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Client Alert: Senate Finds Compromise on South Carolina Tort Claims Act Bill

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As previously reported on January 24, 2019, which you can find here, Bill S0007 was pre-filed before the current legislative session. That Bill sought to more than triple the liability limits under the South Carolina Tort Claims Act. After much debate, the South Carolina Senate, by a vote of 38 to 3, approved a compromise to the original Bill that now almost doubles the potential recovery for plaintiffs who suffer injury or death by a governmental agency (https://www.scstatehouse.gov/sess123_2019-2020/bills/7.htm).

While the original Bill filed by Senator Gerald Malloy, a trial attorney, would have raised the limits to $1 million per person and $2 million per occurrence, the compromise Bill calls for an increase in limits to $500,000 per person from a single occurrence and $1 million per occurrence regardless of the number of agencies or political subdivisions or claims or actions involved.

A provision in the original Bill that required the limits to be adjusted annually in accordance with the Consumer Price Index was removed. Additionally, the original Bill sought to delete Section 15-78-120(c), which is the good faith affirmation by an attorney or party who files a pleading, motion, or other paper. That section, which has been as an important enforcement tool to combat frivolous claims and filings, remains part of the Bill.

The Bill passed the Senate the day before the South Carolina General Assembly's cross over deadline, which says a bill must pass either the House or the Senate to be considered by the other chamber with less than a two-thirds vote. In other words, if a bill does not "cross over" to the other chamber, the bill must receive a two-thirds vote to be considered.

The Senate Bill S00007 now heads to the House Commit-tee on Ways and Means, which is chaired by Representative G. Murrell Smith, Jr., also a trial attorney.

If you have any questions, please contact Bennett Crites at bcrites@shumaker.com or 843.996.1911.

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