SENATE BILL NO. 2713

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

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

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

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

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

(2) For the purposes of this chapter an employee shall not be considered as acting within the course and scope of his
employment and a governmental entity shall not be liable or be
considered to have waived immunity for any conduct of its employee
if the employee's conduct constituted fraud, malice, libel,
slander, defamation or any criminal offense other than traffic
violations.

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

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

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