

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 968

Short Title: Soil and Water Employee Judgments.

(Public)

Sponsors: Representatives Culp, Gibson (Primary Sponsors); Brubaker, Hackney, Hill, Insko, McCombs, Mitchell, Owens, Setzer, Teague, Tolson, Tucker, Underhill, Warwick, Weatherly, G. Wilson, and Yongue.

Referred to: Ways and Means.

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF COUNTIES AND CITIES TO  
PROVIDE FOR THE DEFENSE OF AND TO PAY JUDGMENTS AGAINST  
SOIL AND WATER CONSERVATION SUPERVISORS AND EMPLOYEES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 153A-97 reads as rewritten:

**"§ 153A-97. Defense of officers, employees and others.**

A county may, pursuant to G.S. 160A-167, provide for the defense of:

- (1) Any county officer or employee, including the county board of elections or any county election ~~official~~; official.
- (2) Any member of a volunteer fire department or rescue squad which receives public ~~funds~~; and funds.
- (2a) Any soil and water conservation supervisor, and any local soil and water conservation employee (whether the employee is a county employee or an employee of a soil and water conservation district).
- (3) Any person or professional association who at the request of the board of county commissioners provides medical or dental services to inmates in the custody of the sheriff and is sued pursuant to 42 U.S.C. § 1983 with respect to the services."

**SECTION 2.** G.S. 160A-167 reads as rewritten:

**"§ 160A-167. Defense of employees and officers; payment of judgments.**

(a) Upon request made by or in behalf of any member or former member of the governing body of any authority, or any city, county, or authority employee or officer, or former employee or officer, any soil and water conservation supervisor or any local soil and water conservation employee (whether the employee is a district or county employee), or any member of a volunteer fire department or rescue squad which

1 receives public funds, any city, authority, ~~county~~county, soil and water conservation  
2 district, or county alcoholic beverage control board may provide for the defense of any  
3 civil or criminal action or proceeding brought against him either in his official or in his  
4 individual capacity, or both, on account of any act done or omission made, or any act  
5 allegedly done or omission allegedly made, in the scope and course of his employment  
6 or duty as an employee or officer of the city, authority, county or county alcoholic  
7 beverage control board. The defense may be provided by the city, authority, county or  
8 county alcoholic beverage control board by its own counsel, or by employing other  
9 counsel, or by purchasing insurance which requires that the insurer provide the defense.  
10 Providing for a defense pursuant to this section is hereby declared to be for a public  
11 purpose, and the expenditure of funds therefor is hereby declared to be a necessary  
12 expense. Nothing in this section shall be deemed to require any city, authority, county  
13 or county alcoholic beverage control board to provide for the defense of any action or  
14 proceeding of any nature.

15 (b) Any city council or board of county commissioners may appropriate funds for  
16 the purpose of paying all or part of a claim made or any civil judgment entered against  
17 any of its members or former members of the governing body of any authority, or any  
18 city, county, or authority employees or officers, or former employees or officers, or any  
19 soil and water conservation supervisor or any local soil and water conservation  
20 employee (whether the employee is a district or county employee), when such claim is  
21 made or such judgment is rendered as damages on account of any act done or omission  
22 made, or any act allegedly done or omission allegedly made, in the scope and course of  
23 his employment or duty as ~~an members or former members~~ ~~[a member or former~~  
24 ~~member]~~ a member or former member of the governing body of any authority, or any  
25 city, county, district, or authority employee or officer of the city, authority, district, or  
26 county; provided, however, that nothing in this section shall authorize any city,  
27 authority, district, or county to appropriate funds for the purpose of paying any claim  
28 made or civil judgment entered against any of its members or former members of the  
29 governing body of any authority, or any city, county, district, or authority employees or  
30 officers or former employees or officers if the city council or board of county  
31 commissioners finds that such members or former members of the governing body of  
32 any authority, or any city, county, or authority employee or officer acted or failed to act  
33 because of actual fraud, corruption or actual malice on his part. Any city, authority, or  
34 county may purchase insurance coverage for payment of claims or judgments pursuant  
35 to this section. Nothing in this section shall be deemed to require any city, authority, or  
36 county to pay any claim or judgment referred to herein, and the purchase of insurance  
37 coverage for payment of any such claim or judgment shall not be deemed an assumption  
38 of any liability not covered by such insurance contract, and shall not be deemed an  
39 assumption of liability for payment of any claim or judgment in excess of the limits of  
40 coverage in such insurance contract.

41 (c) Subsection (b) shall not authorize any city, authority, or county to pay all or  
42 part of a claim made or civil judgment entered unless (1) notice of the claim or litigation  
43 is given to the city council, authority governing board, or board of county  
44 commissioners as the case may be prior to the time that the claim is settled or civil

1 judgment is entered, and (2) the city council, authority governing board, or board of  
2 county commissioners as the case may be shall have adopted, and made available for  
3 public inspection, uniform standards under which claims made or civil judgments  
4 entered against members or former members of the governing body of any authority, or  
5 any city, county, or authority employees or officers, or former employees or officers,  
6 shall be paid.

7 (d) For the purposes of this section, "authority" means an authority organized  
8 under Article 1 of Chapter 162A of the General Statutes, the North Carolina Water and  
9 Sewer Authorities Act. "District" means a soil and water conservation district organized  
10 under Chapter 139 of the General Statutes."

11 **SECTION 3.** This act is effective when it becomes law.