.

(c) To submit the board's budget request for the initial year of operation of the board in order to authorize expenditures for the 1993-1994 fiscal year and for the appropriation of such general funds as shall be required for the commencement of its activities.

SECTION 3. This act shall take effect and be in force from and after July 1, 2003.