

Representative Willard of the 51st offers the following amendment:

1 *Amend the Senate committee substitute to HB 791 (LC 29 8112S) by replacing lines 1*
2 *through 3 with the following:*

3 To amend Chapter 21 of Title 50, Title 36, Part 1 of Article 3 of Chapter 3 of Title 23, and
4 Code Section 5-6-34 of the Official Code of Georgia Annotated, relating to waiver of
5 sovereign immunity as to actions ex contractu and state tort claims, provisions applicable to
6 counties, municipal corporations, and other governmental entities, conventional quia timet,
7 and

8 *By inserting after "exceptions;" on line 6 the following:*
9 to provide for a waiver of sovereign immunity as to actions ex contractu for breach of written
10 contract to which a municipal corporation is a party;

11 *By inserting between lines 139 and 140 the following:*

12 **PART IA**
13 **SECTION 1A-1.**

14 Title 36 of the Official Code of Georgia Annotated, relating to provisions applicable to
15 counties, municipal corporations, and other governmental entities, is amended by adding a
16 new Code section to read as follows:

17 "36-80-26.

18 (a) As used in this Code section, the term:

19 (1) 'Governmental entity' shall have the same meaning as set forth in Code Section
20 50-21-50.

21 (2) 'Political subdivision' means a county, municipal corporation, consolidated
22 government, or school district of this state.

23 (3) 'State statute' means a title, chapter, article, part, subpart, Code section, or part thereof
24 that is codified in this Code or has become law and will be codified in this Code.

25 (4) 'Suit' means a civil lawsuit or legal proceeding that contains one or more claims.

26 (b) Sovereign immunity of a political subdivision is hereby waived as to any claim that is
27 brought by an aggrieved person in the courts of this state against a political subdivision
28 seeking declaratory or injunctive relief to remedy an injury in fact caused to such person,
29 including an imminent threat of injury to such person, by a political subdivision acting
30 without lawful authority, beyond the scope of its official power, or in violation of the

31 Constitution of Georgia, the Constitution of the United States, a state statute, a rule or
 32 regulation adopted by a state governmental entity, or a local ordinance.

33 (c) This Code section shall not waive sovereign immunity of a political subdivision as to
 34 any claim:

35 (1) For which a state statute explicitly prohibits such waiver;

36 (2) For monetary relief, attorney's fees, or expenses of litigation except as provided in
 37 Code Section 9-15-14;

38 (3) Seeking declaratory or injunctive relief related to a contract between a third party and
 39 a political subdivision;

40 (4) Alleging a violation of federal law; or

41 (5) Brought in a court of the United States.

42 (d) This Code section shall not:

43 (1) Create, imply, or provide a private right of action not otherwise provided by this
 44 Code section;

45 (2) Alter or amend any other waiver of sovereign immunity provided by state statute;

46 (3) Toll or extend any applicable period of limitations; or

47 (4) Alter or amend any other legal requirement for filing a suit or obtaining relief,
 48 including, but not limited to, jurisdiction, standing, exhaustion of administrative or other
 49 remedies, notice requirements, and defenses to or limitations on the exercise of equitable
 50 jurisdiction.

51 (e) Sovereign immunity is waived as to any action ex contractu for the breach of any
 52 written contract existing on the effective date of this subsection or thereafter entered into
 53 by a political subdivision."

54 **SECTION 1A-2.**

55 Said title is further amended in Code Section 36-33-1, relating to a municipal corporation's
 56 immunity from liability for damages and the waiver of immunity by the purchase of liability
 57 insurance, by adding a new subsection to read as follows:

58 "(c) Sovereign immunity of a municipal corporation shall be waived as provided in Code
 59 Section 36-80-26."