

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 187*

Short Title: Tort Liability/Immunity Study.

(Public)

Sponsors: Representatives Culpepper, Culp and Nye (Co-Sponsors); Ives.

Referred to: Rules, Calendar and Operations of the House.

February 15, 1995

A BILL TO BE ENTITLED

AN ACT TO CREATE THE STATE AND LOCAL GOVERNMENT TORT
LIABILITY AND IMMUNITY STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. (a) There is created the State and Local Government Tort Liability and
Immunity Study Commission to be composed of 20 members appointed as follows:

- (1) The President Pro Tempore of the Senate shall appoint four members
from the membership of the Senate and two members from a list of four
persons recommended by the President of the North Carolina
Association of County Commissioners.
- (2) The Speaker of the House of Representatives shall appoint four
members from the membership of the House of Representatives and two
members from a list of four persons recommended by the President of
the North Carolina League of Municipalities.
- (3) The Governor shall appoint one member who shall be a representative
of the Department of Transportation and one member from a list of two
persons recommended by the President of the North Carolina State
Employees Association.
- (4) The Attorney General shall appoint one member who shall be a
representative of the Department of Justice.

1 (5) The Commissioner of Insurance shall appoint one member from a list of
2 two persons recommended by the Public Officers and Employees
3 Insurance Liability Commission.

4 (6) The President of The University of North Carolina shall appoint one
5 member who shall be a faculty member of a North Carolina law school
6 who is familiar with tort liability law.

7 (7) The President of the North Carolina State Bar shall appoint three
8 members, two of whom shall be experienced in plaintiff litigation
9 claims against governmental entities and one of whom shall be
10 experienced in plaintiff litigation claims under the Tort Claims Act.

11 (b) The President Pro Tempore of the Senate and the Speaker of the House of
12 Representatives shall each designate a cochair of the Commission from their appointees.
13 Either cochair may call the first meeting of the Commission.

14 (c) Members shall serve until the termination of the Commission or, in case of a
15 member of the General Assembly, until the member does not file for reelection to the
16 General Assembly. Vacancies shall be filled in the same manner as the original
17 appointments were made.

18 Sec. 2. (a) The State and Local Government Tort Liability and Immunity Study
19 Commission shall study all of the following:

20 (1) The liability and immunity of the State and its employees, how that
21 liability is defended, and how claims and judgments are paid.

22 (2) The State Tort Claims Act, the limits under the Act, how claims are
23 defended, and how claims and judgments are paid.

24 (3) The liability and immunity of local governments and other subdivisions
25 of the State, how that liability is defended, how claims and judgments
26 are paid, and the lack of uniformity in this area.

27 (4) The liability and immunity of local government employees, how that
28 liability is defended, and how claims and judgments are paid.

29 (b) The Commission shall recommend changes to the law that will:

30 (1) Clarify the present law by removing inconsistencies and outdated
31 provisions.

32 (2) Provide State and local government entities with predictable liability.

33 (3) Provide injured persons with adequate compensation without regard to
34 where the injury occurred or by which government entity, or the
35 employee of a government entity, the person was injured.

36 (c) The Commission shall not study tort reform as it relates to the doctrine of
37 contributory negligence nor professional liability tort reform.

38 Sec. 3. Upon the request of the cochairs of the Commission, and with the prior
39 approval of the Legislative Services Commission, the Legislative Administrative Officer
40 shall assign professional and clerical staff to assist in the work of the State and Local
41 Government Tort Liability and Immunity Study Commission. Clerical staff shall be
42 furnished to the Commission through the Offices of the House of Representatives and
43 Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be

1 borne by the Commission. With the prior approval of the Legislative Services
2 Commission, the State and Local Government Tort Liability and Immunity Study
3 Commission may hold its meetings in the State Legislative Building or the Legislative
4 Office Building.

5 Sec. 4. The Commission may submit an interim report of its findings and
6 recommendations to the 1996 Regular Session of the 1995 General Assembly and shall
7 submit a final report of its findings and recommendations on or before the convening of
8 the 1997 General Assembly. All reports shall be filed with the President Pro Tempore of
9 the Senate and the Speaker of the House of Representatives, the Principal Clerks of the
10 Senate and the House of Representatives, and the Legislative Librarian. Upon filing its
11 final report, the Commission shall terminate.

12 Sec. 5. Members of the Commission shall be paid per diem, subsistence, and
13 travel allowances as follows:

14 (1) Commission members who are also members of the General Assembly,
15 at the rate established in G.S. 120-3.1.

16 (2) Commission members who are officials or employees of the State or
17 local government agencies, at the rate established in G.S. 138-6.

18 (3) All other Commission members, at the rate established in G.S. 138-5.

19 Sec. 6. All State departments and agencies, and local governments and their
20 subdivisions, shall cooperate with the Commission and, upon request, shall furnish to the
21 Commission and its staff any information in their possession or available to them.

22 Sec. 7. There is appropriated from the General Fund to the General Assembly
23 the sum of twenty thousand dollars (\$20,000) for the 1995-96 fiscal year and the sum of
24 twenty thousand dollars (\$20,000) for the 1996-97 fiscal year for the expenses of the
25 State and Local Government Tort Liability and Immunity Study Commission.

26 Sec. 8. This act becomes effective July 1, 1995.