



**STATE OF NORTH CAROLINA  
OFFICE OF STATE BUDGET AND MANAGEMENT**

MICHAEL F. EASLEY  
GOVERNOR

DAVID T. MCCOY  
STATE BUDGET DIRECTOR

December 10, 2007

**MEMORANDUM**

TO: Department Heads and Chief Fiscal Officers

FROM: David McCoy 

RE: New State Tort Claims Limit

In S.L. 2007-452, the General Assembly amended G.S. 143-299.2 and increased the state's tort claim limit with respect to torts committed on or after August 27, 2007. In relevant part, the revised legislation now provides:

*(a) The maximum amount that the State may pay cumulatively to all claimants on account of injury and damage to any one person arising out of any one occurrence, whether the claim or claims are brought under this Article, or Article 31A or Article 31B of this Chapter, shall be **one million dollars (\$1,000,000)**, less any commercial liability insurance purchased by the State and applicable to the claim or claims under G.S. 143-291(b), 143-300.6(c), or 143-300.16(c).*

To implement the provisions of this act, State agencies, departments, and institutions and local boards of education are legislatively mandated to use funds available for the 2007-2008 fiscal year.

In addition, under G.S. § 143-299.4, Payment of State excess liability, the General Statutes provides that:

*For each claim payable during any fiscal year in excess of one hundred fifty thousand dollars (\$150,000) per claim . . . on account of injury or damage to any one person, each State agency shall transfer to the Office of State Budget and Management its proportionate share of that agency's estimated lapsed salaries, as determined by the Director of the Budget, and the Director of the Budget shall use these transferred funds to pay the balance of that claim in excess of one hundred fifty thousand dollars (\$150,000). However, if the Director of the Budget determines that the agency liable for the claim has the resources to pay the full claim even though it exceeds one hundred fifty thousand dollars (\$150,000), then the Director of the Budget may, in the Director's discretion, require the agency to pay the full claim. Additionally, the Director of the Budget may, in the Director's discretion, limit the number of agencies required to transfer funds to the agency liable for the claim to pay the balance of the claim.*

Also, G.S. § 143-300.6, Payments of judgments; compromise and settlement of claims, provides that:

*(a) In an action to which this Article applies, the State shall pay (i) a final judgment awarded in a court of competent jurisdiction against a State employee or (ii) the amount due under a settlement of the action under this section. **The unit of State government that employed the employee shall pay the first one hundred fifty thousand dollars (\$150,000) of liability, and the balance of any payment owed shall be paid in accordance with G.S. 143-299.4. . . .***

Thus, G. S. §143-299.4 and G.S.§ 143- 300.6 mandate that the employing state agency is responsible for payment of the first \$150,000 of a final judgment, and that OSBM may assess the employing agency or some or all state agencies for a share from lapsed salaries up to the total amount due to cover the full claim. In order to manage this process in a fair and uniform manner, except in unique and compelling circumstances, all state agencies, universities, and community colleges will contribute a proportionate share of estimated lapsed salary for the part of the claim above \$150,000 (up to a maximum of \$1,000,000). **All special funds, trust funds and other non-general funds are responsible for paying their tort claims from their own funds.**

As necessary, the Office of State Budget and Management will write to give notice of the share of lapsed salaries required for transfer to a central reserve, Reserve for Tort Claims (Budget Code 19048). Once amassed, the funds in the statewide reserve will then be transferred to the state agency against whom the cause of action arose for final payment of the claim. The proportionate agency share will be based on the respective percent of total payroll. The “notice” memorandum will direct agencies to submit a type 11-budget revision for the transfer of funds to the statewide Reserve for Tort Claims. This will be a one-time transfer and will not affect future budgets.

Please contact your Budget Analyst if you have any questions concerning the management of funds to be used to satisfy court ordered judgments or settlements of claims against a state agency.

Thank you.

Dmc

cc: Attorney General Roy Cooper  
Chief Deputy Attorney General Grayson Kelley  
Dr. Lynn Muchmore, Fiscal Research Division