

JUDICIAL REMEDIES

CHAPTER 381

SENATE BILL NO. 2186
(Committee on Judiciary)
(At the request of the Attorney General)

POLITICAL SUBDIVISION LIABILITY FUND

AN ACT to create the political subdivision liability fund, to provide for limitations on payments from such fund; providing an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION OF LEGISLATIVE FINDINGS AND INTENT.)
The legislative assembly hereby finds and declares as follows:

1. The legislative assembly has previously provided for the payment of certain claims against the political subdivisions of this state in S.L. 1975, ch. 295 and that such Act by its own terms expired on July 1, 1977, and is no longer of any force and effect.
2. Such Act created the political subdivisions liability fund in response to a court decision abrogating the doctrine of governmental immunity, and such Act further provided that certain claims for damages against political subdivisions could be paid from such fund provided that the cause of action covered under such Act arose prior to July 1, 1977, that notice of a claim be given within ninety days after such cause of action arose and that a lawsuit on such cause of action be filed under the terms of the Act within three years thereafter.
3. That although an appropriation made to the liability fund was intended by the legislative assembly to be available for payment of such claims and judgments filed under the terms of the Act, that such appropriation to the liability fund did by operation of law revert to the general fund and that as a result no appropriations currently exist for the payment of valid claims which have been filed or may be filed under the terms of the Act, the further result being that legal actions may be brought against political subdivisions of this state which subdivisions have insufficient resources to pay any claims and judgments.

4. The legislative assembly declares it to be in the public interest of this state to see that the intentions of the previous assembly are carried out and that claims and judgments made valid under the terms of and within the limitations set forth in S.L. 1975, ch. 295 may be paid. To this end, the legislative assembly creates the political subdivision liability fund for the purpose of paying claims and judgments made or to be made valid under the provisions of S.L. 1975, ch. 295. By creating such fund the legislative assembly declares its intention not to create a new cause of action against any political subdivision of this state or against the political subdivision liability fund hereby created, or in any way to effect the existing sovereignty of the state of North Dakota.

SECTION 2. POLITICAL SUBDIVISION LIABILITY FUND CREATED - LIMITATION.) There is hereby created in the office of the state treasurer a political subdivisions liability fund which shall be used to pay compromised claims and judgments and final judgments against any political subdivision of this state under the provisions of S.L. 1975, ch. 295, and which shall be administered by the attorney general. No payment from the fund for a compromised claim or judgment or a final judgment against a political subdivision shall exceed the liability limitations imposed by such Act. The fund shall not be liable for any claims which would not have been covered by the terms of such Act.

SECTION 3. APPROPRIATIONS.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the political subdivisions liability fund for the purpose of paying compromised claims and judgments and final judgments according to the provisions of this Act.

SECTION 4. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

SECTION 5. EXPIRATION DATE.) The provisions of this Act shall remain in effect through June 30, 1981, and shall thereafter be of no force and effect.

Approved March 25, 1979