

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

(a) The North Carolina Industrial Commission shall have jurisdiction to hear and determine tort claims against any county board of education or any city board of education, which claims arise as a result of any alleged mechanical defects or other defects which may affect the safe operation of a public school bus or school transportation service vehicle resulting from an alleged negligent act of maintenance personnel or as a result of any alleged negligent act or omission of the driver, transportation safety assistant, or monitor of a public school bus or school transportation service vehicle when:

- (1) The driver is an employee of the county or city administrative unit of which that board is the governing body, and the driver is paid or authorized to be paid by that administrative unit,
 - (1a) The monitor was appointed and acting in accordance with G.S. 115C-245(d),
 - (1b) The transportation safety assistant was employed and acting in accordance with G.S. 115C-245(e), or
- (2) The driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of that board or a county or city administrative unit thereof,

and which driver was at the time of the alleged negligent act or omission operating a public school bus or school transportation service vehicle in accordance with G.S. 115C-242 in the course of his employment by or training for that administrative unit or board, which monitor was at the time of the alleged negligent act or omission acting as such in the course of serving under G.S. 115C-245(d), or which transportation safety assistant was at the time of the alleged negligent act or omission acting as such in the course of serving under G.S. 115C-245(e). The liability of such county or city board of education, the defenses which may be asserted against such claim by such board, the amount of damages which may be awarded to the claimant, and the procedure for filing, hearing and determining such claim, the right of appeal from such determination, the effect of such appeal, and the procedure for taking, hearing and determining such appeal shall be the same in all respects as is provided in this Article with respect to tort claims against the State Board of Education except as hereinafter provided. Any claim filed against any county or city board of education pursuant to this section shall state the name and address of such board, the name of the employee upon whose alleged negligent act or omission the claim is based, and all other information required by G.S. 143-297 in the case of a claim against the State Board of Education. Immediately upon the docketing of a claim, the Industrial Commission shall forward one copy of the plaintiff's affidavit to the superintendent of the schools of the county or city administrative unit against the governing board of which such claim is made, one copy of the plaintiff's affidavit to the State Board of Education and one copy of the plaintiff's affidavit to the office of the Attorney General of North Carolina. All notices with respect to tort claims against any such county or city board of education shall be given to the superintendent of schools of the county or city administrative unit of which such board is a governing board, to the State Board of Education and also to the office of the Attorney General of North Carolina.

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

(c) In the event that the Industrial Commission awards damages against any county or city board of education under this section, the Attorney General shall draw a voucher for the

amount required to pay the award. The funds necessary to cover the first one hundred fifty thousand dollars (\$150,000) of liability per claim for claims against county and city boards of education for accidents involving school buses and school transportation service vehicles shall be made available from funds appropriated to the State Board of Education. The balance of any liability owed shall be paid in accordance with G.S. 143-299.4. Neither the county or city boards of education, or the county or city administrative unit shall be liable for the payment of any award made pursuant to the provisions of this section in excess of the amount paid upon a voucher by the Attorney General. Settlement and payment may be made by the Attorney General as provided in G.S. 143-295.

(d) Except as otherwise provided in this subsection, the Attorney General may, upon the request of an employee or former employee, defend any civil action brought against the driver, transportation safety assistant, or monitor of a public school bus or school transportation service vehicle or school bus maintenance mechanic when the driver or mechanic is employed and paid by the local school administrative unit, when the monitor is acting in accordance with G.S. 115C-245(d), when the transportation safety assistant is acting in accordance with G.S. 115C-245(e), or when the driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of a county or city board of education or administrative unit. The Attorney General may afford this defense through the use of a member of his staff or, in his discretion, employ private counsel. The Attorney General is authorized to pay any judgment rendered in the civil action not to exceed the limit provided under the Tort Claims Act. The funds necessary to cover the first one hundred fifty thousand dollars (\$150,000) of liability per claim shall be made available from funds appropriated to the State Board of Education. The balance of any liability owed shall be paid in accordance with G.S. 143-299.4. The Attorney General may compromise and settle any claim covered by this section to the extent that he finds the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority granted in this subsection shall be limited to only those claims that would be within the jurisdiction of the Industrial Commission under the Tort Claims Act.

The Attorney General shall refuse to provide for the defense of a civil action or proceeding brought against an employee or former employee if the Attorney General determines that:

- (1) The act or omission was not within the scope and course of his employment as a State employee; or
- (2) The employee or former employee acted or failed to act because of actual fraud, corruption, or actual malice on his part; or
- (3) Defense of the action or proceeding by the State would create a conflict of interest between the State and the employee or former employee; or
- (4) Defense of the action or proceeding would not be in the best interests of the State. (1955, c. 1283; 1961, c. 1102, ss. 1-3; 1967, c. 1032, s. 1; 1975, c. 589, s. 1; c. 916, ss. 1, 2; 1977, c. 935, s. 1; 1979, 2nd Sess., c. 1332, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1034, s. 30; 1998-212, s. 9.17(b); 2000-67, ss. 7A(f), 7A(g); 2001-424, s. 6.18.)