

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 344

(Senator McFadden)

(By Request – Baltimore City Administration)

Judicial Proceedings

Judiciary

Housing Authority of Baltimore City - Powers - Local Government Tort Claims Act

This bill adds a provision to the Maryland housing authority law to clarify that the Housing Authority of Baltimore City (HABC) is liable for any judgment for damages resulting from a tortious act or omission only to the extent provided under the Local Government Tort Claims Act (LGTCA).

Fiscal Summary

State Effect: None. The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Potential minimal. The bill could have the effect of discouraging lawsuits against HABC.

Analysis

Current Law: The LGTCA provides that the liability of a local government, including a public housing authority, may not exceed \$200,000 per an individual claim, and \$500,000 per total claims that arise from the same occurrence for damages resulting from tortious acts or omissions, including liability to provide a defense in tort actions against employees, liability to pay judgments in tort actions against employees, and liability to indemnify employees.

Background: The Court of Appeals ruled in *Housing Authority of Baltimore City v. Bennett*, 359 Md. 356, 754 A.2d 234 (2000) that the LGTCA's caps on damages are inapplicable to a tort judgment against a local government. The caps do, however, apply to a judgment against an employee of a local government. In response to the *Bennett* decision, the General Assembly passed legislation which was enacted as Chapter 286 of 2001, an emergency measure that clarified that the monetary limits of the LGTCA apply to claims against local governments when named as defendants.

Relying on *Bennett*, the Court of Special Appeals held in *Gibson v. HABC*, 142 Md.App. 121, 788 A.2d 234 (2002) that HABC could be sued for amounts in excess of the LGTCA limits if the agency had sufficient funds available, or available from other sources (such as insurance), to satisfy a recovery against it. Although the Court of Special Appeals' decision was filed in January 2002, the underlying appeals were filed before the enactment of Chapter 286.

Additional Information

Prior Introductions: None.

Cross File: HB 327 (Delegate Marriott) – Judiciary.

Information Source(s): State Treasurer, Baltimore City, Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2003
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