

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 154 (Chairman, Judicial Proceedings Committee)
(By Request – Departmental – Transportation)
Judicial Proceedings

**Maryland Transit Administration - Limits of Liability - Transactional
Agreements**

This departmental bill limits the liability of the Maryland Transit Administration (MTA) in tort actions based on the acts of an entity under contract with MTA to the lesser of: (1) the liability of the entity, if the entity's liability is limited by State law; or (2) \$200,000, the limit of liability set by the Maryland Tort Claims Act, if the conduct occurred on MTA property and arose from an agreement to conduct commercial activity on MTA property.

The bill only applies to the acts of an entity that entered into an agreement with MTA on or after October 1, 2005.

Fiscal Summary

State Effect: Potential significant decrease in Transportation Trust Fund (TTF) expenditures due to the lower liability limits. The actual amount depends on the number of claims filed against the Maryland Department of Transportation (MDOT). Potential significant increase in TTF revenues from small businesses operating within MTA property.

Local Effect: None.

Small Business Effect: MDOT has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: MTA's tort liability is governed by the Transportation Article. Unlike the Maryland Tort Claims Act, which limits the State's liability to \$200,000 to a single claimant, the Transportation Article does not include a limit on liability.

Background: MTA contracts with outside entities to provide services to its patrons, including newspaper and coffee vendors. MTA is self-insured for up to \$5 million per occurrence and accepts liability for the tortious acts of its contractors in their performance of the functions of the administration. As a means of limiting MTA's exposure, MTA policy requires that all potential contractors hold a \$5 million liability insurance policy in order to enter into an agreement with MTA.

State Fiscal Effect: Potential significant decrease in TTF expenditures due to the reduction in the liability limit. The actual effect depends on the number of claims filed against MTA that arise from an agreement to provide services on MTA's property.

MTA has paid approximately \$1.9 million in claims in fiscal 2005. There are currently 1,432 open claims, each representing one accident on MTA property. In fiscal 2004, MTA paid approximately \$6.4 million in claims.

MTA advises that there is a potential significant increase in TTF revenues from rents paid by small businesses that will be able to provide services on MTA property. Many small businesses are unable to contract to provide services on MTA property due to MTA's required \$5 million liability insurance policy. MTA advises that the liability requirements would be set based on risk assessments, which would vary per contract. As with expenditures, the actual effect on revenues depends on the number of additional small businesses that contract to provide services on MTA property.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Treasurer's Office, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2005
ncs/ljm

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