

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 668

(Carroll County Delegation)

Judiciary

Judicial Proceedings

**Carroll County - Local Government Tort Claims Act - Inclusion of Specified
Nonprofit Entities**

This bill expands the definition of “local government” for purposes of the Local Government Tort Claims Act (LGTCA) to include the nonprofit corporations serving under a contract or Memorandum of Understanding with Carroll County as the local public transportation authority (Carroll County Senior Overland Service, Inc., t/a Carroll Area Transit System or CATS) and the animal control and licensing authority (the Humane Society of Carroll County, Inc.). The bill also provides that the requirement to provide notice of a claim within 180 days of injury does not apply to claims against CATS and the Carroll County Humane Society.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: None.

Local Effect: Decrease in Carroll County expenditures for insurance premiums for the Humane Society of Carroll County. A decrease in insurance expenditures for CATS could potentially be passed to Carroll County.

Small Business Effect: Potential meaningful. Law firms that represent plaintiffs in tort actions against local governments, and small business plaintiffs, could receive lower litigation fees and damage awards as a result of this bill.

Analysis

Current Law: LGTCA defines local government to include counties, municipal corporations, and Baltimore City, and various agencies and authorities of local governments, such as community colleges, county public libraries, special taxing districts, nonprofit community service corporations, sanitary districts, housing authorities, and commercial district management authorities.

LGTCA limits the liability of a local government to \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). It further provides that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment. It thus prevents local governments from asserting a common law claim of governmental immunity from liability for such acts of its employees.

An action for unliquidated damages against an entity covered by the LGTCA or its employees may not be brought unless notice of the claim meeting specific requirements is given within 180 days of the injury. Unless a defendant can show that its defense was prejudiced by lack of required notice, a court, upon motion or for good cause shown, may entertain a suit that did not meet LGTCA notice requirements.

The Maryland Associations, Organizations, and Agents Act limits the liability of nonprofit organizations that carry insurance meeting specified minimums. It provides that agents (directors, officers, trustees, employees, and volunteers) of those nonprofit organizations may not be held personally liable as long as the acts are made without malice or gross negligence. Liability is limited to the applicable limit of insurance coverage for acts or omissions made in the course of duties by the nonprofit entity or its agents.

Background: CATS is a private nonprofit corporation providing demand-response transportation to meet the needs of the seniors, elderly, frail, physically and mentally challenged, and the transportation disadvantaged of Carroll County. CATS contracts with the Carroll County government to provide transit services to its residents. CATS funds its own insurance, which for fiscal 2006 costs an estimated \$223,420. CATS was covered by the Local Government Insurance Trust (LGIT) until July 2003. LGIT provides insurance coverage to local government entities covered by the LGTCA at rates much lower than private coverage. When covered by LGIT, CATS paid approximately \$25,000 per year for insurance coverage.

The Carroll County Humane Society is a 501(c)(3) corporation that educates the public about the needs of animals, shelters animals, provides animals for adoption, and enforces

the animal cruelty laws. Under a Memorandum of Understanding with Carroll County, the Humane Society provides all of the county's animal control services. The Humane Society uses space in a county building and the director of the Humane Society reports to the Carroll County Commissioners yearly, in the same manner as any county department head.

Local Expenditures: Insurance premiums for the Humane Society of Carroll County are funded by the county at \$35,000. The Humane Society has not determined what its insurance premiums will be under LGIT if it is covered by LGTCA. However, Carroll County advises that its Humane Society insurance expenditures will decrease by an estimated \$20,000 as a result of the society being eligible for coverage under LGIT. In any event, county expenditures would decrease to the extent that the premiums are less than the current amount.

CATS currently funds its own insurance and will continue to do so under LGIT if covered by the LGTCA. It currently pays approximately \$223,420 per year for private insurance and estimates that its premiums under LGIT will be approximately \$40,000 per year, resulting in an estimated decrease of \$183,420. CATS is currently in the third year of a five-year contract with the county to provide transit services.

Additional Information

Prior Introductions: SB 414 of 2005, a similar bill, passed the Senate and received a hearing in the House Judiciary Committee.

Cross File: SB 520 (Carroll County Senators) – Judicial Proceedings.

Information Source(s): Maryland State Treasurer's Office, Carroll County, Department of Legislative Services

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