

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1596

Short Title: Tort Claims Act Amendments.

(Public)

Sponsors: Senator Lee.

Referred to: Judiciary.

June 1, 1998

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE TORT CLAIMS ACT TO INCREASE THE CEILING FOR
2 MEDICAL EXPENSES IN SCHOOL BUS ACCIDENTS, AND COVERING
3 LIABILITY FOR ACTS OF BUS MONITORS AND SCHOOL BUS
4 VOLUNTEERS.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 115C-257 reads as rewritten:

8 **"§ 115C-257. Attorney General to pay claims.**

9 The Attorney General is hereby authorized to pay reasonable medical expenses, not to
10 exceed ~~six hundred dollars (\$600.00)~~, three thousand dollars (\$3,000), incurred within one
11 year from the date of accident to or for each pupil who sustains bodily injury or death
12 caused by accident, while boarding, riding on, or alighting from a school bus operated by
13 any local school administrative unit."

14 Section 2. G.S. 143-300.1 reads as rewritten:

15 **"§ 143-300.1. Claims against county and city boards of education for accidents
16 involving school buses or school transportation service vehicles.**

17 (a) The North Carolina Industrial Commission shall have jurisdiction to hear and
18 determine tort claims against any county board of education or any city board of
19 education, which claims arise as a result of any alleged mechanical defects or other
20 defects which may affect the safe operation of a public school bus or school

1 transportation service vehicle resulting from an alleged negligent act of maintenance
2 personnel or as a result of any alleged negligent act or omission of the ~~driver-driver,~~
3 volunteer, or monitor of a public school bus or school transportation service vehicle
4 when:

5 (1) The salary of that driver is paid or authorized to be paid from the State
6 Public School Fund, and the driver is an employee of the county or city
7 administrative unit of which that board is the governing body,

8 (1a) The monitor was appointed and acting in accordance with G.S. 115C-
9 245(d),

10 (1b) The volunteer was aboard the bus with the permission of the driver or
11 was assisting a student in entering or leaving the bus, or

12 (2) The driver is an unpaid school bus driver trainee under the supervision
13 of an authorized employee of the Department of Transportation,
14 Division of Motor Vehicles, or an authorized employee of that board or
15 a county or city administrative unit thereof,

16 and which driver was at the time of the alleged negligent act or omission operating a
17 public school bus or school transportation service vehicle in the course of his
18 employment by or training for that administrative unit or ~~board-board,~~ which monitor was
19 acting as such in the course of serving under G.S. 115C-245(d), or which volunteer was
20 aboard the bus with the permission of the driver or was assisting a student in entering or
21 leaving the bus. The liability of such county or city board of education, the defenses
22 which may be asserted against such claim by such board, the amount of damages which
23 may be awarded to the claimant, and the procedure for filing, hearing and determining
24 such claim, the right of appeal from such determination, the effect of such appeal, and the
25 procedure for taking, hearing and determining such appeal shall be the same in all
26 respects as is provided in this Article with respect to tort claims against the State Board of
27 Education except as hereinafter provided. Any claim filed against any county or city
28 board of education pursuant to this section shall state the name and address of such board,
29 the name of the employee upon whose alleged negligent act or omission the claim is
30 based, and all other information required by G.S. 143-297 in the case of a claim against
31 the State Board of Education. Immediately upon the docketing of a claim, the Industrial
32 Commission shall forward one copy of the plaintiff's affidavit to the superintendent of the
33 schools of the county or city administrative unit against the governing board of which
34 such claim is made, one copy of the plaintiff's affidavit to the State Board of Education
35 and one copy of the plaintiff's affidavit to the office of the Attorney General of North
36 Carolina. All notices with respect to tort claims against any such county or city board of
37 education shall be given to the superintendent of schools of the county or city
38 administrative unit of which such board is a governing board, to the State Board of
39 Education and also to the office of the Attorney General of North Carolina.

40 (b) The Attorney General shall be charged with the duty of representing the city or
41 county board of education in connection with claims asserted against them pursuant to
42 this section where the amount of the claim, in the opinion of the Attorney General, is of
43 sufficient import to require and justify such appearance.

1 (c) In the event that the Industrial Commission shall make award of damages
2 against any county or city board of education pursuant to this section, the Attorney
3 General shall draw a voucher for the amount required to pay such award. The funds
4 necessary to cover vouchers written by the Attorney General for claims against county
5 and city boards of education for accidents involving school buses and school
6 transportation service vehicles shall be made available from funds appropriated to the
7 Department of Public Instruction. Neither the county or city boards of education, or the
8 county or city administrative unit shall be liable for the payment of any award made
9 pursuant to the provisions of this section in excess of the amount paid upon such voucher
10 by the Attorney General. Settlement and payment may be made by the Attorney General
11 as provided in G.S. 143-295.

12 (d) The Attorney General may defend any civil action which may be brought
13 against the ~~driver~~driver, volunteer or monitor of a public school bus or school
14 transportation service vehicle or school bus maintenance mechanic when such driver or
15 mechanic is paid or authorized to be paid from the State Public School ~~Fund~~Fund, when
16 the monitor is acting in accordance with G.S. 115C-245(d), when the volunteer was
17 aboard the bus with the permission of the driver or was assisting a student in entering or
18 leaving the bus, or when the driver is an unpaid school bus driver trainee under the
19 supervision of an authorized employee of the Department of Transportation, Division of
20 Motor Vehicles, or an authorized employee of a county or city board of education or
21 administrative unit thereof. The Attorney General may afford this defense through the use
22 of a member of his staff or, in his discretion, employ private counsel. The Attorney
23 General is authorized to pay any judgment rendered in such civil action not to exceed the
24 limit provided under the Tort Claims Act. The Attorney General may compromise and
25 settle any claim covered by this section to the extent that he finds the same to be valid,
26 up to the limit provided in the Tort Claims Act, provided that the authority granted in this
27 subsection shall be limited to only those claims which would be within the jurisdiction of
28 the Industrial Commission under the Tort Claims Act."

29 Section 3. This act applies as to claims arising on or after July 1, 1998.