

By: Senator(s) Turner

To: Judiciary

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2642

1 AN ACT TO AMEND SECTION 11-46-9, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT ERRORS AND OMISSIONS IN THE NATURE OF TYPOGRAPHICAL ERRORS
3 FROM LIABILITY UNDER THE TORT CLAIMS ACT; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 11-46-9, Mississippi Code of 1972, is
7 amended as follows:

8 11-46-9. (1) A governmental entity and its employees acting
9 within the course and scope of their employment or duties shall
10 not be liable for any claim:

11 (a) Arising out of a legislative or judicial action or
12 inaction, or administrative action or inaction of a legislative or
13 judicial nature;

14 (b) Arising out of any act or omission of an employee
15 of a governmental entity exercising ordinary care in reliance
16 upon, or in the execution or performance of, or in the failure to
17 execute or perform, a statute, ordinance or regulation, whether or
18 not the statute, ordinance or regulation be valid;

19 (c) Arising out of any act or omission of an employee
20 of a governmental entity engaged in the performance or execution
21 of duties or activities relating to police or fire protection
22 unless the employee acted in reckless disregard of the safety and
23 well-being of any person not engaged in criminal activity at the
24 time of injury;

25 (d) Based upon the exercise or performance or the
26 failure to exercise or perform a discretionary function or duty on
27 the part of a governmental entity or employee thereof, whether or
28 not the discretion be abused;



29 (e) Arising out of an injury caused by adopting or
30 failing to adopt a statute, ordinance or regulation;

31 (f) Which is limited or barred by the provisions of any
32 other law;

33 (g) Arising out of the exercise of discretion in
34 determining whether or not to seek or provide the resources
35 necessary for the purchase of equipment, the construction or
36 maintenance of facilities, the hiring of personnel and, in
37 general, the provision of adequate governmental services;

38 (h) Arising out of the issuance, denial, suspension or
39 revocation of, or the failure or refusal to issue, deny, suspend
40 or revoke any privilege, ticket, pass, permit, license,
41 certificate, approval, order or similar authorization where the
42 governmental entity or its employee is authorized by law to
43 determine whether or not such authorization should be issued,
44 denied, suspended or revoked unless such issuance, denial,
45 suspension or revocation, or failure or refusal thereof, is of a
46 malicious or arbitrary and capricious nature;

47 (i) Arising out of the assessment or collection of any
48 tax or fee;

49 (j) Arising out of the detention of any goods or
50 merchandise by any law enforcement officer, unless such detention
51 is of a malicious or arbitrary and capricious nature;

52 (k) Arising out of the imposition or establishment of a
53 quarantine, whether such quarantine relates to persons or
54 property;

55 (l) Of any claimant who is an employee of a
56 governmental entity and whose injury is covered by the Workers'
57 Compensation Law of this state by benefits furnished by the
58 governmental entity by which he is employed;

59 (m) Of any claimant who at the time the claim arises is
60 an inmate of any detention center, jail, workhouse, penal farm,
61 penitentiary or other such institution, regardless of whether such



62 claimant is or is not an inmate of any detention center, jail,
63 workhouse, penal farm, penitentiary or other such institution when
64 the claim is filed;

65 (n) Arising out of any work performed by a person
66 convicted of a crime when the work is performed pursuant to any
67 sentence or order of any court or pursuant to laws of the State of
68 Mississippi authorizing or requiring such work;

69 (o) Under circumstances where liability has been or is
70 hereafter assumed by the United States, to the extent of such
71 assumption of liability, including but not limited to any claim
72 based on activities of the Mississippi National Guard when such
73 claim is cognizable under the National Guard Tort Claims Act of
74 the United States, 32 USC 715 (32 USCS 715), or when such claim
75 accrues as a result of active federal service or state service at
76 the call of the Governor for quelling riots and civil
77 disturbances;

78 (p) Arising out of a plan or design for construction or
79 improvements to public property, including but not limited to,
80 public buildings, highways, roads, streets, bridges, levees,
81 dikes, dams, impoundments, drainage channels, diversion channels,
82 harbors, ports, wharfs or docks, where such plan or design has
83 been approved in advance of the construction or improvement by the
84 legislative body or governing authority of a governmental entity
85 or by some other body or administrative agency, exercising
86 discretion by authority to give such approval, and where such plan
87 or design is in conformity with engineering or design standards in
88 effect at the time of preparation of the plan or design;

89 (q) Arising out of an injury caused solely by the
90 effect of weather conditions on the use of streets and highways;

91 (r) Arising out of the lack of adequate personnel or
92 facilities at a state hospital or state corrections facility if
93 reasonable use of available appropriations has been made to
94 provide such personnel or facilities;



95 (s) Arising out of loss, damage or destruction of
96 property of a patient or inmate of a state institution;

97 (t) Arising out of any loss of benefits or compensation
98 due under a program of public assistance or public welfare;

99 (u) Arising out of or resulting from riots, unlawful
100 assemblies, unlawful public demonstrations, mob violence or civil
101 disturbances;

102 (v) Arising out of an injury caused by a dangerous
103 condition on property of the governmental entity that was not
104 caused by the negligent or other wrongful conduct of an employee
105 of the governmental entity or of which the governmental entity did
106 not have notice, either actual or constructive, and adequate
107 opportunity to protect or warn against; provided, however, that a
108 governmental entity shall not be liable for the failure to warn of
109 a dangerous condition which is obvious to one exercising due care;

110 (w) Arising out of the absence, condition, malfunction
111 or removal by third parties of any sign, signal, warning device,
112 illumination device, guardrail or median barrier, unless the
113 absence, condition, malfunction or removal is not corrected by the
114 governmental entity responsible for its maintenance within a
115 reasonable time after actual or constructive notice; * * *

116 (x) Arising out of the administration of corporal
117 punishment or the taking of any action to maintain control and
118 discipline of students, as defined in Section 37-11-57, by a
119 teacher, assistant teacher, principal or assistant principal of a
120 public school district in the state unless the teacher, assistant
121 teacher, principal or assistant principal acted in bad faith or
122 with malicious purpose or in a manner exhibiting a wanton and
123 willful disregard of human rights or safety; or

124 (y) Arising out of any data entry or computer error,
125 typographical error or scrivener's error.

126 (2) A governmental entity shall also not be liable for any
127 claim where the governmental entity:



128 (a) Is inactive and dormant;

129 (b) Receives no revenue;

130 (c) Has no employees; and

131 (d) Owns no property.

132 (3) If a governmental entity exempt from liability by
133 subsection (2) becomes active, receives income, hires employees or
134 acquires any property, such governmental entity shall no longer be
135 exempt from liability as provided in subsection (2) and shall be
136 subject to the provisions of this chapter.

137 **SECTION 2.** This act shall take effect and be in force from
138 and after its passage.

