

House Amendments to Senate Bill No. 2360

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

10 **SECTION 1.** Section 11-46-20, Mississippi Code of 1972, is
11 amended as follows:

12 11-46-20. (1) The Tort Claims Board shall be charged with
13 the responsibility to regulate all liability coverage of
14 governmental entities required to have certificates of coverage
15 under this chapter which elect to provide the same through a
16 public entity group or individual self-insurance program. This
17 regulation shall be accomplished through an initial approval as
18 provided in Section 11-46-17 and by ongoing or annual review.
19 Each self-insurance program shall annually submit to the Tort
20 Claims Board the following items within ninety (90) days from the
21 end of the group year:

- 22 (a) An audited financial statement;
- 23 (b) An actuarial valuation;
- 24 (c) Contracts with third-party administrators (if any);
- 25 (d) Excess insurance policies;

26 (e) A list of members and premiums due from and
27 collected from each member; and

28 (f) Other data as may be required by the Tort Claims
29 Board.

30 (2) Areas of regulation under this section shall include,
31 but not be limited to, the following:

32 (a) Financial solvency;

33 (b) Rating plans, rates and rating basis;

34 (c) Assessment plans of public entity groups;

35 (d) Coverages offered and excluded;

36 (e) Deductibles and deductible credits;

37 (f) Proper purchase of excess insurance or reinsurance;

38 and

39 (g) Review of losses, reserves and expenses annually.

40 (3) Individual self-insurers and group public entity
41 self-insurers must provide the data requested for the purposes of
42 this section in order to receive continuing approval of the Tort
43 Claims Board and issuance of annual certificates of coverage to
44 the governmental entities involved.

45 (4) The Tort Claims Board is authorized to assess and charge
46 appropriate fees for the costs of regulation, as determined by the
47 board, to the individual self-insurers and group public entity
48 self-insurers being regulated.

49 (5) The Tort Claims Board is empowered to:

50 (a) Issue cease and desist orders;

51 (b) Require rate increases or decreases;

52 (c) Require assessments of members of group public
53 entity self-insurers in such amounts as are authorized and
54 required by the board;

55 (d) Require changes in excess insurance or reinsurance;
56 or

57 (e) Take such other actions as deemed necessary by the
58 board to carry out the provisions of this chapter.

59 (6) (a) The Tort Claims Board shall create a publicly
60 accessible online registry by July 1, 2026, that lists all
61 governmental entities that are required to have certificates of
62 coverage under this chapter with the name, email address and
63 mailing address of the Chief Executive Office of the governmental
64 entity. If the information listed on the registry required by
65 this section is not correct at the time the notice of claim
66 described in Section 11-46-11 is served, the one (1) year statute
67 of limitations provided in Section 11-46-11 shall be tolled until
68 the correct information is listed for the governmental entity as
69 required by this section and the court shall not dismiss a
70 complaint for listing such incorrect information when the
71 complaint is otherwise properly filed.

72 (b) Each governmental entity that is required to have
73 certificates of coverage under this chapter shall have a duty to
74 provide the current name, email address and mailing address of the
75 Chief Executive Office of the governmental entity to the Tort
76 Claims Board. If the information provided to the registry is not
77 correct at the time the notice of claim described in Section

78 11-46-11 is served, the one (1) year statute of limitations
79 provided in Section 11-46-11 shall be tolled until the correct
80 information is listed for the governmental entity as required by
81 this section and the court shall not dismiss a complaint for
82 listing such incorrect information when the complaint is otherwise
83 properly filed.

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

86 11-46-11. (1) After all procedures within a governmental
87 entity have been exhausted, any person having a claim under this
88 chapter shall proceed as he might in any action at law or in
89 equity, except that at least ninety (90) days before instituting
90 suit, the person must file a notice of claim with the chief
91 executive officer of the governmental entity.

92 (2) (a) Service of notice of claim shall be made as
93 follows:

94 (i) For local governments:

95 1. If the governmental entity is a county,
96 then upon the chancery clerk of the county sued;

97 2. If the governmental entity is a
98 municipality, then upon the city clerk.

99 (ii) If the governmental entity to be sued is a
100 state entity as defined in Section 11-46-1(j), or is a political
101 subdivision other than a county or municipality, service of notice
102 of claim shall be had only upon that entity's or political
103 subdivision's chief executive officer. The chief executive

104 officer of a governmental entity participating in a plan
105 administered by the board pursuant to Section 11-46-7(3) shall
106 notify the board of any claims filed within five (5) days after
107 receipt thereof.

108 (b) Every notice of claim shall:

109 (i) Be in writing;

110 (ii) Be delivered in person or by registered or
111 certified United States mail; and

112 (iii) Contain a short and plain statement of the
113 facts upon which the claim is based, including the circumstances
114 which brought about the injury, the extent of the injury, the time
115 and place the injury occurred, the names of all persons known to
116 be involved, the amount of money damages sought, and the residence
117 of the person making the claim at the time of the injury and at
118 the time of filing the notice.

119 (3) (a) * * * Except as otherwise provided in Section
120 11-46-20 when the public online registry provided by the Tort
121 Claims Board is incorrect, all actions brought under this chapter
122 shall be commenced within one (1) year next after the date of the
123 tortious, wrongful or otherwise actionable conduct on which the
124 liability phase of the action is based, and not after, except that
125 filing a notice of claim within the required one-year period will
126 toll the statute of limitations for ninety-five (95) days from the
127 date the chief executive officer of the state entity or the chief
128 executive officer or other statutorily designated official of a
129 political subdivision receives the notice of claim.

130 (b) No action whatsoever may be maintained by the
131 claimant until the claimant receives a notice of denial of claim
132 or the tolling period expires, whichever comes first, after which
133 the claimant has an additional ninety (90) days to file suit;
134 failure to file within the time allowed is an absolute bar to any
135 further proceedings under this chapter.

136 (c) All notices of denial of claim shall be served by
137 governmental entities upon claimants by certified mail, return
138 receipt requested, only.

139 (d) (i) To determine the running of limitations
140 periods under this chapter, service of any notice of claim or
141 notice of denial of claim is effective upon delivery by the
142 methods statutorily designated in this chapter in accordance with
143 Section 11-46-20 for the online registry.

144 (ii) The limitations period provided in this
145 section controls and shall be exclusive in all actions subject to
146 and brought under the provisions of this chapter, notwithstanding
147 the nature of the claim, the label or other characterization the
148 claimant may use to describe it, or the provisions of any other
149 statute of limitations that would otherwise govern the type of
150 claim or legal theory if it were not subject to or brought under
151 the provisions of this chapter.

152 (4) From and after April 1, 1993, if any person entitled to
153 bring any action under this chapter shall, at the time at which
154 the cause of action accrued, be under the disability of infancy or
155 unsoundness of mind, he may bring the action within the time

156 allowed in this section after his disability shall be removed as
157 provided by law. The savings in favor of persons under disability
158 of unsoundness of mind shall never extend longer than twenty-one
159 (21) years.

160 **SECTION 3.** Section 11-46-19, Mississippi Code of 1972, is
161 brought forward as follows:

162 11-46-19. (1) The board shall have the following powers:

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

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

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

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

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

179 (f) To employ on a full-time basis a staff attorney who
180 shall possess the minimum qualifications required to be a member
181 of The Mississippi Bar, and such other staff as it may deem

182 necessary to carry out the purposes of this chapter; the employees
183 in the positions approved by the board shall be hired by the
184 director, shall be employees of the department, and shall be
185 compensated from the Tort Claims Fund;

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

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

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

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

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

204 (l) To review and approve or reject any plan of
205 liability insurance or self-insurance reserves proposed or
206 provided by political subdivisions if such plan is intended to

207 serve as security for risks of claims and suits against them for
208 which immunity has been waived under this chapter;

209 (m) To administer disposition of claims against the
210 Tort Claims Fund;

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

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

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

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

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

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

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

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

234 (v) To administer the Medical Malpractice Insurance
235 Availability Plan under Section 83-48-5. The provisions of this
236 paragraph (v) shall stand repealed from and after the transfer of
237 the plan's assets and liabilities as provided in Section
238 83-48-6(i).

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

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

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

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

254 (c) To submit the board's budget request for the
255 initial year of operation of the board in order to authorize
256 expenditures for the 1993-1994 fiscal year and for the

257 appropriation of such general funds as shall be required for the
258 commencement of its activities.

259 **SECTION 4.** This act shall take effect and be in force from
260 and after July 1, 2026.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 11-46-20, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE TORT CLAIMS BOARD TO CREATE A PUBLICLY ACCESSIBLE
3 ONLINE REGISTRY OF ALL GOVERNMENTAL ENTITIES AND THEIR CHIEF
4 EXECUTIVE OFFICERS BY A CERTAIN DATE; TO AMEND SECTION 11-46-11,
5 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE TOLLING PROVISIONS OF
6 SECTION 11-46-20; TO BRING FORWARD SECTION 11-46-19, MISSISSIPPI
7 CODE OF 1972, WHICH PROVIDES POWERS FOR THE TORT CLAIMS BOARD, FOR
8 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

HR43\SB2360A.J

Andrew Ketchings
Clerk of the House of Representatives