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February 18, 2020

By: Pugh

An Act relating to regional transportation authorities; amending 51 O.S. 2011, Sections 152, as last amended by Section 1, Chapter 233, O.S.L. 2018, 154 and 155, as last amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2019, Sections 152 and 155), which relate to the Governmental Tort Claims Act; modifying definition; specifying liability for certain entities; modifying certain exemption from liability; updating statutory references; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 51 O.S. 2011, Section 152, as last amended by Section 1, Chapter 233, O.S.L. 2018 (51 O.S. Supp. 2019, Section 152), is amended to read as follows:

Section 152. As used in The Governmental Tort Claims Act:

1. "Action" means a proceeding in a court of competent jurisdiction by which one party brings a suit against another;

2. "Agency" means any board, commission, committee, department or other instrumentality or entity designated to act in behalf of the state or a political subdivision;

1 3. "Charitable health care provider" means a person who is
2 licensed, certified, or otherwise authorized by the laws of this
3 state to administer health care in the ordinary course of business
4 or the practice of a profession and who provides care to a medically
5 indigent person, as defined in paragraph 9 of this section, with no
6 expectation of or acceptance of compensation of any kind;

7 4. "Claim" means any written demand presented by a claimant or
8 the claimant's authorized representative in accordance with ~~this act~~
9 the Governmental Tort Claims Act to recover money from the state or
10 political subdivision as compensation for an act or omission of a
11 political subdivision or the state or an employee;

12 5. "Claimant" means the person or the person's authorized
13 representative who files notice of a claim in accordance with The
14 Governmental Tort Claims Act. Only the following persons and no
15 others may be claimants:

- 16 a. any person holding an interest in real or personal
17 property which suffers a loss, provided that the claim
18 of the person shall be aggregated with claims of all
19 other persons holding an interest in the property and
20 the claims of all other persons which are derivative
21 of the loss, and that multiple claimants shall be
22 considered a single claimant,
- 23 b. the individual actually involved in the accident or
24 occurrence who suffers a loss, provided that the

1 individual shall aggregate in the claim the losses of
2 all other persons which are derivative of the loss, or
3 c. in the case of death, an administrator, special
4 administrator or a personal representative who shall
5 aggregate in the claim all losses of all persons which
6 are derivative of the death;

7 6. "Community health care provider" means:

8 a. a health care provider who volunteers services at a
9 community health center that has been deemed by the
10 U.S. Department of Health and Human Services as a
11 federally qualified health center as defined by 42
12 U.S.C., Section 1396d(1)(2)(B),

13 b. a health provider who provides services to an
14 organization that has been deemed a federally
15 qualified look-alike community health center, and

16 c. a health care provider who provides services to a
17 community health center that has made application to
18 the U.S. Department of Health and Human Services for
19 approval and deeming as a federally qualified look-
20 alike community health center in compliance with
21 federal application guidance, and has received
22 comments from the U.S. Department of Health and Human
23 Services as to the status of such application with the
24 established intent of resubmitting a modified

1 application, or, if denied, a new application, no
2 later than six (6) months from the date of the
3 official notification from the U.S. Department of
4 Health and Human Services requiring resubmission of a
5 new application;

6 7. "Employee" means any person who is authorized to act in
7 behalf of a political subdivision or the state whether that person
8 is acting on a permanent or temporary basis, with or without being
9 compensated or on a full-time or part-time basis.

10 a. Employee also includes:

11 (1) all elected or appointed officers, members of
12 governing bodies and other persons designated to
13 act for an agency or political subdivision, but
14 the term does not mean a person or other legal
15 entity while acting in the capacity of an
16 independent contractor or an employee of an
17 independent contractor,

18 (2) from September 1, 1991, through June 30, 1996,
19 licensed physicians, licensed osteopathic
20 physicians and certified nurse-midwives providing
21 prenatal, delivery or infant care services to
22 State Department of Health clients pursuant to a
23 contract entered into with the State Department
24 of Health in accordance with paragraph 3 of

1 subsection B of Section 1-106 of Title 63 of the
2 Oklahoma Statutes but only insofar as services
3 authorized by and in conformity with the terms of
4 the contract and the requirements of Section 1-
5 233 of Title 63 of the Oklahoma Statutes, and
6 (3) any volunteer, full-time or part-time firefighter
7 when performing duties for a fire department
8 provided for in subparagraph j of paragraph 11 of
9 this section.

10 b. For the purpose of The Governmental Tort Claims Act,
11 the following are employees of this state, regardless
12 of the place in this state where duties as employees
13 are performed:

- 14 (1) physicians acting in an administrative capacity,
15 (2) resident physicians and resident interns
16 participating in a graduate medical education
17 program of the University of Oklahoma Health
18 Sciences Center, the College of Osteopathic
19 Medicine of Oklahoma State University, or the
20 Department of Mental Health and Substance Abuse
21 Services,
22 (3) faculty members and staff of the University of
23 Oklahoma Health Sciences Center and the College
24

- 1 of Osteopathic Medicine of Oklahoma State
2 University, while engaged in teaching duties,
3 (4) physicians who practice medicine or act in an
4 administrative capacity as an employee of an
5 agency of the State of Oklahoma,
6 (5) physicians who provide medical care to inmates
7 pursuant to a contract with the Department of
8 Corrections,
9 (6) any person who is licensed to practice medicine
10 pursuant to Title 59 of the Oklahoma Statutes,
11 who is under an administrative professional
12 services contract with the Oklahoma Health Care
13 Authority under the auspices of the Oklahoma
14 Health Care Authority Chief Medical Officer, and
15 who is limited to performing administrative
16 duties such as professional guidance for medical
17 reviews, reimbursement rates, service
18 utilization, health care delivery and benefit
19 design for the Oklahoma Health Care Authority,
20 only while acting within the scope of such
21 contract,
22 (7) licensed medical professionals under contract
23 with city, county, or state entities who provide
24

- 1 medical care to inmates or detainees in the
2 custody or control of law enforcement agencies,
3 (8) licensed mental health professionals as defined
4 in Sections 1-103 and 5-502 of Title 43A of the
5 Oklahoma Statutes, who are conducting initial
6 examinations of individuals for the purpose of
7 determining whether an individual meets the
8 criteria for emergency detention as part of a
9 contract with the Department of Mental Health and
10 Substance Abuse Services, and
11 (9) licensed mental health professionals as defined
12 in Sections 1-103 and 5-502 of Title 43A of the
13 Oklahoma Statutes, who are providing mental
14 health or substance abuse treatment services
15 under a professional services contract with the
16 Department of Mental Health and Substance Abuse
17 Services and are providing such treatment
18 services at a state-operated facility.

19 Physician faculty members and staff of the University
20 of Oklahoma Health Sciences Center and the College of
21 Osteopathic Medicine of Oklahoma State University not
22 acting in an administrative capacity or engaged in
23 teaching duties are not employees or agents of the
24 state.

1 c. Except as provided in subparagraph b of this
2 paragraph, in no event shall the state be held liable
3 for the tortious conduct of any physician, resident
4 physician or intern while practicing medicine or
5 providing medical treatment to patients;

6 8. "Loss" means death or injury to the body or rights of a
7 person or damage to real or personal property or rights therein;

8 9. "Medically indigent" means a person requiring medically
9 necessary hospital or other health care services for the person or
10 the dependents of the person who has no public or private third-
11 party coverage, and whose personal resources are insufficient to
12 provide for needed health care;

13 10. "Municipality" means any incorporated city or town, and all
14 institutions, agencies or instrumentalities of a municipality;

15 11. "Political subdivision" means:

16 a. a municipality,

17 b. a school district, including, but not limited to, a
18 technology center school district established pursuant
19 to Section 4410, 4411, 4420 or 4420.1 of Title 70 of
20 the Oklahoma Statutes,

21 c. a county,

22 d. a public trust where the sole beneficiary or
23 beneficiaries are a city, town, school district or
24

1 county. For purposes of The Governmental Tort Claims
2 Act, a public trust shall include:

3 (1) a municipal hospital created pursuant to Sections
4 30-101 through 30-109 of Title 11 of the Oklahoma
5 Statutes, a county hospital created pursuant to
6 Sections 781 through 796 of Title 19 of the
7 Oklahoma Statutes, or is created pursuant to a
8 joint agreement between such governing
9 authorities, that is operated for the public
10 benefit by a public trust created pursuant to
11 Sections 176 through 180.4 of Title 60 of the
12 Oklahoma Statutes and managed by a governing
13 board appointed or elected by the municipality,
14 county, or both, who exercises control of the
15 hospital, subject to the approval of the
16 governing body of the municipality, county, or
17 both,

18 (2) a public trust created pursuant to Sections 176
19 through 180.4 of Title 60 of the Oklahoma
20 Statutes after January 1, 2009, the primary
21 purpose of which is to own, manage, or operate a
22 public acute care hospital in this state that
23 serves as a teaching hospital for a medical
24 residency program provided by a college of

1 osteopathic medicine and provides care to
2 indigent persons, and

3 (3) a corporation in which all of the capital stock
4 is owned, or a limited liability company in which
5 all of the member interest is owned, by a public
6 trust,

7 e. for the purposes of The Governmental Tort Claims Act
8 only, a housing authority created pursuant to the
9 provisions of the Oklahoma Housing Authority Act,

10 f. for the purposes of The Governmental Tort Claims Act
11 only, corporations organized not for profit pursuant
12 to the provisions of the Oklahoma General Corporation
13 Act for the primary purpose of developing and
14 providing rural water supply and sewage disposal
15 facilities to serve rural residents,

16 g. for the purposes of The Governmental Tort Claims Act
17 only, districts formed pursuant to the Rural Water,
18 Sewer, Gas and Solid Waste Management Districts Act,

19 h. for the purposes of The Governmental Tort Claims Act
20 only, master conservancy districts formed pursuant to
21 the Conservancy Act of Oklahoma,

22 i. for the purposes of The Governmental Tort Claims Act
23 only, a fire protection district created pursuant to
24

1 the provisions of Section 901.1 et seq. of Title 19 of
2 the Oklahoma Statutes,

3 j. for the purposes of The Governmental Tort Claims Act
4 only, a benevolent or charitable corporate volunteer
5 or full-time fire department for an unincorporated
6 area created pursuant to the provisions of Section 592
7 et seq. of Title 18 of the Oklahoma Statutes,

8 k. for purposes of The Governmental Tort Claims Act only,
9 an Emergency Services Provider rendering services
10 within the boundaries of a Supplemental Emergency
11 Services District pursuant to an existing contract
12 between the Emergency Services Provider and the State
13 Department of Health. Provided, however, that the
14 acquisition of commercial liability insurance covering
15 the activities of such Emergency Services Provider
16 performed within the State of Oklahoma shall not
17 operate as a waiver of any of the limitations,
18 immunities or defenses provided for political
19 subdivisions pursuant to the terms of The Governmental
20 Tort Claims Act,

21 l. for purposes of The Governmental Tort Claims Act only,
22 a conservation district created pursuant to the
23 provisions of the Conservation District Act,
24

- 1 m. for purposes of The Governmental Tort Claims Act,
2 districts formed pursuant to the Oklahoma Irrigation
3 District Act,
- 4 n. for purposes of The Governmental Tort Claims Act only,
5 any community action agency established pursuant to
6 Sections 5035 through 5040 of Title 74 of the Oklahoma
7 Statutes,
- 8 o. for purposes of The Governmental Tort Claims Act only,
9 any organization that is designated as a youth
10 services agency, pursuant to Section 2-7-306 of Title
11 10A of the Oklahoma Statutes,
- 12 p. for purposes of The Governmental Tort Claims Act only,
13 any judge presiding over a drug court, as defined by
14 Section 471.1 of Title 22 of the Oklahoma Statutes,
- 15 q. for purposes of The Governmental Tort Claims Act only,
16 any child-placing agency licensed by this state to
17 place children in foster family homes, ~~and~~
- 18 r. a circuit engineering district created pursuant to
19 Section 687.1 of Title 69 of the Oklahoma Statutes,
20 and
- 21 s. for purposes of The Governmental Tort Claims Act only,
22 a regional transportation authority created pursuant
23 to Section 1370.7 of Title 68 of the Oklahoma
24 Statutes, including its contract operator and any

1 railroad operating in interstate commerce that sells a
2 property interest or provides services to a regional
3 transportation authority or allows the authority to
4 use the property or tracks of the railroad for the
5 provision of public passenger rail service to the
6 extent claims against the contract operator or
7 railroad arise out of or are related to or in
8 connection with such property interest, services or
9 operation of the public passenger rail service.
10 Provided, the acquisition of commercial liability
11 insurance to cover the activities of the regional
12 transportation authority, contract operator or
13 railroad shall not operate as a waiver of any
14 liabilities, immunities or defenses provided pursuant
15 to the provisions of the Governmental Tort Claims Act,

16 and all their institutions, instrumentalities or agencies;

17 12. "Scope of employment" means performance by an employee
18 acting in good faith within the duties of the employee's office or
19 employment or of tasks lawfully assigned by a competent authority
20 including the operation or use of an agency vehicle or equipment
21 with actual or implied consent of the supervisor of the employee,
22 but shall not include corruption or fraud;

23 13. "State" means the State of Oklahoma or any office,
24 department, agency, authority, commission, board, institution,

1 hospital, college, university, public trust created pursuant to
2 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
3 the beneficiary, or other instrumentality thereof; and

4 14. "Tort" means a legal wrong, independent of contract,
5 involving violation of a duty imposed by general law, statute, the
6 Constitution of the State of Oklahoma, or otherwise, resulting in a
7 loss to any person, association or corporation as the proximate
8 result of an act or omission of a political subdivision or the state
9 or an employee acting within the scope of employment.

10 SECTION 2. AMENDATORY 51 O.S. 2011, Section 154, is
11 amended to read as follows:

12 Section 154. A. The total liability of the state and its
13 political subdivisions on claims within the scope of The
14 Governmental Tort Claims Act, arising out of an accident or
15 occurrence happening after ~~the effective date of this act~~ October 1,
16 1985, Section 151 et seq. of this title, shall not exceed:

17 1. Twenty-five Thousand Dollars (\$25,000.00) for any claim or
18 to any claimant who has more than one claim for loss of property
19 arising out of a single act, accident, or occurrence;

20 2. Except as otherwise provided in this paragraph, One Hundred
21 Twenty-five Thousand Dollars (\$125,000.00) to any claimant for a
22 claim for any other loss arising out of a single act, accident, or
23 occurrence. The limit of liability for the state or any city or
24 county with a population of three hundred thousand (300,000) or more

1 according to the latest federal Decennial Census, or a political
2 subdivision as defined in subparagraph s of paragraph 11 of Section
3 152 of this title, shall not exceed One Hundred Seventy-five
4 Thousand Dollars (\$175,000.00). Except however, the limits of ~~said~~
5 the liability for the University Hospitals and State Mental Health
6 Hospitals operated by the Department of Mental Health and Substance
7 Abuse Services for claims arising from medical negligence shall be
8 Two Hundred Thousand Dollars (\$200,000.00). For claims arising from
9 medical negligence by any licensed physician, osteopathic physician
10 or certified nurse-midwife rendering prenatal, delivery or infant
11 care services from September 1, 1991, through June 30, 1996,
12 pursuant to a contract authorized by subsection B of Section 1-106
13 of Title 63 of the Oklahoma Statutes and in conformity with the
14 requirements of Section 1-233 of Title 63 of the Oklahoma Statutes,
15 the limits of ~~said~~ the liability shall be Two Hundred Thousand
16 Dollars (\$200,000.00); or

17 3. One Million Dollars (\$1,000,000.00) for any number of claims
18 arising out of a single occurrence or accident.

19 B. 1. Beginning on ~~the effective date of this act~~ May 28,
20 2003, claims shall be allowed for wrongful criminal felony
21 conviction resulting in imprisonment if the claimant has received a
22 full pardon on the basis of a written finding by the Governor of
23 actual innocence for the crime for which the claimant was sentenced
24 or has been granted judicial relief absolving the claimant of guilt

1 on the basis of actual innocence of the crime for which the claimant
2 was sentenced. The Governor or the court shall specifically state,
3 in the pardon or order, the evidence or basis on which the finding
4 of actual innocence is based.

5 2. As used in paragraph 1 of this subsection, for a claimant to
6 recover based on "actual innocence", the individual must meet the
7 following criteria:

- 8 a. the individual was charged, by indictment or
9 information, with the commission of a public offense
10 classified as a felony,
- 11 b. the individual did not plead guilty to the offense
12 charged, or to any lesser included offense, but was
13 convicted of the offense,
- 14 c. the individual was sentenced to incarceration for a
15 term of imprisonment as a result of the conviction,
- 16 d. the individual was imprisoned solely on the basis of
17 the conviction for the offense, and
- 18 e. (1) in the case of a pardon, a determination was made
19 by either the Pardon and Parole Board or the
20 Governor that the offense for which the
21 individual was convicted, sentenced and
22 imprisoned, including any lesser offenses, was
23 not committed by the individual, or
24

1 (2) in the case of judicial relief, a court of
2 competent jurisdiction found by clear and
3 convincing evidence that the offense for which
4 the individual was convicted, sentenced and
5 imprisoned, including any lesser included
6 offenses, was not committed by the individual and
7 issued an order vacating, dismissing or reversing
8 the conviction and sentence and providing that no
9 further proceedings can be or will be held
10 against the individual on any facts and
11 circumstances alleged in the proceedings which
12 had resulted in the conviction.

13 3. A claimant shall not be entitled to compensation for any
14 part of a sentence in prison during which the claimant was also
15 serving a concurrent sentence for a crime not covered by this
16 subsection.

17 4. The total liability of the state and its political
18 subdivisions on any claim within the scope of The Governmental Tort
19 Claims Act arising out of wrongful criminal felony conviction
20 resulting in imprisonment shall not exceed One Hundred Seventy-five
21 Thousand Dollars (\$175,000.00).

22 5. The provisions of this subsection shall apply to convictions
23 occurring on or before ~~the effective date of this act~~ May 28, 2003,
24 as well as convictions occurring after ~~the effective date of this~~

1 ~~act~~ May 28, 2003. If a court of competent jurisdiction finds that
2 retroactive application of this subsection is unconstitutional, the
3 prospective application of this subsection shall remain valid.

4 C. No award for damages in an action or any claim against the
5 state or a political subdivision shall include punitive or exemplary
6 damages.

7 D. When the amount awarded to or settled upon multiple
8 claimants exceeds the limitations of this section, any party may
9 apply to the district court which has jurisdiction of the cause to
10 apportion to each claimant the claimant's proper share of the total
11 amount as limited herein. The share apportioned to each claimant
12 shall be in the proportion that the ratio of the award or settlement
13 made to him bears to the aggregate awards and settlements for all
14 claims against the state or its political subdivisions arising out
15 of the occurrence. When the amount of the aggregate losses
16 presented by a single claimant exceeds the limits of paragraph 1 or
17 2 of subsection A of this section, each person suffering a loss
18 shall be entitled to that person's proportionate share.

19 E. The total liability of resident physicians and interns while
20 participating in a graduate medical education program of the
21 University of Oklahoma College of Medicine, its affiliated
22 institutions and the Oklahoma College of Osteopathic Medicine and
23 Surgery shall not exceed One Hundred Thousand Dollars (\$100,000.00).
24

1 F. The state or a political subdivision may petition the court
2 that all parties and actions arising out of a single accident or
3 occurrence shall be joined as provided by law, and upon order of the
4 court the proceedings upon good cause shown shall be continued for a
5 reasonable time or until such joinder has been completed. The state
6 or political subdivision shall be allowed to interplead in any
7 action which may impose on it any duty or liability pursuant to ~~this~~
8 ~~act~~ the Governmental Tort Claims Act.

9 G. The liability of the state or political subdivision under
10 The Governmental Tort Claims Act shall be several from that of any
11 other person or entity, and the state or political subdivision shall
12 only be liable for that percentage of total damages that corresponds
13 to its percentage of total negligence. Nothing in this section
14 shall be construed as increasing the liability limits imposed on the
15 state or political subdivision under The Governmental Tort Claims
16 Act.

17 SECTION 3. AMENDATORY 51 O.S. 2011, Section 155, as last
18 amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2018,
19 Section 155), is amended to read as follows:

20 Section 155. The state or a political subdivision shall not be
21 liable if a loss or claim results from:

22 1. Legislative functions;
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1 2. Judicial, quasi-judicial, or prosecutorial functions, other
2 than claims for wrongful criminal felony conviction resulting in
3 imprisonment provided for in Section 154 of this title;

4 3. Execution or enforcement of the lawful orders of any court;

5 4. Adoption or enforcement of or failure to adopt or enforce a
6 law, whether valid or invalid, including, but not limited to, any
7 statute, charter provision, ordinance, resolution, rule, regulation
8 or written policy;

9 5. Performance of or the failure to exercise or perform any act
10 or service which is in the discretion of the state or political
11 subdivision or its employees;

12 6. Civil disobedience, riot, insurrection or rebellion or the
13 failure to provide, or the method of providing, police, law
14 enforcement or fire protection;

15 7. Any claim based on the theory of attractive nuisance;

16 8. Snow or ice conditions or temporary or natural conditions on
17 any public way or other public place due to weather conditions,
18 unless the condition is affirmatively caused by the negligent act of
19 the state or a political subdivision;

20 9. Entry upon any property where that entry is expressly or
21 implied authorized by law;

22 10. Natural conditions of property of the state or political
23 subdivision;

1 11. Assessment or collection of taxes or special assessments,
2 license or registration fees, or other fees or charges imposed by
3 law;

4 12. Licensing powers or functions including, but not limited
5 to, the issuance, denial, suspension or revocation of or failure or
6 refusal to issue, deny, suspend or revoke any permit, license,
7 certificate, approval, order or similar authority;

8 13. Inspection powers or functions, including failure to make
9 an inspection, review or approval, or making an inadequate or
10 negligent inspection, review or approval of any property, real or
11 personal, to determine whether the property complies with or
12 violates any law or contains a hazard to health or safety, or fails
13 to conform to a recognized standard;

14 14. Any loss to any person covered by any workers' compensation
15 act or any employer's liability act;

16 15. Absence, condition, location or malfunction of any traffic
17 or road sign, signal or warning device unless the absence,
18 condition, location or malfunction is not corrected by the state or
19 political subdivision responsible within a reasonable time after
20 actual or constructive notice or the removal or destruction of such
21 signs, signals or warning devices by third parties, action of
22 weather elements or as a result of traffic collision except on
23 failure of the state or political subdivision to correct the same
24 within a reasonable time after actual or constructive notice.

1 Nothing herein shall give rise to liability arising from the failure
2 of the state or any political subdivision to initially place any of
3 the above signs, signals or warning devices. The signs, signals and
4 warning devices referred to herein are those used in connection with
5 hazards normally connected with the use of roadways or public ways
6 and do not apply to the duty to warn of special defects such as
7 excavations or roadway obstructions;

8 16. Any claim which is limited or barred by any other law;

9 17. Misrepresentation, if unintentional;

10 18. An act or omission of an independent contractor or
11 consultant or his or her employees, agents, subcontractors or
12 suppliers or of a person other than an employee of the state or
13 political subdivision at the time the act or omission occurred;

14 19. Theft by a third person of money in the custody of an
15 employee unless the loss was sustained because of the negligence or
16 wrongful act or omission of the employee;

17 20. Participation in or practice for any interscholastic or
18 other athletic contest sponsored or conducted by or on the property
19 of the state or a political subdivision;

20 21. Participation in any activity approved by a local board of
21 education and held within a building or on the grounds of the school
22 district served by that local board of education before or after
23 normal school hours or on weekends;

24

1 22. Use of indoor or outdoor school property and facilities
2 made available for public recreation before or after normal school
3 hours or on weekends or school vacations, except those claims
4 resulting from willful and wanton acts of negligence. For purposes
5 of this paragraph:

6 a. "public" includes, but is not limited to, students
7 during nonschool hours and school staff when not
8 working as employees of the school, and

9 b. "recreation" means any indoor or outdoor physical
10 activity, either organized or unorganized, undertaken
11 for exercise, relaxation, diversion, sport or
12 pleasure, and that is not otherwise covered by
13 paragraph 20 or 21 of this section;

14 23. Any court-ordered, Department of Corrections or county
15 approved work release program; provided, however, this provision
16 shall not apply to claims from individuals not in the custody of the
17 Department of Corrections based on accidents involving motor
18 vehicles owned or operated by the Department of Corrections;

19 24. The activities of the National Guard, the militia or other
20 military organization administered by the Military Department of the
21 state when on duty pursuant to the lawful orders of competent
22 authority:

23 a. in an effort to quell a riot,
24

- 1 b. in response to a natural disaster or military attack,
2 or
3 c. if participating in a military mentor program ordered
4 by the court;

5 25. Provision, equipping, operation or maintenance of any
6 prison, jail or correctional facility, or injuries resulting from
7 the parole or escape of a prisoner or injuries by a prisoner to any
8 other prisoner; provided, however, this provision shall not apply to
9 claims from individuals not in the custody of the Department of
10 Corrections based on accidents involving motor vehicles owned or
11 operated by the Department of Corrections;

12 26. Provision, equipping, operation or maintenance of any
13 juvenile detention facility, or injuries resulting from the escape
14 of a juvenile detainee, or injuries by a juvenile detainee to any
15 other juvenile detainee;

16 27. Any claim or action based on the theory of manufacturer's
17 products liability or breach of warranty, either expressed or
18 implied;

19 28. Any claim or action based on the theory of indemnification
20 or subrogation; provided, however, a political subdivision as
21 defined in subparagraph s of paragraph 11 of Section 152 of this
22 title may enter into a contract with a contract operator or any
23 railroad operating in interstate commerce that sells a property
24 interest or provides services to a regional transportation

1 authority, or allows the regional transportation authority to use
2 the railroad's property or tracks for the provision of public
3 passenger rail service, providing for the allocation of financial
4 responsibility, indemnification, and/or the procurement of insurance
5 for the parties for all types of claims or damages, provided that
6 funds have been appropriated to cover the resulting contractual
7 obligation at the time the contract is executed. The acquisition of
8 commercial liability insurance to cover the activities of the
9 regional transportation authority, contract operator or railroad
10 shall not operate as a waiver of any of the liabilities, immunities
11 or defenses provided for political subdivisions pursuant to the
12 provisions of The Governmental Tort Claims Act. A contract entered
13 into under this paragraph shall not affect rights of employees under
14 the Federal Employers Liability Act or the Federal Railway Labor
15 Act;

16 29. Any claim based upon an act or omission of an employee in
17 the placement of children;

18 30. Acts or omissions done in conformance with then current
19 recognized standards;

20 31. Maintenance of the state highway system or any portion
21 thereof unless the claimant presents evidence which establishes
22 either that the state failed to warn of the unsafe condition or that
23 the loss would not have occurred but for a negligent affirmative act
24 of the state;

1 32. Any confirmation of the existence or nonexistence of any
2 effective financing statement on file in the office of the Secretary
3 of State made in good faith by an employee of the office of the
4 Secretary of State as required by the provisions of Section 1-9-
5 320.6 of Title 12A of the Oklahoma Statutes;

6 33. Any court-ordered community sentence;

7 34. Remedial action and any subsequent related maintenance of
8 property pursuant to and in compliance with an authorized
9 environmental remediation program, order, or requirement of a
10 federal or state environmental agency;

11 35. The use of necessary and reasonable force by a school
12 district employee to control and discipline a student during the
13 time the student is in attendance or in transit to and from the
14 school, or any other function authorized by the school district;

15 36. Actions taken in good faith by a school district employee
16 for the out-of-school suspension of a student pursuant to applicable
17 Oklahoma Statutes; or

18 37. Use of a public facility opened to the general public
19 during an emergency.

20 SECTION 4. This act shall become effective November 1, 2020.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
22 February 18, 2020 - DO PASS
23
24