

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1240

Short Title: State Tort Claims/Public Duty.

(Public)

Sponsors: Representative Goodwin.

Referred to: Judiciary III.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PUBLIC DUTY DOCTRINE FOR TORT CLAIMS
AGAINST STATE DEPARTMENTS AND AGENCIES.

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. The existing common-law public duty doctrine does not apply to claims brought under this section. 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

1 expenses, and by appropriate order direct the payment of such damages by the
2 department, institution or agency concerned, but in no event shall the amount of damages
3 awarded exceed the sum of one hundred fifty thousand dollars (\$150,000) cumulatively
4 to all claimants on account of injury and damage to any one person. Community colleges
5 and technical colleges shall be deemed State agencies for purposes of this Article. The
6 fact that a claim may be brought under more than one Article under this Chapter shall not
7 increase the foregoing maximum liability of the State."

8 Section 2. This act becomes effective October 1, 1999, and applies to actions
9 in which judgment is entered on or after that date.