

SENATE BILL NO. 246

INTRODUCED BY NATHE, MERCER, MAZUREK, BLAYLOCK
BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE SENATE

JANUARY 31, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FEBRUARY 1, 1991 FIRST READING.

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

FEBRUARY 18, 1991 PRINTING REPORT.

 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 19, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 49; NOES, 1.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

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

 FIRST READING.

APRIL 4, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 6, 1991 SECOND READING, CONCURRED IN.

 ON MOTION, RULES SUSPENDED AND
BILL PLACED ON THIRD READING THIS DAY.

 THIRD READING, CONCURRED IN.
AYES, 95; NOES, 2.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 6, 1991 RECEIVED FROM HOUSE.

APRIL 17, 1991

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

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 23, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 24, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 24, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 25, 1991

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON SECOND READING THIS DAY.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT REJECTED.

ON MOTION, FREE CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

FREE CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

APRIL 25, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 29, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED. -

IN THE HOUSE

APRIL 29, 1991

FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *246*
 2 INTRODUCED BY *NATH^e Mercer Thayer Stogdole*
 3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE
 6 TERMINATION DATE FOR LIMITATIONS ON GOVERNMENTAL LIABILITY
 7 FOR DAMAGES IN TORT ACTIONS; AMENDING SECTION 1, CHAPTER
 8 228, LAWS OF 1987; AND PROVIDING AN IMMEDIATE EFFECTIVE
 9 DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 1, Chapter 228, Laws of 1987, is
 13 amended to read:

14 "Section 1. Section 9, Chapter 22, Special Laws of June
 15 1986, is amended to read:

16 "Section 9. Effective dates ---termination-date. This
 17 act is effective on passage and approval, except that
 18 section 3 is effective July 1, 1991. ~~Sections 1 and 2 of~~
 19 ~~this act terminate on June 30, 1991.~~"

20 NEW SECTION. **Section 2.** Effective date. [This act] is
 21 effective on passage and approval.

-End-

INTRODUCED BIL
 SB 246



STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0246, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act removing the termination date for limitations of governmental liability for damages in tort actions; amending section 1, chapter 228, laws of 1987; and providing an immediate effective date.

ASSUMPTIONS:


1. The proposed legislation will effect future claims and/or suits against the State of Montana.
2. The fiscal impact of the proposed legislation can not be determined due to the impossibility of estimating the future number of law suits which may be filed against the state, the number of plaintiffs which will seek damages in excess of present limits of liability, or the total amount of tort damages sought against the state.

FISCAL IMPACT:

Undetermined.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed legislation will continue the limits currently on liability suits at \$750,000 per claim and \$1.5 million per incident.


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

2-6-91
DATE


DENNIS G. NATHE, PRIMARY SPONSOR

2/7/91
DATE

Fiscal Note for SB0246, as introduced.

SB 246

APPROVED BY COMMITTEE
ON JUDICIARY

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Senate BILL NO. *246*

INTRODUCED BY *NATHAN Mercer Maynard Skylesch*

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE
TERMINATION DATE FOR LIMITATIONS ON GOVERNMENTAL LIABILITY
FOR DAMAGES IN TORT ACTIONS; AMENDING SECTION 1, CHAPTER
228, LAWS OF 1987; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE."

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

Section 1. Section 1, Chapter 228, Laws of 1987, is
amended to read:

"Section 1. Section 9, Chapter 22, Special Laws of June
1986, is amended to read:

"Section 9. Effective dates ---termination-date. This
act is effective on passage and approval, except that
section 3 is effective July 1, 1991. Sections-1-and-2-of
this-act-terminate-on-June-30,-1991-"

NEW SECTION. **Section 2.** Effective date. [This act] is
effective on passage and approval.

-End-

1 SENATE BILL NO. 246

2 INTRODUCED BY NATHE, MERCER, MAZUREK, BLAYLOCK

3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE
6 TERMINATION DATE FOR LIMITATIONS ON GOVERNMENTAL LIABILITY
7 FOR DAMAGES IN TORT ACTIONS; AMENDING SECTION 1, CHAPTER
8 228, LAWS OF 1987; REPEALING SECTION 3, CHAPTER 22, SPECIAL
9 LAWS OF JUNE 1986; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE."

11

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

13 **Section 1.** Section 1, Chapter 228, Laws of 1987, is
14 amended to read:

15 "Section 1. Section 9, Chapter 22, Special Laws of June
16 1986, is amended to read:

17 "Section 9. Effective dates ~~---termination--date.~~ This
18 act is effective on passage and approval, ~~--except-that~~
19 ~~section-3-is-effective-july-17-1991.~~ Sections ~~--1--and--2--of~~
20 ~~this-act-terminate-on-june-30-1991."~~

21 NEW SECTION. SECTION 2. REPEALER. SECTION 3, CHAPTER
22 22, SPECIAL LAWS OF JUNE 1986, IS REPEALED.

23 NEW SECTION. Section 3. Effective date. [This act] is
24 effective on passage and approval.

-End-



THIRD READING
AS AMENDED


SB 246

HOUSE STANDING COMMITTEE REPORT

April 4, 1991
Page 1 of 2

April 4, 1991
Page 2 of 2

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 246 (third reading copy -- blue) be concurred in as amended.

Signed: 
Bill Strizich, Chairman
CARRIED BY: REP. J. Rice

And, that such amendments read:

1. Title, line 5.
Strike: "REMOVING"
Insert: "EXTENDING"
2. Title, line 7.
Following: "ACTIONS;"
Insert: "REVISING THE LAW RELATING TO JUDICIAL AND QUASI-JUDICIAL IMMUNITY;"
3. Title, lines 8 and 9.
Strike: "3, CHAPTER 22, SPECIAL LAWS OF JUNE 1986"
Insert: "2-9-112, MCA"
4. Title, line 10.
Following: "DATE"
Insert: "AND AN APPLICABILITY DATE"
5. Page 1, line 20.
Following: "1991."
Insert: "Sections 1 and 2 of this act terminate on June 30, 1993."
6. Page 1.
Following: line 20
Insert: "NEW SECTION. Section 2. Immunity from suit for judicial acts and omissions. (1) The state and other governmental units are immune from suit for acts or omissions of the judiciary.
(2) A member, officer, or agent of the judiciary is immune from suit for damages arising from his lawful discharge of an official duty associated with judicial actions of the court.
(3) As used in this section, the term "judiciary" means only those courts established in accordance with Article VII of

The Constitution of the State of Montana. The term does not include executive or administrative agencies of the state and other governmental units exercising quasi-judicial authority.
(4) To the extent that this section denies judicial immunity to executive or administrative agencies exercising quasi-judicial authority of the state and other governmental units, this section specifically revises the common-law rule of quasi-judicial immunity as it might otherwise apply to executive or administrative agencies.

Renumber: subsequent sections

7. Page 1, lines 21 and 22.
Strike: "3, CHAPTER 22, SPECIAL LAWS OF JUNE 1986"
Insert: "2-9-112, MCA"

8. Page 1.
Following: line 22
Insert: "NEW SECTION. Section 4. Codification instruction.
[Section 2] is intended to be codified as an integral part of Title 2, chapter 9, part 1, and the provisions of Title 2, chapter 9, part 1, apply to [section 2]."

NEW SECTION. Section 5. Applicability. [This act] applies to causes of action arising on or after [the effective date of this act]."

Renumber: subsequent section

SENATE BILL NO. 246

INTRODUCED BY NATHE, MERCER, MAZUREK, BLAYLOCK
BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING EXTENDING THE
TERMINATION DATE FOR LIMITATIONS ON GOVERNMENTAL LIABILITY
FOR DAMAGES IN TORT ACTIONS; REVISING THE LAW RELATING TO
JUDICIAL AND QUASI-JUDICIAL IMMUNITY; AMENDING SECTION 1,
CHAPTER 228, LAWS OF 1987; REPEALING SECTION 37-CHAPTER--227
SPECIAL--LAWS--OF--JUNE--1986 2-9-112, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 1, Chapter 228, Laws of 1987, is
amended to read:

"Section 1. Section 9, Chapter 22, Special Laws of June
1986, is amended to read:

"Section 9. Effective dates ----termination--date --
TERMINATION DATE. This act is effective on passage and
approval, ~~except that section 3 is effective July 17, 1991.~~
~~Sections 1 and 2 of this act terminate on June 30, 1991;~~
SECTIONS 1 AND 2 OF THIS ACT TERMINATE ON JUNE 30, 1993."

NEW SECTION. SECTION 2. IMMUNITY FROM SUIT FOR
JUDICIAL ACTS AND OMISSIONS. (1) THE STATE AND OTHER
GOVERNMENTAL UNITS ARE IMMUNE FROM SUIT FOR ACTS OR

OMISSIONS OF THE JUDICIARY.

(2) A MEMBER, OFFICER, OR AGENT OF THE JUDICIARY IS
IMMUNE FROM SUIT FOR DAMAGES ARISING FROM HIS LAWFUL
DISCHARGE OF AN OFFICIAL DUTY ASSOCIATED WITH JUDICIAL
ACTIONS OF THE COURT.

(3) AS USED IN THIS SECTION, THE TERM "JUDICIARY" MEANS
ONLY THOSE COURTS ESTABLISHED IN ACCORDANCE WITH ARTICLE VII
OF THE CONSTITUTION OF THE STATE OF MONTANA. THE TERM DOES
NOT INCLUDE EXECUTIVE OR ADMINISTRATIVE AGENCIES OF THE
STATE AND OTHER GOVERNMENTAL UNITS EXERCISING QUASI-JUDICIAL
AUTHORITY.

(4) TO THE EXTENT THAT THIS SECTION DENIES JUDICIAL
IMMUNITY TO EXECUTIVE OR ADMINISTRATIVE AGENCIES EXERCISING
QUASI-JUDICIAL AUTHORITY OF THE STATE AND OTHER GOVERNMENTAL
UNITS, THIS SECTION SPECIFICALLY REVISES THE COMMON-LAW RULE
OF QUASI-JUDICIAL IMMUNITY AS IT MIGHT OTHERWISE APPLY TO
EXECUTIVE OR ADMINISTRATIVE AGENCIES.

NEW SECTION. SECTION 3. REPEALER. SECTION 3, CHAPTER
227-SPECIAL-LAWS-OF-JUNE-1986 2-9-112, MCA, IS REPEALED.

NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION.
[SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART
OF TITLE 2, CHAPTER 9, PART 1, AND THE PROVISIONS OF TITLE
2, CHAPTER 9, PART 1, APPLY TO [SECTION 2].

NEW SECTION. SECTION 5. APPLICABILITY. [THIS ACT]
APPLIES TO CAUSES OF ACTION ARISING ON OR AFTER [THE

SB 0246/03

1 EFFECTIVE DATE OF THIS ACT].

2 NEW SECTION. Section 6. Effective date. [This act] is

3 effective on passage and approval.

-End-

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 246, met, considered, and recommend that Senate Bill No. 246 (reference copy - salmon) be amended as follows:

1. Title, lines 7 and 8.

Following: "ACTIONS;" on line 7

Strike: remainder of line 7 through "IMMUNITY," on line 8

Insert: "RAISING THE LIMITATION ON STATE LIABILITY FOR DAMAGES IN TORT ACTIONS FOR EACH OCCURRENCE; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO COMPILE INFORMATION RELATING TO QUASI-JUDICIAL IMMUNITY AND GOVERNMENTAL LIABILITY LIMITATIONS; REQUESTING LOCAL GOVERNMENTS TO COMPILE SIMILAR INFORMATION; REQUIRING A REPORT TO THE LEGISLATURE;"

2. Title, line 8.

Following: "AMENDING"

Insert: "SECTION 2-9-108, HCA, AND"

3. Title, lines 9 and 10.

Following: "1987;" on line 9

Strike: remainder of line 9 through "HCA;" on line 10

4. Page 1, line 20.

Following: "1991"

Insert: ", except that section 3 is effective July 1, 1993"

5. Page 1, line 23 through page 3, line 1.

Strike: sections 2 through 4 in their entirety

Insert: "Section 2. Section 2-9-108, MCA, is amended to read:
"2-9-108. (Temporary) Limitation on governmental

liability for damages in tort. (1) Neither the state, a county, municipality, taxing district, nor any other political subdivision of the state is liable in tort action for damages suffered as a result of an act or omission of an officer, agent, or employee of that entity in excess of \$750,000 for each claim and:

(a) \$1.5 million for each occurrence in the case of an action against a county, municipality, taxing district, or any other political subdivision of the state; and

(b) \$3 million for each occurrence in the case of an action against the state.

(2) No insurer is liable for excess damages unless such insurer specifically agrees by written endorsement to provide coverage to the governmental agency involved in amounts in excess of a limitation stated in this section, in which case the insurer may not claim the benefits of the limitation specifically waived. (Terminates June 30, 1991--sec. 1, Ch. 228, L. 1987.)"

NEW SECTION. Section 3. Department of administration to gather information -- report to legislature. (1) The

department of administration, tort claims division, shall compile information and statistics relating to quasi-judicial immunity and limits on governmental liability and shall report the information and statistics to the legislature by July 1, 1992.

(2) The information and statistics gathered by the department must relate to the following:

(a) a list of all agencies and boards of state government that have quasi-judicial authority;

(b) whether there is a right of appeal or other judicial remedy from exercise of that quasi-judicial authority;

(c) if there is no right of appeal or other judicial process, whether other procedures exist for resolution of cases or controversies;

(d) what right of appeal exists for members of the public who may not be a party to an existing case or controversy;

(e) a list of every agency decisionmaking process that the department recommends be afforded quasi-judicial immunity, including an explanation of the department's position; and

(f) all claims and damages information needed by the legislature to properly evaluate existing limits on governmental liability.

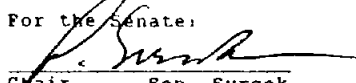
(3) The department shall request local governments to provide similar information and statistics for inclusion in the department's report to the legislature.

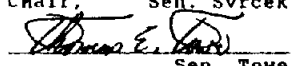
(4) The department shall make available, upon request, all nonprivileged information and statistics that the department has in its possession and that bears upon the issues provided for in subsection (2).

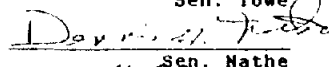
NEW SECTION. Section 4. Coordination instruction. If Senate Bill No. 154 is not passed and approved in the form in which it is transmitted by the legislature to the governor, then [this act] is void."

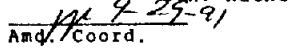
And that this Free Conference Committee report be adopted.

For the Senate:

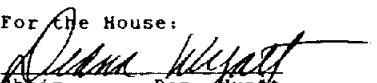

Chair, Sen. Svrcak

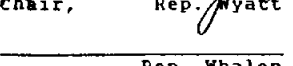

Sen. Towle


Sen. Mathe

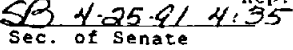

Am. Coord.

For the House:


Chair, Rep. Whalen


Rep. Boharski


Rep. Boharski


Sec. of Senate

ADOPT

REJECT

891618CC.Sji

FCC #1
SB 246
891618CC.Sji

Free Conference Committee
on Senate Bill No. 246
Report No. 2, April 25, 1991

Page 1 of 1

Mr. President and Mr. Speaker:

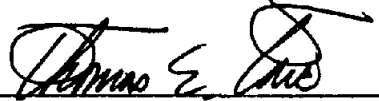
We, your Free Conference Committee on Senate Bill No. 246, met, considered, and we recommend that Senate Bill No. 246 (reference copy - salmon) be amended as follows:

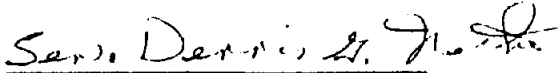
1. Title, lines 7 and 8.
Following: "ACTIONS;" on line 7
Strike: remainder of line 7 through "IMMUNITY;" on line 8
2. Title, lines 9 and 10.
Following: "1987;" on line 9
Strike: remainder of line 9 through "MCA;" on line 10
3. Title, line 11.
Strike: "AND AN APPLICABILITY DATE"
4. Page 1, line 20.
Following: "~~1991~~"
Insert: ", except that section 3 is effective July 1, 1993"
5. Page 1, line 23 through page 3, line 1.
Strike: sections 2 through 5 in their entirety
Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 154 is not passed and approved in the form in which it is transmitted by the legislature to the governor, then [this act] is void."
Renumber: subsequent section

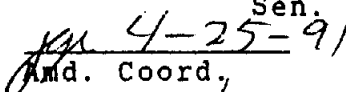
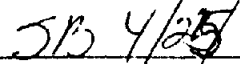
And that this Free Conference Committee report be adopted.

For the Senate:

Chair, Sen. Svrcek


Sen. Towe


Sen. Nathe


Amd. Coord.

Sec. of Senate

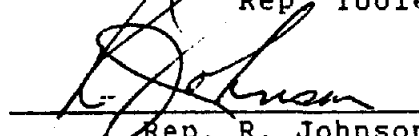
ADOPT

REJECT

For the House:


Chair, Rep. Wyatt


Rep. Toole


Rep. R. Johnson

FCCR #2
SB 246

891928CC.Sji



AN ACT EXTENDING THE TERMINATION DATE FOR LIMITATIONS ON GOVERNMENTAL LIABILITY FOR DAMAGES IN TORT ACTIONS; AMENDING SECTION 1, CHAPTER 228, LAWS OF 1987; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 1, Chapter 228, Laws of 1987, is amended to read:

"Section 1. Section 9, Chapter 22, Special Laws of June 1986, is amended to read:

"Section 9. Effective dates -- termination date. This act is effective on passage and approval, except that section 3 is effective July 1, ~~1991~~ 1993. Sections 1 and 2 of this act terminate on June 30, ~~1991~~ 1993."

Section 2. Coordination instruction. If Senate Bill No. 154 is not passed and approved in the form in which it is transmitted by the legislature to the governor, then [this act] is void.

Section 3. Effective date. [This act] is effective on passage and approval.