

April 21, 2005

H 1538. MUNICIPAL TORT CLAIMS ACT. TO PROVIDE THE MUNICIPAL TORT CLAIMS ACT.

Enacts new GS Chapter 160A, Article 29 as title indicates. Constitutes the NC Industrial Comm'n as a court for purposes of hearing any tort claim brought against a municipality. Authorizes the Comm'n to direct the payment of damages by municipality if Comm'n finds negligence by representative of city, the representative was acting within the scope of authority, the negligence was proximate cause of the injury, and there was no contributory negligence. Limits maximum amount that a municipality must pay to all claimants on account of injury and damages to any one person arising out of any one occurrence to \$500,000, less any municipal commercial liability insurance applicable to the claim. Provides that Comm'n may tax costs against the losing party. Allows counterclaims up to maximum amount for claims. Provides for hearing commissioner to hear matter initially with a right of appeal to the full Comm'n. Makes decision of comm'n final with respect to claims that do not exceed \$500. Otherwise, provides for an appeal of comm'n decision to the Court of Appeals within 30 days after receipt of decision and order. Provides that no appeal or supersedes bond may be required of a municipality. Allows settlement of claims for amounts that do not exceed \$25,000 without approval of Comm'n. Empowers the Comm'n to issue subpoenas and punish for contempt. Provides that all claims against a municipality are barred unless filed within three years after the accrual of the claim or, if death results from the accident, within two years after the death. Provides that NC Rules of Civil Procedure and Rules of Evidence apply. Allows Comm'n with the authorization of Department of Cultural Resources to destroy records concerning a case five years after the case is closed, except that cases involving minors may not be closed until three years after the minor turns 18. Effective with respect to causes of action accruing on or after July 1, 2005.

Intro. by Jones.

Ref. to Judiciary I

GS 160A