

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 225  
SENATE BILL 211

AN ACT TO AMEND THE GENERAL STATUTES TO PROVIDE EXPRESS AUTHORIZATION FOR JOINT AGENCIES AND JOINT MUNICIPAL ASSISTANCE AGENCIES TO PROVIDE FOR THE DEFENSE OF AND INDEMNIFY COMMISSIONERS, OFFICERS OR EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159B-34 is rewritten to read:

"§ 159B-34. **Liability and defense.** – (a) No commissioner or officer of any joint agency or municipality or person or persons acting in their behalf, while acting within the scope of their authority, shall be subject to any personal liability or accountability by reason of his carrying out any of the powers expressly or impliedly given in this Chapter.

(b) The board of commissioners of a joint agency may provide for the defense of a criminal or civil proceeding brought against any current or former commissioner, officer, agent or employee either in his official or individual capacity, or both, on account of any act done or omission made in the scope and course of his employment or duty as a commissioner, officer, agent, or employee of the joint agency. The defense may be provided by the agency by its own counsel, by employing other counsel or by purchasing insurance which requires that the insurer provide the defense.

(c) The board of commissioners may appropriate funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its current or former commissioners, officers, agents or employees, when such claim is made or such judgment is rendered as damages on account of any act done or omission made or in the scope and course of his current or former employment or duty as a commissioner, officer, agent or employee; provided, however, that nothing in this section shall authorize any joint agency to appropriate funds for the purpose of paying any claim made or civil judgment entered against any current or former commissioners, officers, agents or employees if the board of commissioners finds that commissioner, officer, agent or employee acted or failed to act because of actual fraud, corruption or actual malice on his part. Any joint agency may purchase insurance coverage for payment of claims or judgments pursuant to this section."

Sec. 2. Chapter 159B of the General Statutes is amended by adding a new section to read:

"§ 159B-47. **Defense.** – (a) The board of commissioners of a joint municipal assistance agency may provide for the defense of a criminal or civil proceeding brought against any current or former commissioner, director, officer, agent or employee either in his

official or individual capacity, or both, on account of any act done or omission made in the scope and course of his employment or duty as a commissioner, director, officer, agent or employee of the joint municipal assistance agency. The defense may be provided by the agency by its own counsel, by employing other counsel or by purchasing insurance which requires that the insurer provide the defense.

(b) The board of commissioners may appropriate funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its current or former commissioners, directors, officers, agents or employees, when such claim is made or such judgment is rendered as damages on account of any act done or omission made or any act allegedly done or omission allegedly made in the scope and course of his current or former employment or duty as a commissioner, director, officer, agent or employee; provided, however, that nothing in this section shall authorize any joint municipal assistance agency to appropriate funds for the purpose of paying any claim made or civil judgment entered against any current or former commissioners, directors, officers, agents or employees if the board of commissioners finds that commissioner, director, officer, agent or employee acted or failed to act because of actual fraud, corruption or actual malice on his part. Any joint municipal assistance agency may purchase insurance coverage for payment of claims or judgments pursuant to this section."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1985.