

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 376

(Senator McFadden, *et al.*)
(Baltimore City Administration)

Judicial Proceedings

Commerce and Government Matters

Baltimore City - Contract Disputes

This bill prohibits Baltimore City from raising the defense of sovereign immunity in any contract action based on a written contract executed on behalf of the city. The bill provides that Baltimore City is not liable for punitive damages in any such contract action. It provides that a claim is barred unless the claimant files suit within the later of one year from the date on which the claim arose or one year after completion of the contract giving rise to the claim. The bill requires the mayor and city council of Baltimore to make adequate funds available to cover any final judgment rendered against the city.

The bill takes effect July 1, 2002.

Fiscal Summary

State Effect: This bill is not expected to have any direct impact on State finances.

Local Effect: The one year limitation on filing of contract claims and immunity from punitive damages may limit the number of claims filed against the city and potentially reduce litigation and liability expenses for the city.

Small Business Effect: Potential minimal.

Analysis

Current Law: For the State, municipal corporations, counties governed by county commissioners, chartered counties, and code counties (including an officer, department, agency, board, commission, or other unit of these government entities):

- the government may not raise the defense of sovereign immunity for actions in contract based upon a written contract executed on behalf of the government by an official or employee acting within the scope of the individual's authority;
- the government is not liable for punitive damages in a contract action; and
- a claim is barred unless the claimant files suit within one year from the date on which the claim arose or within one year after completion of the contract giving rise to the claim, whichever is later.

All of these government entities must make adequate funds available for the satisfaction of any final judgment, after the exhaustion of appeal, that has been rendered against the government in any action in contract as provided above. Baltimore City does not fall within any of the definitions of State or local government relating to immunities in contract actions.

Background: In practice, the courts do not allow Baltimore City to claim governmental immunity in contract matters. Thus, Baltimore City is liable for contract actions to which the city is a party, but the city does not enjoy the one-year limit on filing of contract actions and it is liable for punitive damages under current law.

Additional Information

Prior Introductions: None.

Cross File: HB 452 (Delegate Marriott) (Baltimore City Administration) - Commerce and Government Matters.

Information Source(s): Judiciary (Administrative Office of the Courts), Baltimore City, Department of Legislative Services

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