

N.C. GENERAL ASSEMBLY LEGISLATIVE FISCAL NOTE

Fiscal Research
733-4910

Prepared By: Michele T. Nelson	Date Prepared: May 8, 1989	Bill No.: H 1237	Edition: First
Approved By: Tom L. Covington TOMC	MAY 9, 1989		Rep. Alex Hall
Short Title: Comparative Fault - 2. (Adopt Comparative Fault System For State Torts)			

TYPE OF FISCAL IMPACT	COUNTY		FUNDS AFFECTED:		
	State Gov't	Local Gov't	(x) General	() Highway	() Other: Local
			State Fiscal Impact	FY 89-90	FY 90-91
No Fiscal Impact () ()			State Total Req'ments	\$586,923	\$591,321
			Receipts/Revenues	-0-	-0-
Increase Expenditure (x) ()			Net State Expend./Rev.	\$586,923	\$591,321
			No. of Positions	-0-	-0-
Decrease Expenditure () ()			Local Fiscal Impact	FY	FY
Increase Revenue () ()			Local Total Req'ments		
Decrease Revenue () ()			Receipts/Revenues		
			Net Local Expend./Rev.		
No Estimate Avail. () ()			No. of Positions		

Description of Legislation

1. Summary of Legislation

Amends State Tort Claims law to establish comparative fault liability. Provides that contributory negligence not an absolute bar to recovery against State as long as claimant's negligence less than defendant's. Requires the Industrial Commission in action involving comparative fault to make special findings indicating percentage of total fault attributable to all parties and to award damages accordingly. Effective as to causes of action arising on or after October 1, 1989.

2. Effective Date - October 1, 1989

3. Fund or Tax Affected - General Fund

4. Principal Department/Program Affected

Department of Commerce, Industrial Commission.

Cost or Revenue Impact on State

	FY	FY	FY
	89-90	90-91	
1. Non-Recurring Costs/Revenues	-0-	-0-	
2. Recurring Costs/Revenues	\$586,923	\$591,321	

1 The total includes \$508,806 each fiscal year, which is the estimated increase in payments; \$46,065 each fiscal year to support the estimated increase in the Industrial Commission's requirements; and \$32,052 in FY 89-90 and \$36,450 in FY 90-91 which is the increase in premiums for State employees.

3. Fiscal/Revenue Assumptions

The Industrial Commission currently conducts formal hearings to determine settlement of claims that are denied under the current State Tort Claims law. In FY 87-88 the Commission received 639 Tort Claim cases of which 56 were settled.

According to the provisions of House Bill 1237, contributory negligence would no longer bar settlement of claims heard by the Industrial Commission. It is estimated that an additional 14 claims would achieve successful settlement by the Industrial Commission (25% x 56). The additional cost to settle the claims would be approximately \$508,806 (10% x \$5,088,059). The number of additional claims is extremely small and does not include the claims under \$10,000 that the Industrial Commission would begin to also handle. The Commission could not estimate the number of claims in this category. The Industrial Commission would also experience an increase in its requirements related to handling Tort Claims of approximately 10% or \$46,065.

Additionally, it is estimated that the amount State agencies pay for insurance premiums will also increase. It is the Department of Insurance's best estimate that premiums will increase 40% over a three year period. Currently premiums are assessed at a cost of \$3.75 per State employee or \$217,103 (\$3.75 x 57,894). The University System and Department of Community Colleges pay an additional \$2.00 for each State employee who teaches or \$23,000 (\$2.00 x 8,000 - University System + \$3,500 - Community College System). This results in a total payment of \$240,103.

If the rates should increase 40% over a three (3) year period this would result in approximately 13.3% each year. The first year (89-90) the rate would be \$4.25 and

\$2.27 respectively and the second year (90-91) \$4.81 and \$2.57. In FY 89-90 premiums would increase \$32,052 (\$28,947 for State employees + \$3,105 for State employees who teach). In FY 90-91 the premium would increase \$36,450 (\$33,000 for State employees and \$3,450 for State employees who teach).

The Insurance Department currently follows the provisions of G.S. 143-300.2 - G.S. 143-300.6 which the Department thinks may need to be rewritten to comply with comparative fault. This could result in a restructuring of the State's insurance program. It is anticipated that comparative fault would have the greatest impact on automobile liability. Under the current Tort Claims law the maximum limit per claim is \$100,000. Because comparative fault determines reimbursement on the basis of percentage of responsibility for the incident, insurance will not share any of the cost unless the claim is over the limit, i.e. \$100,000. All payments would, therefore, come from the General Fund.

The result is an increase in insurance premiums for State departments; however, it was not possible to determine the increase in the total number of claims.

- 2 The percentages used to estimate the increase in claimants (25% and the increase in payments (10%) were presented in a publication prepared by the Rand Corporation in 1985.

Cost/Revenue Impact on County or Local Government

	FY	FY	FY
	88-89	89-90	
1. Non-Recurring Costs/Revenues			
2. Recurring Costs/Revenues			
3. Fiscal/Revenue Assumptions			

Sources of Data for Fiscal Note

Department of Justice; Department of Insurance; and Industrial Commission, Department of Commerce

Technical Considerations/Comments



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