

March 25, 2009

S 859. TORT CLAIMS ACT/LOCAL GOV. OPT-IN. Filed 3/25/09. *TO ALLOW CITIES WITH POPULATION GREATER THAN FIVE HUNDRED THOUSAND TO BE SUBJECT TO THE STATE TORT CLAIMS ACT WITH CERTAIN MODIFICATIONS.*

Adds new GS 160A-485.5 for purpose indicated in title. Places jurisdiction for trying tort claims against the city in the superior court of the county in which the city is principally located (rather than in the Industrial Commission as under the Tort Claims Act generally). Specifies that the city is to be solely responsible for the expenses of its legal representation and for payment of claims for which it is found to be liable. Permits the city to purchase liability insurance without waiving its sovereign immunity, prohibits introduction to the jury of evidence concerning the insurance, and provides that the judge is to determine all matters related to insurance out of the hearing of the jury, unless the city requests otherwise.

Intro. by Clodfelter.

GS 160A

July 30, 2009

S 859. TORT CLAIMS ACT/LOCAL GOV. OPT-IN. Filed 3/25/09. House committee substitute makes the following changes to 1st edition. Clarifies in proposed GS 160A-485.5 that any resolution passed pursuant to the statute must apply to all claims arising on or after the passage of the resolution until repealed. Adds that, notwithstanding GS 143-299.1A(c), the defense set forth in GS 143-299.1A (limitations on the use of the public duty doctrine) is to be applied to a city that waives its immunity under the statute. Provides that, if a city waives its immunity under this statute, then GS 160A-485 (waiver of immunity for cities who purchase insurance) does not apply to that city (was, the city allowed to purchase liability insurance without the purchase being deemed a waiver of sovereign immunity under GS 160A-485). Allows the city to purchase liability insurance or adopt a resolution creating a self funded reserve to insure liability for negligence of any officer, employee, involuntary servant or agent of the city while acting within the scope of office, employment, service, agency or authority, under circumstances where the city, if a private person, would be liable to the claimant in accordance with state law. Makes technical changes.

Changes the effective date to October 1, 2009 (was, when the act becomes law).

Changes the title to *AN ACT TO ALLOW CITIES WITH POPULATION GREATER THAN A CERTAIN POPULATION THRESHOLD TO BE SUBJECT TO THE STATE TORT CLAIMS ACT WITH CERTAIN MODIFICATIONS.*

August 3, 2009

S 859. TORT CLAIMS ACT/LOCAL GOV. OPT-IN. Filed 3/25/09. House amendment makes the following changes to 2nd edition. Clarifies in proposed GS 160A-485.5 that the statute applies to a city with a population of 500,000 or more *according to the most recent decennial federal census.*

September 1, 2009

SL 2009-519 (S 859). TORT CLAIMS ACT/LOCAL GOVERNMENT OPT-IN. AN ACT TO ALLOW CITIES WITH POPULATION GREATER THAN A CERTAIN POPULATION THRESHOLD TO BE SUBJECT TO THE STATE TORT CLAIMS ACT WITH CERTAIN MODIFICATIONS. Summarized in *Daily Bulletin* 3/25/09, 7/30/09, and 8/3/09. Enacted August 26, 2009. Effective October 1, 2009.