

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1643

Short Title: Tort Claims Limit Increased.

(Public)

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Sponsors: Representatives Nesbitt, Colton, N.J. Crawford, and Greenwood.

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Referred to: Judiciary II.

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June 8, 1992

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE LIMIT UNDER THE TORT CLAIMS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-291(a) reads as rewritten:

"(a) The North Carolina Industrial Commission is hereby constituted a court for the purpose of hearing and passing upon tort claims against the State Board of Education, the Board of Transportation, and all other departments, institutions and agencies of the State. The Industrial Commission shall determine whether or not each individual claim arose as a result of the negligence of any officer, employee, involuntary servant or agent of the State while acting within the scope of his office, employment, service, agency or authority, under circumstances where the State of North Carolina, if a private person, would be liable to the claimant in accordance with the laws of North Carolina. If the Commission finds that there was such negligence on the part of an officer, employee, involuntary servant or agent of the State while acting within the scope of his office, employment, service, agency or authority, which was the proximate cause of the injury and that there was no contributory negligence on the part of the claimant or the person in whose behalf the claim is asserted, the Commission shall determine the amount of damages which the claimant is entitled to be paid, including medical and other expenses, and by appropriate order direct the payment of such damages by the department, institution or agency concerned, but in no event shall the amount of damages awarded exceed the sum of ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000) cumulatively to all claimants on account of injury and damage to any one person. Community colleges and technical colleges shall be deemed State agencies for purposes of this Article. The fact that a claim may be

1 brought under more than one Article under this Chapter shall not increase the foregoing  
2 maximum liability of the State."

3 Sec. 2. G.S. 143-291.3 reads as rewritten:

4 **"§ 143-291.3. Counterclaims by State.**

5 The filing of a claim under this Article shall constitute consent by the plaintiff(s)  
6 to the jurisdiction of the Industrial Commission to hear and determine any  
7 counterclaim of ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand  
8 dollars (\$250,000) or less which may be filed on behalf of a State department,  
9 institution, or agency or a county or city board of education. A final award of the  
10 Industrial Commission awarding damages on a counterclaim shall be filed with the  
11 Clerk of the Superior Court of the county wherein the case was heard. These awards  
12 shall be docketed and shall be enforceable in the same manner as judgments of the  
13 General Court of Justice. Notwithstanding the provisions of Rule 12 of the Rules of  
14 Civil Procedure, nothing in this section shall require the filing of such a counterclaim."

15 Sec. 3. G.S. 143-299.2 reads as rewritten:

16 **"§ 143-299.2. Limitation on payments by the State.**

17 The maximum amount which the State may pay cumulatively to all claimants on  
18 account of injury and damage to any one person, whether the claim or claims are  
19 brought under this Article or Article 31A or Article 31B, shall be ~~one hundred thousand~~  
20 ~~dollars (\$100,000)~~, two hundred fifty thousand dollars (\$250,000), less any commercial  
21 liability insurance purchased by the State and applicable to the claim or claims under  
22 G.S. 143-291(b), 143-300.6(c), or 143-300.16(c). The fact that a claim or claims may  
23 be brought under more than one Article under this Chapter shall not increase the above  
24 maximum liability of the State."

25 Sec. 4. This act becomes effective July 1, 1992, and applies to actions filed  
26 on or after that date.