

SENATE BILL NO. 154

INTRODUCED BY NATHE, LYNCH, COBB,  
WHALEN, L. NELSON

IN THE SENATE

JANUARY 22, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

                                      FIRST READING.

FEBRUARY 16, 1991                   COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 18, 1991                   PRINTING REPORT.

                                      SECOND READING, DO PASS.

FEBRUARY 19, 1991                   ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
AYES, 50; NOES, 0.

                                      TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

                                      FIRST READING.

MARCH 22, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

APRIL 5, 1991                   SECOND READING, CONCURRED IN.

APRIL 6, 1991                   THIRD READING, CONCURRED IN.  
AYES, 91; NOES, 5.

                                      RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 6, 1991                   RECEIVED FROM HOUSE.

APRIL 9, 1991                   ON MOTION, CONSIDERATION PASSED  
UNTIL THE 76TH LEGISLATIVE DAY.

APRIL 17, 1991 SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

APRIL 17, 1991 ON MOTION, CONFERENCE COMMITTEE  
REQUESTED.

APRIL 19, 1991 CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 20, 1991 ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 22, 1991 CONFERENCE COMMITTEE REPORTED.

APRIL 23, 1991 SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1991 CONFERENCE COMMITTEE REPORT  
ADOPTED.

IN THE SENATE

APRIL 24, 1991 THIRD READING, PASS CONSIDERATION.

APRIL 25, 1991 THIRD READING, PASS CONSIDERATION.

APRIL 29, 1991 THIRD READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 154  
 2 INTRODUCED BY NATHE Dupuis  
 3 Whalen  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT  
 5 STATUTORY LEGISLATIVE IMMUNITY EXTENDS ONLY TO LEGISLATIVE  
 6 BODIES OF GOVERNMENTAL ENTITIES AND ONLY TO LEGISLATIVE  
 7 ACTIONS TAKEN BY THOSE BODIES; CLARIFYING THAT GOVERNMENTAL  
 8 ENTITIES ARE NOT IMMUNE UNDER THE LEGISLATIVE IMMUNITY  
 9 STATUTE FOR NONLEGISLATIVE ACTIONS; AMENDING SECTION  
 10 2-9-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND  
 11 A RETROACTIVE APPLICABILITY DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 2-9-111, MCA, is amended to read:

15 "2-9-111. Immunity from suit for legislative acts and  
 16 omissions. (1) As used in this section:

17 (a) the term "governmental entity" includes the state,  
 18 counties, municipalities, and school districts;

19 (b) the term "legislative body" ~~includes~~ means only the  
 20 legislature vested with legislative power by Article V of  
 21 The Constitution of the State of Montana and any local  
 22 governmental entity given legislative powers by statute,  
 23 including school boards;

24 (c) (i) the term "legislative act" means:

25 (A) actions by a legislative body that result in

1 creation of law or declaration of public policy; and

2 (B) other actions of the legislature authorized by  
 3 Article V of The Constitution of the State of Montana;

4 (ii) the term legislative act does not include  
 5 administrative actions undertaken in the execution of a law  
 6 or public policy.

7 (2) A governmental entity is immune from suit for an a  
 8 legislative act or omission of by its legislative body, or a  
 9 any member, officer, or agent thereof or staff of the  
 10 legislative body, engaged in legislative acts.

11 (3) A Any member, officer, or agent staff of a  
 12 legislative body is immune from suit for damages arising  
 13 from the lawful discharge of an official duty associated  
 14 with ~~the introduction or consideration of legislation or~~  
 15 ~~action by legislative acts~~ of the legislative body.

16 (4) The immunity provided for in this section does not  
 17 extend to any tort committed by the use of a motor vehicle,  
 18 aircraft, or other means of transportation."

19 NEW SECTION. Section 2. Severability. If a part of  
 20 [this act] is invalid, all valid parts that are severable  
 21 from the invalid part remain in effect. If a part of [this  
 22 act] is invalid in one or more of its applications, the part  
 23 remains in effect in all valid applications that are  
 24 severable from the invalid applications.

25 NEW SECTION. Section 3. Effective date -- retroactive

LC 0414/01

1 applicability. [This act] is effective on passage and  
2 approval and applies retroactively, within the meaning of  
3 1-2-109, to causes of action arising on or after July 1,  
4 1977, that have not been reduced to judgment by [the  
5 effective date of this act].

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

1 SENATE BILL NO. 154

2 INTRODUCED BY NATHE, LYNCH, COBB,

3 WHALEN, L. NELSON

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT  
6 STATUTORY LEGISLATIVE IMMUNITY EXTENDS ONLY TO LEGISLATIVE  
7 BODIES OF GOVERNMENTAL ENTITIES AND ONLY TO LEGISLATIVE  
8 ACTIONS TAKEN BY THOSE BODIES; CLARIFYING THAT GOVERNMENTAL  
9 ENTITIES ARE NOT IMMUNE UNDER THE LEGISLATIVE IMMUNITY  
10 STATUTE FOR NONLEGISLATIVE ACTIONS OTHER THAN OPERATION OF A  
11 911 EMERGENCY TELEPHONE SERVICE; CLARIFYING THAT THE  
12 ACQUISITION OF INSURANCE DOES NOT WAIVE IMMUNITY; AMENDING  
13 SECTION 2-9-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
14 DATE AND A RETROACTIVE APPLICABILITY DATE."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 2-9-111, MCA, is amended to read:

18 "2-9-111. Immunity from suit for legislative acts and  
19 omissions. (1) As used in this section:

20 (a) the term "governmental entity" ~~includes~~ MEANS ONLY  
21 the state, counties, municipalities, and school districts,  
22 AND ANY OTHER LOCAL GOVERNMENT ENTITY OR LOCAL POLITICAL  
23 SUBDIVISION VESTED WITH LEGISLATIVE POWER BY STATUTE;

24 (b) the term "legislative body" ~~includes~~ means only the  
25 legislature vested with legislative power by Article V of

1 The Constitution of the State of Montana and ~~any local~~  
2 ~~governmental entity given legislative powers by statute,~~  
3 ~~including school boards.~~ THAT BRANCH OR PORTION OF ANY OTHER  
4 LOCAL GOVERNMENTAL ENTITY OR LOCAL POLITICAL SUBDIVISION  
5 EMPOWERED BY LAW TO CONSIDER AND ENACT STATUTES, CHARTERS,  
6 ORDINANCES, ORDERS, RULES, POLICIES, RESOLUTIONS, OR  
7 RESOLVES;

8 (c) (i) the term "legislative act" means:

9 (A) actions by a legislative body that result in  
10 creation of law or declaration of public policy; and

11 (B) other actions of the legislature authorized by  
12 Article V of The Constitution of the State of Montana; OR

13 (C) ACTIONS BY A SCHOOL BOARD THAT RESULT IN ADOPTION  
14 OF SCHOOL BOARD POLICIES PURSUANT TO 20-3-323(1);

15 (ii) the term legislative act does not include  
16 administrative actions undertaken in the execution of a law  
17 or public policy.

18 (2) A governmental entity is immune from suit for an a  
19 legislative act or omission of by its legislative body, or a  
20 any member, officer, or agent thereof or staff of the  
21 legislative body, engaged in legislative acts.

22 (3) A Any member, officer, or agent staff of a  
23 legislative body is immune from suit for damages arising  
24 from the lawful discharge of an official duty associated  
25 with ~~the introduction or consideration of legislation or~~

1 action-by legislative acts of the legislative body.

2 (4) A GOVERNMENTAL ENTITY AND ITS MEMBERS, OFFICERS,  
3 EMPLOYEES, AND AGENTS ARE IMMUNE FROM SUIT FOR ANY ACT OR  
4 OMISSION ARISING OUT OF THE OPERATION OF A 911 EMERGENCY  
5 NUMBER SERVICE, INCLUDING BUT NOT LIMITED TO ANSWERING AND  
6 DISPATCHING THE 911 TELEPHONE CALL AND RESPONDING TO THE 911  
7 TELEPHONE CALL LOCATION. THIS IMMUNITY DOES NOT APPLY TO  
8 GROSS NEGLIGENCE OR WILLFUL AND WANTON ACTS OR OMISSIONS.

9 (5) THE ACQUISITION OF INSURANCE COVERAGE, INCLUDING  
10 SELF-INSURANCE OR GROUP SELF-INSURANCE, BY A GOVERNMENTAL  
11 ENTITY DOES NOT WAIVE THE IMMUNITY PROVIDED BY THIS SECTION.

12 ~~(4)~~(6) The immunity provided for in this section does  
13 not extend to any tort committed by the use of a motor  
14 vehicle, aircraft, or other means of transportation."

15 NEW SECTION. Section 2. Severability. If a part of  
16 [this act] is invalid, all valid parts that are severable  
17 from the invalid part remain in effect. If a part of [this  
18 act] is invalid in one or more of its applications, the part  
19 remains in effect in all valid applications that are  
20 severable from the invalid applications.

21 NEW SECTION. Section 3. Effective date -- retroactive  
22 applicability. [This act] is effective on passage and  
23 approval and applies retroactively, within the meaning of  
24 1-2-109, to causes of action arising-on-or-after-July-17,  
25 ~~1977~~ that have not been reduced to FINAL judgment by ON OR

1 BEFORE [the effective date of this act].

-End-

## 1 SENATE BILL NO. 154

2 INTRODUCED BY NATHE, LYNCH, COBB,

3 WHALEN, L. NELSON

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT  
6 STATUTORY LEGISLATIVE IMMUNITY EXTENDS ONLY TO LEGISLATIVE  
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11 911 EMERGENCY TELEPHONE SERVICE; CLARIFYING THAT THE  
12 ACQUISITION OF INSURANCE DOES NOT WAIVE IMMUNITY; AMENDING  
13 SECTION 2-9-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
14 DATE AND A RETROACTIVE APPLICABILITY DATE."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17

Section 1. Section 2-9-111, MCA, is amended to read:

18

"2-9-111. Immunity from suit for legislative acts and

19

omissions. (1) As used in this section:

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(a) the term "governmental entity" includes MEANS ONLY  
21 the state, counties, municipalities, and school districts,  
22 AND ANY OTHER LOCAL GOVERNMENT ENTITY OR LOCAL POLITICAL  
23 SUBDIVISION VESTED WITH LEGISLATIVE POWER BY STATUTE;

24

(b) the term "legislative body" includes means only the  
25 legislature vested with legislative power by Article V of

1 The Constitution of the State of Montana and ~~any local~~  
2 ~~governmental entity given legislative powers by statute,~~  
3 ~~including school boards;~~ THAT BRANCH OR PORTION OF ANY OTHER  
4 LOCAL GOVERNMENTAL ENTITY OR LOCAL POLITICAL SUBDIVISION  
5 EMPOWERED BY LAW TO CONSIDER AND ENACT STATUTES, CHARTERS,  
6 ORDINANCES, ORDERS, RULES, POLICIES, RESOLUTIONS, OR  
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8 (c) (i) the term "legislative act" means:

9 (A) actions by a legislative body that result in  
10 creation of law or declaration of public policy; and

11 (B) other actions of the legislature authorized by  
12 Article V of The Constitution of the State of Montana; OR

13 (C) ACTIONS BY A SCHOOL BOARD THAT RESULT IN ADOPTION  
14 OF SCHOOL BOARD POLICIES PURSUANT TO 20-3-323(1);

15 (ii) the term legislative act does not include  
16 administrative actions undertaken in the execution of a law  
17 or public policy.

18 (2) A governmental entity is immune from suit for an a  
19 legislative act or omission of by its legislative body, or a  
20 any member, officer, or agent thereof or staff of the  
21 legislative body, engaged in legislative acts.

22 (3) A Any member, officer, or agent staff of a  
23 legislative body is immune from suit for damages arising  
24 from the lawful discharge of an official duty associated  
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THIRD READING

1 action-by legislative acts of the legislative body.

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 16 [this act] is invalid, all valid parts that are severable  
 17 from the invalid part remain in effect. If a part of [this  
 18 act] is invalid in one or more of its applications, the part  
 19 remains in effect in all valid applications that are  
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21 NEW SECTION. Section 3. Effective date -- retroactive  
 22 applicability. [This act] is effective on passage and  
 23 approval and applies retroactively, within the meaning of  
 24 1-2-109, to causes of action ~~arising on or after July 1,~~  
 25 ~~1977,~~ that have not been reduced to FINAL judgment by ON OR

1 BEFORE [the effective date of this act].

-End-



HOUSE STANDING COMMITTEE REPORT

March 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 154 (third reading copy -- blue) be concurred in as amended .

Signed:   
Bill Strizich, Chairman

Carried by: Rep. Toole

And, that such amendments read:

1. Title, line 10.

Following: "ACTIONS"

Strike: "OTHER THAN OPERATION OF A 911 EMERGENCY TELEPHONE SERVICE"

2. Page 3, line 2,

Strike: Subsection (4) in its entirety.

Renumber: subsequent subsections

HOUSE  
SB 154

## 1 SENATE BILL NO. 154

2 INTRODUCED BY NATHE, LYNCH, COBB,

3 WHALEN, L. NELSON

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT  
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19 legislative act or omission of by its legislative body, or a  
20 any member, officer, or agent thereof or staff of the  
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23 legislative body is immune from suit for damages arising  
24 from the lawful discharge of an official duty associated  
25 with the introduction or consideration of legislation or

1 action by legislative acts of the legislative body.

2 ~~{4}--A-GOVERNMENTAL-ENTITY-AND--ITS--MEMBERS,--OFFICERS,~~  
 3 ~~EMPLOYEES,--AND--AGENTS--ARE-IMMUNE-FROM-SUIT-FOR-ANY-ACT-OR~~  
 4 ~~OMISSION-ARISING-OUT-OF-THE-OPERATION--OF--A--911--EMERGENCY~~  
 5 ~~NUMBER--SERVICE,--INCLUDING-BUT-NOT-LIMITED-TO-ANSWERING-AND~~  
 6 ~~DISPATCHING-THE-911-TELEPHONE-CALL-AND-RESPONDING-TO-THE-911~~  
 7 ~~TELEPHONE-CALL-LOCATION.-THIS-IMMUNITY--DOES--NOT--APPLY--TO~~  
 8 ~~GROSS-NEGLECTENCE-OR-WILFUL-AND-WANTON-ACTS-OR-OMISSIONS.~~

9 ~~{5}{4} THE ACQUISITION OF INSURANCE COVERAGE, INCLUDING~~  
 10 ~~SELF-INSURANCE OR GROUP SELF-INSURANCE, BY A GOVERNMENTAL~~  
 11 ~~ENTITY DOES NOT WAIVE THE IMMUNITY PROVIDED BY THIS SECTION.~~

12 ~~{4}{5}{5} The immunity provided for in this section~~  
 13 ~~does not extend to any tort committed by the use of a motor~~  
 14 ~~vehicle, aircraft, or other means of transportation."~~

15 NEW SECTION. Section 2. Severability. If a part of  
 16 [this act] is invalid, all valid parts that are severable  
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 18 act] is invalid in one or more of its applications, the part  
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21 NEW SECTION. Section 3. Effective date -- retroactive  
 22 applicability. [This act] is effective on passage and  
 23 approval and applies retroactively, within the meaning of  
 24 1-2-109, to causes of action arising on--or--after--July--1,  
 25 1977, that have not been reduced to FINAL judgment by ON OR

1 BEFORE [the effective date of this act].

-End-

Conference Committee  
on Senate Bill No. 154  
Report No. 1, April 22, 1991


Page 1 of 1


Mr. President and Mr. Speaker:

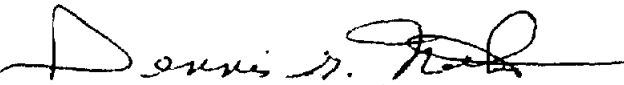
We, your Conference Committee on Senate Bill No. 154, met,  
considered, and acceded to the House Judiciary Standing Committee  
Report amendments dated March 21, 1991 in their entirety.

And recommend that this Conference Committee report be adopted.

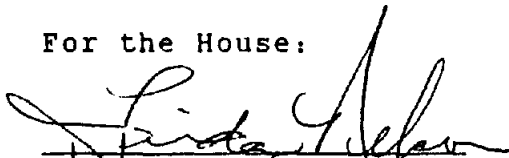
For the Senate:

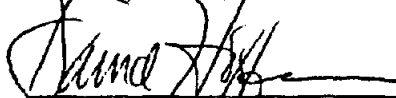
  
Chair, Sen. Svrcek

  
Sen. Towe

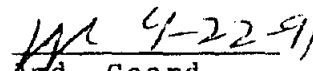
  
Sen. Nathe

For the House:

  
Chair, Rep. L. Nelson

  
Rep. Hoffman

  
Rep. Toole

  
Ad. Coord.

  
Sec. of Senate

ADOPT

REJECT

CCR #1  
SB 154  
861446CC.Sji



AN ACT CLARIFYING THAT STATUTORY LEGISLATIVE IMMUNITY EXTENDS ONLY TO LEGISLATIVE BODIES OF GOVERNMENTAL ENTITIES AND ONLY TO LEGISLATIVE ACTIONS TAKEN BY THOSE BODIES; CLARIFYING THAT GOVERNMENTAL ENTITIES ARE NOT IMMUNE UNDER THE LEGISLATIVE IMMUNITY STATUTE FOR NONLEGISLATIVE ACTIONS; CLARIFYING THAT THE ACQUISITION OF INSURANCE DOES NOT WAIVE IMMUNITY; AMENDING SECTION 2-9-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Section 2-9-111, MCA, is amended to read:

"2-9-111. Immunity from suit for legislative acts and omissions. (1) As used in this section:

(a) the term "governmental entity" includes means only the state, counties, municipalities, and school districts, and any other local government entity or local political subdivision vested with legislative power by statute;

(b) the term "legislative body" includes means only the legislature vested with legislative power by Article V of The Constitution of the State of Montana and any--local--governmental entity--given--legislative--powers--by--statute;--including--school boards; that branch or portion of any other local governmental entity or local political subdivision empowered by law to consider and enact statutes, charters, ordinances, orders, rules, policies, resolutions, or resolves;

(c) (i) the term "legislative act" means:

(A) actions by a legislative body that result in creation of law or declaration of public policy;

(B) other actions of the legislature authorized by Article V of The Constitution of the State of Montana; or

(C) actions by a school board that result in adoption of school board policies pursuant to 20-3-323(1);

(ii) the term legislative act does not include administrative actions undertaken in the execution of a law or public policy.

(2) A governmental entity is immune from suit for an a legislative act or omission of by its legislative body, or a any member;--officer;--or--agent thereof or staff of the legislative body, engaged in legislative acts.

(3) A Any member;--officer; or agent staff of a legislative body is immune from suit for damages arising from the lawful discharge of an official duty associated with the-introduction--or consideration--of-legislation-or-action-by legislative acts of the legislative body.

(4) The acquisition of insurance coverage, including self-insurance or group self-insurance, by a governmental entity does not waive the immunity provided by this section.

(4)(5) The immunity provided for in this section does not extend to any tort committed by the use of a motor vehicle, aircraft, or other means of transportation."

Section 2. Severability. If a part of [this act] is invalid,

SB 0154

all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 3. Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to causes of action that have not been reduced to final judgment on or before [the effective date of this act].