

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 652 (CS)

SHORT TITLE: Civil Air Patrol Tort Claims

SPONSOR(S): Senator Sandy Sands

FISCAL IMPACT: Expenditures: Increase ( ) Decrease ( )  
 Revenues: Increase ( ) Decrease ( )  
 No Impact (X)\*  
 No Estimate Available (X)\*

FUND AFFECTED: General Fund ( ) Highway Fund ( ) Local Fund ( )  
 Other Fund ( )

\* There is no impact designated for the Departments of Crime Control and Public Safety and Justice, and the North Carolina Industrial Commission. The Department of Insurance indicated a more concise estimate would be presented, if an actuarial appraisal were prepared.

**BILL SUMMARY:** Legislation was initially introduced on March 31, 1993, to place the Civil Air Patrol under the State Tort Claims Act for corporate and State requested and approved missions that were not covered by the Federal Tort Claims Act. Legislation required an amendment to G.S. 143B-492. Also provided an exception for 1) claims brought by persons who were not members or guests of the Civil Air Patrol, and 2) claims under G.S. 97-2 (Workers Compensation) from the State's limitation of liability.

As amended by the Committee Substitute on April 20, 1993, G.S. 143B-492 allows coverage for the Civil Air Patrol under the State Tort Claims Act only for State-approved missions that are not covered by the Federal Tort Claims Act. Additionally, the legislation amends G.S. 143B-491 to expand Workers' Compensation coverage to all patrol members, even if they are less than 18 years of age.

**EFFECTIVE DATE:** Upon ratification

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:**

Department of Crime Control and Public Safety, Department of Justice, Department of Insurance, and North Carolina Industrial Commission

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u>	<u>FY</u>	<u>FY</u>
<b>EXPENDITURES</b>					
<b>TOTAL EXPENDITURES</b>	-0-	-0-			
<b>STATE FUNDS</b>	-0-	-0-			

**FEDERAL FUNDS**  
**LOCAL FUNDS**  
**OTHER FUNDS**  
**RECEIPTS/FEES**

**POSITIONS:** - -

**ASSUMPTIONS AND METHODOLOGY:**

The Departments of Crime Control and Public Safety, Insurance, and Justice, and the North Carolina Industrial Commission provided information to estimate the cost associated with the proposed legislation. With the exception of the Department of Insurance, the consensus of the agencies was that there was no fiscal impact. The Department of Insurance indicates the State's liability exposure might increase, but sufficient data is not available to estimate the cost. The explanations below summarize the information from each agency:

Department of Crime Control and Public Safety

The Civil Air Patrol is a voluntary organization comprised of volunteers (cadets) from all over the State. The purpose of the Civil Air Patrol is to assist Emergency Management and the Air Force in searches for missing persons and aircraft, disaster relief, and other emergency preparedness activities. For example, in the past three (3) calendar years, and the period January 1 - June 30, 1993, the Civil Air Patrol has conducted 321 missions of which 65 were State-approved. Information from the Department indicates there never has been a request to satisfy a claim against the Civil Air Patrol or its members. Additionally, the Department never has paid a Workers' Compensation claim to a member of the Civil Air Patrol.

Department of Justice

The review by the Department of Justice indicates the effect will depend wholly on the number of claims made alleging damages caused by the negligence of members of the Civil Air Patrol. Potential claims may include informal requests made to the Department of Justice, actions filed in the North Carolina Industrial Commission against the Department of Crime Control and Public Safety, and actions filed in the General Courts of Justice against the individual members. The number of claims will in part depend upon the number of members and the number and type of State-approved mission. As reported by the Department of Crime Control and Public Safety, no claims have been against the Civil Air Patrol or one of its members.

To the Department of Justice this information indicates that this bill would have little effect on the Department, and that any claims can be handled by the Tort Claims Section without additional personnel or costs. Any payments of awards or settlements would be paid by the Department of Crime Control and Public Safety for both tort claims and workers' compensation claims as provided in this bill.

Department of Insurance

According to the Department of Insurance, it appears that the Tort claims provisions of the bill will increase the State's liability exposure. However, the cost of this increased exposure cannot be estimated without an actuarial appraisal. Based on the information available, it does not appear that an estimate of the impact is possible.

#### North Carolina Industrial Commission

According to the Industrial Commission, it does not appear that any new claims would be generated by incidents related to Civil Air Patrol State-approved missions. In terms of section 2(b) of the bill, the Civil Air Patrol is already covered under Workers' Compensation. This section simply redefines the type of missions covered, and presents clarifying legislation which limits the scope of activity covered by the State Tort Claims Act. Limiting the scope of activity may result in decreased cost, but it is not possible to determine the amount of reduction, if any. This seems to be supported by the lack of damages filed against the Civil Air Patrol to date. The assessment prepared by the Department of Justice in regards to the legislation supports the position of the Industrial Commission.

**SOURCES OF DATA:** Departments of Crime Control & Public Safety, Insurance, Justice, and the North Carolina Industrial Commission

**TECHNICAL CONSIDERATIONS:** The bill does not make clear whether Civil Air Patrol personnel would be covered under the personal/professional risk insurance that is purchased for state employees, since those personnel continue to be classified as "employees" only for the limited purpose of providing worker's compensation benefits.

#### **FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** July 13, 1993



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