

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1995**

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**SENATE BILL 117\***

Short Title: Tort Liability/Immunity Study.

(Public)

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Sponsors: Senators Winner; Gulley, Cooper, Carpenter, and Odom.

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Referred to: Appropriations.

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February 1, 1995

**A BILL TO BE ENTITLED**

**AN ACT TO CREATE THE STATE AND LOCAL GOVERNMENT TORT  
LIABILITY AND IMMUNITY STUDY COMMISSION.**

The General Assembly of North Carolina enacts:

Section 1. (a) There is created the State and Local Government Tort Liability and Immunity Study Commission to be composed of 20 members appointed as follows:

- (1) The President Pro Tempore of the Senate shall appoint four members from the membership of the Senate and two members from a list of four persons recommended by the President of the North Carolina Association of County Commissioners.
- (2) The Speaker of the House of Representatives shall appoint four members from the membership of the House of Representatives and two members from a list of four persons recommended by the President of the North Carolina League of Municipalities.
- (3) The Governor shall appoint one member who shall be a representative of the Department of Transportation and one member from a list of two persons recommended by the President of the North Carolina State Employees Association.
- (4) The Attorney General shall appoint one member who shall be a representative of the Department of Justice.

1 (5) The Commissioner of Insurance shall appoint one member from a list of  
2 two persons recommended by the Public Officers and Employees  
3 Insurance Liability Commission.

4 (6) The President of The University of North Carolina shall appoint one  
5 member who shall be a faculty member of a North Carolina law school  
6 who is familiar with tort liability law.

7 (7) The President of the North Carolina State Bar shall appoint three  
8 members, two of whom shall be experienced in plaintiff litigation  
9 claims against governmental entities and one of whom shall be  
10 experienced in plaintiff litigation claims under the Tort Claims Act.

11 (b) The President Pro Tempore of the Senate and the Speaker of the House of  
12 Representatives shall each designate a cochair of the Commission from their appointees.  
13 Either cochair may call the first meeting of the Commission.

14 (c) Members shall serve until the termination of the Commission or, in case of a  
15 member of the General Assembly, until the member does not file for reelection to the  
16 General Assembly. Vacancies shall be filled in the same manner as the original  
17 appointments were made.

18 Sec. 2. (a) The State and Local Government Tort Liability and Immunity Study  
19 Commission shall study all of the following:

20 (1) The liability and immunity of the State and its employees, how that  
21 liability is defended, and how claims and judgments are paid.

22 (2) The State Tort Claims Act, the limits under the Act, how claims are  
23 defended, and how claims and judgments are paid.

24 (3) The liability and immunity of local governments and other subdivisions  
25 of the State, how that liability is defended, how claims and judgments  
26 are paid, and the lack of uniformity in this area.

27 (4) The liability and immunity of local government employees, how that  
28 liability is defended, and how claims and judgments are paid.

29 (b) The Commission shall recommend changes to the law that will:

30 (1) Clarify the present law by removing inconsistencies and outdated  
31 provisions.

32 (2) Provide State and local government entities with predictable liability.

33 (3) Provide injured persons with adequate compensation without regard to  
34 where the injury occurred or by which government entity, or the  
35 employee of a government entity, the person was injured.

36 (c) The Commission shall not study tort reform as it relates to the doctrine of  
37 contributory negligence nor professional liability tort reform.

38 Sec. 3. Upon the request of the cochairs of the Commission, and with the prior  
39 approval of the Legislative Services Commission, the Legislative Administrative Officer  
40 shall assign professional and clerical staff to assist in the work of the State and Local  
41 Government Tort Liability and Immunity Study Commission. Clerical staff shall be  
42 furnished to the Commission through the Offices of the House of Representatives and  
43 Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be

1 borne by the Commission. With the prior approval of the Legislative Services  
2 Commission, the State and Local Government Tort Liability and Immunity Study  
3 Commission may hold its meetings in the State Legislative Building or the Legislative  
4 Office Building.

5       Sec. 4. The Commission may submit an interim report of its findings and  
6 recommendations to the 1996 Regular Session of the 1995 General Assembly and shall  
7 submit a final report of its findings and recommendations on or before the convening of  
8 the 1997 General Assembly. All reports shall be filed with the President Pro Tempore of  
9 the Senate and the Speaker of the House of Representatives, the Principal Clerks of the  
10 Senate and the House of Representatives, and the Legislative Librarian. Upon filing its  
11 final report, the Commission shall terminate.

12       Sec. 5. Members of the Commission shall be paid per diem, subsistence, and  
13 travel allowances as follows:

14       (1) Commission members who are also members of the General Assembly,  
15       at the rate established in G.S. 120-3.1.

16       (2) Commission members who are officials or employees of the State or  
17       local government agencies, at the rate established in G.S. 138-6.

18       (3) All other Commission members, at the rate established in G.S. 138-5.

19       Sec. 6. All State departments and agencies, and local governments and their  
20 subdivisions, shall cooperate with the Commission and, upon request, shall furnish to the  
21 Commission and its staff any information in their possession or available to them.

22       Sec. 7. There is appropriated from the General Fund to the General Assembly  
23 the sum of twenty thousand dollars (\$20,000) for the 1995-96 fiscal year and the sum of  
24 twenty thousand dollars (\$20,000) for the 1996-97 fiscal year for the expenses of the  
25 State and Local Government Tort Liability and Immunity Study Commission.

26       Sec. 8. This act becomes effective July 1, 1995.