



'96 Georgia Legislature

Sovereign immunity bills face tough road

By Lucy Soto
STAFF WRITER

Barbara Starr and her husband, John, were helping volunteers plant trees in Atlanta's Adams Park in October 1993 when a runaway dump truck rolled down a hill and crushed them.

Barbara Starr, 46, of Norcross, died instantly. John Starr spent 2½ months in the hospital and had to learn how to walk again.

If the truck had belonged to a private company the Starr family might already have collected a huge personal injury settlement. But the dump truck belonged to the city of Atlanta, and under city policy the family was eligible for no more than \$2,000 — \$1,000 per person — for the accident.

It's called sovereign immunity. And the issue is stirring debate in the General Assembly.

Many of Georgia's larger local governments, including most in metro Atlanta, declare themselves immune from big monetary damages in auto accidents — even when they are at fault. The state of Georgia waived its immunity a few years ago, but limited damage claims to \$1 million per person and \$3 million limit per case.

"It is their (cities' and counties') responsibility to protect their citizens from their own negligence," said Bill Johnson, the Starrs' lawyer.

John Starr and his son are suing the city and the dump truck driver for unspecified damages in Fulton County Superior Court.

Many of Georgia's larger governments don't carry liability insurance, which would waive immunity up to what the coverage would pay.

A bill to remove sovereign immunity all together is pending in the Legislature. But it also would cap monetary damages local governments would pay.

As currently written, the legislation sponsored by lawyer Rep. Roy Barnes (D-Mableton) caps damages at \$250,000 per person and \$500,000 per occurrence. The bill has met stiff opposition and has yet to reach the House floor.

A few other, more narrowly drawn bills carried over from last year would waive blanket immunity in some cases.

Atlanta officials oppose the changes.

"I happen to think that that would be an absolute utter disaster for the city of Atlanta and other municipalities affected," said City Attorney Clifford Hardwick.

He said lawyers already can get around sovereign immunity by proving the local government

created a legally defined nuisance that caused injury.

Hardwick said eliminating the immunity would also make taxpayers more vulnerable to "every John Q. Citizen who happens to roll over a pothole and decides to retire to Shangri-La."

Many of Georgia's smaller governments find it cheaper to buy insurance for auto accidents involving their employees and vehicles, thereby waiving immunity up to what their coverage will pay.

But many larger governments cannot afford such liability insurance, argues the Association County Commissioners of Georgia, which opposes repealing sovereign immunity. Instead, most budget tax money to pay for accidents on a case-by-case basis. Cobb County officials, for instance, pay an outside firm to advise them on what a particular claim might be worth.

DeKalb County is the only exception in metro Atlanta, with liability insurance for its more than 1,400 vehicle fleet, ACCG officials said. But the coverage costs nearly \$850 per vehicle, and it tops out at \$100,000 per person and \$200,000 per case.

Marietta lawyer Matt Flournoy, who represented a woman three years ago who was injured in a head-on collision with a Cobb police car, believes governments should follow the same rules as everyone else. "This just makes them responsible like Coca-Cola and other private companies that operate cars on the road."