

By: Representative Rotenberry

To: Universities and
Colleges; Appropriations

HOUSE BILL NO. 1140

1 AN ACT TO CREATE THE COMMUNITY AND JUNIOR COLLEGES PROPERTY
 2 AND CASUALTY FUND; TO REQUIRE EACH COMMUNITY AND JUNIOR COLLEGE TO
 3 PARTICIPATE IN A PLAN OF INSURANCE ADMINISTERED BY THE TORT CLAIMS
 4 BOARD WHICH SHALL PROVIDE INSURANCE COVERAGE ON BUILDINGS AND
 5 CONTENTS; TO REQUIRE EACH COMMUNITY AND JUNIOR COLLEGE TO MAKE
 6 PAYMENTS AS DETERMINED BY THE TORT CLAIMS BOARD TO PROVIDE
 7 SUFFICIENT FUNDS FOR 25% OF THE DEDUCTIBLE AMOUNT OF THE PLAN; TO
 8 PROVIDE THAT THE REMAINING PORTION OF THE DEDUCTIBLE SHALL BE PAID
 9 FROM FUNDS APPROPRIATED BY THE LEGISLATURE; TO AMEND SECTION
 10 11-46-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE TORT CLAIMS
 11 BOARD TO ADMINISTER SUCH PROPERTY AND CASUALTY INSURANCE PLAN; AND
 12 FOR RELATED PURPOSES.

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

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

24 (2) From and after July 1, 2003, each community and junior
 25 college shall participate in a plan of insurance administered by
 26 the Tort Claims Board and consisting of one or more policies of
 27 property insurance covering the buildings and contents of the
 28 community and junior colleges. The plan shall provide insurance
 29 on buildings and contents in an amount and manner to be determined
 30 by the Tort Claims Board. The plan shall have a deductible in an
 31 amount not less than Three Hundred Thousand Dollars (\$300,000.00)
 32 nor more than Five Hundred Thousand Dollars (\$500,000.00). Each



33 community and junior college shall make premium payments to the
34 Community and Junior Colleges Property and Casualty Fund in such
35 amounts, times and manner as determined by the Tort Claims Board
36 to provide sufficient funds for the payment of twenty-five percent
37 (25%) of the deductible amount. The remaining portion of the
38 deductible shall be paid from funds appropriated by the
39 Legislature and deposited into the Community and Junior Colleges
40 Property and Casualty Fund for the specific purpose of deductible
41 payments.

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

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

49 11-46-19. (1) The board shall have the following powers:

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

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

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

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

64 (e) To approve all claimants' attorney fees in claims
65 against the state;



66 (f) To employ on a full-time basis a staff attorney who
67 shall possess the minimum qualifications required to be a member
68 of the Mississippi Bar, and such other staff as it may deem
69 necessary to carry out the purposes of this chapter; the employees
70 in the positions approved by the board shall be hired by the
71 director, shall be employees of the department, and shall be
72 compensated from the Tort Claims Fund;

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

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

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

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

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

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

96 (m) To administer disposition of claims against the
97 Tort Claims Fund;



98 (n) To withhold issuance of any warrants payable from
99 funds of a participating state entity should such entity fail to
100 make required contributions to the Tort Claims Fund in the time
101 and manner prescribed by the board;

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

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

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

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

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

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

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

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

126 (w) To determine the amount of premium to be paid by
127 each community and junior college for the purchase of property
128 insurance protection, to deposit such amounts collected for
129 premium payments in the Community and Junior College Property and



130 Casualty Fund, and to expend monies from the fund for the purchase
131 of such insurance protection.

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

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

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

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

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

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

