

By: Senator(s) Horhn

To: Judiciary

SENATE BILL NO. 2713

1 AN ACT TO PROVIDE IMMUNITY TO CERTAIN MUNICIPALITIES AND
2 SCHOOL DISTRICTS FROM ACTIONS SOUNDING IN TORT ARISING OUT OF THE
3 USE OF SIXTEENTH SECTION LAND FOR RECREATIONAL PURPOSES; TO AMEND
4 SECTION 11-46-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** No action or suit sounding in tort arising out of
8 the lease or use of sixteenth section land for recreational
9 purposes shall be brought or maintained against any municipality
10 in Mississippi with a population in excess of one hundred ninety
11 thousand (190,000), according to the 1990 census, or the municipal
12 separate school district in such municipality.

13 **SECTION 2.** Section 11-46-5, Mississippi Code of 1972, is
14 amended as follows:

15 11-46-5. (1) Except as otherwise provided in Section 1 of
16 Senate Bill No. 2713, 2003 Regular Session, notwithstanding the
17 immunity granted in Section 11-46-3, or the provisions of any
18 other law to the contrary, the immunity of the state and its
19 political subdivisions from claims for money damages arising out
20 of the torts of such governmental entities and the torts of their
21 employees while acting within the course and scope of their
22 employment is hereby waived from and after July 1, 1993, as to the
23 state, and from and after October 1, 1993, as to political
24 subdivisions; provided, however, immunity of a governmental entity
25 in any such case shall be waived only to the extent of the maximum
26 amount of liability provided for in Section 11-46-15.

27 (2) For the purposes of this chapter an employee shall not
28 be considered as acting within the course and scope of his



29 employment and a governmental entity shall not be liable or be
30 considered to have waived immunity for any conduct of its employee
31 if the employee's conduct constituted fraud, malice, libel,
32 slander, defamation or any criminal offense other than traffic
33 violations.

34 (3) For the purposes of this chapter and not otherwise, it
35 shall be a rebuttable presumption that any act or omission of an
36 employee within the time and at the place of his employment is
37 within the course and scope of his employment.

38 (4) Nothing contained in this chapter shall be construed to
39 waive the immunity of the state from suit in federal courts
40 guaranteed by the Eleventh Amendment to the Constitution of the
41 United States.

42 **SECTION 3.** This act shall take effect and be in force from
43 and after its passage.

