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.

Authorities as a second

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1	Serate BILL NO. 154
2	INTRODUCED BY NATHE Lines (Colo
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	Whalen A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT
4	A DILL FOR AN ACT BRITISH THE TOTAL AND A PROTECTION OF THE P
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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
LO	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:
	Section 1. Section 2-9-111, MCA, is amended to read:
14	
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:
	(c) (i) the term "legislative act" means:
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うち	(A) actions by a legislative body that result in

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NEW SECTION. Section 3. Effective date -- retroactive

INTRODUCED BILL SB 154

- 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

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4	Montana	Legislative	Council

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1 The Constitution of the State of Montana and env-local qovernmental-entity-qiven--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: 9 (A) actions by a legislative body that result in 10 creation of law or declaration of public policy; and (B) other actions of the legislature authorized by 11 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 administrative actions undertaken in the execution of a law 16 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

any member, -- officer, -- or -- agent thereof or staff of the

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

(3) A Any member, -- officer, or agent staff of a

legislative body, engaged in legislative acts.

action-by legislative acts of the legislative body.

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- (4) A GOVERNMENTAL ENTITY AND ITS MEMBERS, OFFICERS,
- 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
 - 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
 - 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 19777 that have not been reduced to FINAL judgment by ON OR

1 BEFORE [the effective date of this act].

-End-

52nd Legislature

SB 0154/02

SB 0154/02

THIRD READING

SB 154

*	SERVIC BIDD MO. 134
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
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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:
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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

2	governmental-entity-givenlegislativepowersbystatute
3	including-school-boards: THAT BRANCH OR PORTION OF ANY OTHE
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5	EMPOWERED BY LAW TO CONSIDER AND ENACT STATUTES, CHARTERS
6	ORDINANCES, ORDERS, RULES, POLICIES, RESOLUTIONS, O
7	RESOLVES;
8	(c) (i) the term "legislative act" means:
9	(A) actions by a legislative body that result i
10	creation of law or declaration of public policy; and
11	(B) other actions of the legislature authorized b
12	Article V of The Constitution of the State of Montana; OR
13	(C) ACTIONS BY A SCHOOL BOARD THAT RESULT IN ADOPTIO
14	OF SCHOOL BOARD POLICIES PURSUANT TO 20-3-323(1);
15	(ii) the term legislative act does not includ
16	administrative actions undertaken in the execution of a la
17	or public policy.
18	(2) A governmental entity is immune from suit for an
19	legislative act or omission of by its legislative body, or
20	any memberyofficeryoragent thereof or staff of th
21	legislative body, engaged in legislative acts.
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The Constitution of the State of Montana and any-local

SB 0154/02

- 1 action-by legislative acts of the legislative body.
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- 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
 - [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.

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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-ty
- 25 19777 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 <u>Judiciary</u> report that <u>Senate Bill 154</u> (third reading copy -- blue) <u>be concurred in as amended</u>.

Signed:

Bill Strizich, Chairman

Carried by: Rep. / 80/c

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

1	SENATE BILL NO. 154	1
2	INTRODUCED BY NATHE, LYNCH, COBB,	2
3	WHALEN, L. NELSON	3
4		4
5	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT	5
6	STATUTORY LEGISLATIVE IMMUNITY EXTENDS ONLY TO LEGISLATIVE	6
7	BODIES OF GOVERNMENTAL ENTITIES AND ONLY TO LEGISLATIVE	7
8	ACTIONS TAKEN BY THOSE BODIES; CLARIFYING THAT GOVERNMENTAL	8
9	ENTITIES ARE NOT IMMUNE UNDER THE LEGISLATIVE IMMUNITY	9
10	STATUTE FOR NONLEGISLATIVE ACTIONS OTHER-THAN-OPERATION-OF-A	10
11	911EMERGENCYTELEPHONESERVICE; CLARIFYING THAT THE	11
12	ACQUISITION OF INSURANCE DOES NOT WAIVE IMMUNITY; AMENDING	12
13	SECTION 2-9-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE	13
14	DATE AND A RETROACTIVE APPLICABILITY DATE."	14
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16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	16
17	Section 1. Section 2-9-111, MCA, is amended to read:	17
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19	omissions. (1) As used in this section:	19
20	(a) the term "governmental entity" includes MEANS ONLY	20
21	the state, counties, municipalities, and school districts,	21
22	AND ANY OTHER LOCAL GOVERNMENT ENTITY OR LOCAL POLITICAL	22
23	SUBDIVISION VESTED WITH LEGISLATIVE POWER BY STATUTE;	23
24	(b) the term "legislative body" includes means only the	24
25	logical sturn tracted with logical stine manner by the logical ways	25

_	The constitution of the state of Montana and any local
2	governmental-entity-given-legislativepowersbystatute7
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
.0	creation of law or declaration of public policy; and
.1	(B) other actions of the legislature authorized by
2	Article V of The Constitution of the State of Montana; OR
.3	(C) ACTIONS BY A SCHOOL BOARD THAT RESULT IN ADOPTION
.4	OF SCHOOL BOARD POLICIES PURSUANT TO 20-3-323(1);
.5	(ii) the term legislative act does not include
.6	administrative actions undertaken in the execution of a law
.7	or public policy.
.8	(2) A governmental entity is immune from suit for an \underline{a}
9	legislative act or omission of by its legislative body, or a
20	any memberyofficeryor-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 theintroductionorconsideration-of-legislation-or

-2-

AS AMENDED

2 (4)--A-GOVERNMENTAL-ENTITY-AND--ITS--MEMBERS7--OFFICERS7 3 EMPLOYEES7--AND--AGENTS--ARE-IMMUNE-FROM-SHIT-FOR-ANY-AGT-OR omission-arising-out-op-the-operation--op--a--911--emergency 5 Number--servicey---including-but-not-limited-to-answering-and 6 DISPATCHING-THE-911-THEPHONE-CALL-AND-RESPONDING-TO-THE-911 7 TELEPHONE-CALL-LOCATION:-THIS-IMMUNITY--DOES--NOT--APPLY--TO GROSS-NEGLIGENCE-OR-WILLPUL-AND-WANTON-ACTS-OR-OMISSIONST 8 9

action-by legislative acts of the legislative body.

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11 ENTITY DOES NOT WAIVE THE IMMUNITY PROVIDED BY THIS SECTION. 12 (4)(6)(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."

(5)(4) THE ACQUISITION OF INSURANCE COVERAGE, INCLUDING

SELF-INSURANCE OR GROUP SELF-INSURANCE, BY A GOVERNMENTAL

- NEW SECTION. Section 2. Severability. If a part of [this act] is invalid, 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.
- NEW SECTION. 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 arising-on--er--after--duly--17 1977, that have not been reduced to FINAL judgment by ON OR

BEFORE [the effective date of this act]. -End-

-4-

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:

X 37

. Hoffman

Rep. Toole

M. 4-22-91 And. Coord.

5B 4-22-91 3:00

sec. or senac

ADOPT

REJECT

CCR */ 5B /54 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, arroraft, or other means of transportation."

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

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].