

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 1074
HOUSE BILL 1148

AN ACT TO ALLOW LOCAL BOARDS OF EDUCATION TO PROVIDE FOR THE DEFENSE OF AND PAY ANY JUDGMENTS AGAINST SCHOOL BOARD MEMBERS AND EMPLOYEES FOR ACTS DONE OR OMISSIONS MADE IN THE COURSE OF THEIR DUTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the General Statutes is amended by adding a new section to read:

"§ 115-53.1. **Defense of board of education member and employees.** — (a) Upon request made by or in behalf of any member or employee or former member or employee, any local board of education may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, 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 duty as a member of or employee of the local board of education. The defense may be provided by the local board of education by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense. Nothing in this section shall be deemed to require any local board of education to provide for the defense of any action or proceeding of any nature.

(b) Any local board of education may budget funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its members or employees or former members and 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 duty as a member of the local board of education or as an employee. Nothing in this section shall authorize any local board of education to budget funds for the purpose of paying any claim made or civil judgment entered against any of its members or employees or former members and employees if the local board of education finds that such member or employee acted or failed to act because of actual fraud, corruption or actual malice on his part. Any local board of education may budget for and purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any local board of education to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) of this section shall not authorize any local board of education to pay all or part of a claim made or civil judgment entered or to provide a defense to a criminal charge unless (1) notice of the claim or litigation is given to the local board of education prior to the time that the claim is settled or civil judgment is entered and (2) the local board of education shall have adopted, and made available for public inspection, uniform standards under which claims made, civil judgments entered, or criminal charges against members or employees or former members and employees shall be defended or paid."

Sec. 2. G.S. 153A-248(a) is amended by adding at the end thereof a new subdivision (4) to read as follows:

"(4) To a training center or other private, nonprofit, charitable organization offering education, treatment, rehabilitation, or developmental programs to the physically or mentally handicapped, and may otherwise assist such organizations; provided, however, such action shall be with the concurrence of the county board of education; and provided, further, that within 30 days after receipt of the request for concurrence, the county board of education shall notify the board of county commissioners whether it concurs, and should it fail to so notify the board of county commissioners within such period, it shall be deemed to have concurred."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.