

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 898 (3<sup>rd</sup> Edition)

**SHORT TITLE:** State Employee Federal Remedy Restoration Act

**SPONSOR(S):** Rep. Blue and Hensley

**FISCAL IMPACT**

Yes ( )      No ( )      No Estimate Available (X)

FY 2001-02   FY 2002-03   FY 2003-04   FY 2004-05   FY 2005-06

**REVENUES**

**EXPENDITURES**

**POSITIONS:**

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Department of Justice; all state agencies

**EFFECTIVE DATE:** When it becomes law.

**BILL SUMMARY:** Enacts new GS 143-300.35 waiving the State's sovereign immunity for the limited purpose of allowing state employees to bring lawsuits and obtain and satisfy judgments against the State or state agencies under the federal Fair Labor Standards Act, the Age Discrimination in Employment Act, the Family and Medical Leave Act, Americans with Disabilities Act, and any other federal statute granting rights, protections, or remedies to employees.

**The 3<sup>rd</sup> edition limits the amount of damages an employee can recover to lesser of maximum recovery under State Tort Claims Act or the amounts authorized under the applicable federal statute.**

**ASSUMPTIONS AND METHODOLOGY:** Until recently, state employees could sue in federal court under federal anti-discrimination laws as well as pursuing remedy through Office of Administrative Hearing, State Personnel Commission and state courts. While they can still technically bring such suits, some recent federal court decisions (including Alden Vs. Maine (June 1999) where the US Supreme Court ruled that state employees cannot sue

states for overtime pay under the Fair Labor Standards Act) have made such suits unlikely. HB 898 would restore state employees ability to bring suits in federal court under any federal statute granting rights, protections or remedies to employees.

There is no way to know how many state employees will choose to bring such suits and whether they would have prior to this bill. According to the Department of Justice, state employees subject to the state personnel act bring about 350 actions involving discrimination charges each year. A frivolous case in federal court can take an estimated 20 hours to defend while a more serious case can take about 100 hours. Under current law, the state would likely move quickly to claim sovereign immunity. Under HB 898, however, the defense would be more involved.

Given the recent federal court decisions, HB 898 appears to expand SPA employee's access to federal court remedies. If there were more than a few serious cases brought, there would be an impact on the Department of Justice. If the suits are successful and monetary damages assessed, there would also be an impact on the agency involved. There is no way to predict the frequency or content of these cases.

The Administrative Office of the Courts feels that this bill would not have a substantial impact on state courts.

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** May 21, 2001



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