

# HOUSE BILL 222

D3, L2

71r1582

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By: **Delegate Beitzel**

Introduced and read first time: January 29, 2007

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Garrett County – Local Government Tort Claims Act – Inclusion of Specified**  
3 **Nonprofit Entity**

4 FOR the purpose of altering the definition of a “local government” under the Local  
5 Government Tort Claims Act to include a certain nonprofit corporation in  
6 Garrett County; providing that a certain notice requirement does not apply to  
7 certain actions against a certain nonprofit corporation in Garrett County or its  
8 employees; and generally relating to the inclusion of a certain nonprofit entity  
9 in Garrett County under the Local Government Tort Claims Act.

10 BY repealing and reenacting, with amendments,  
11 Article – Courts and Judicial Proceedings  
12 Section 5–301 and 5–304  
13 Annotated Code of Maryland  
14 (2006 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Courts and Judicial Proceedings**

18 5–301.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) “Actual malice” means ill will or improper motivation.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) “Employee” means any person who was employed by a local  
2 government at the time of the act or omission giving rise to potential liability against  
3 that person.

4 (2) “Employee” includes:

5 (i) Any employee, either within or without a classified service  
6 or merit system;

7 (ii) An appointed or elected official; or

8 (iii) A volunteer who, at the request of the local government, and  
9 under its control and direction, was providing services or performing duties.

10 (d) “Local government” means:

11 (1) A chartered county established under Article 25A of the Code;

12 (2) A code county established under Article 25B of the Code;

13 (3) A board of county commissioners established or operating under  
14 Article 25 of the Code;

15 (4) Baltimore City;

16 (5) A municipal corporation established or operating under Article 23A  
17 of the Code;

18 (6) The Maryland–National Capital Park and Planning Commission;

19 (7) The Washington Suburban Sanitary Commission;

20 (8) The Northeast Maryland Waste Disposal Authority;

21 (9) A community college or board of trustees for a community college  
22 established or operating under Title 16 of the Education Article, not including  
23 Baltimore City Community College;

24 (10) A county public library or board of trustees of a county public  
25 library established or operating under Title 23, Subtitle 4 of the Education Article;

1           (11) The Enoch Pratt Free Library or Board of Trustees of the Enoch  
2 Pratt Free Library;

3           (12) The Washington County Free Library or the Board of Trustees of  
4 the Washington County Free Library;

5           (13) A special taxing district;

6           (14) A nonprofit community service corporation incorporated under  
7 State law that is authorized to collect charges or assessments;

8           (15) Housing authorities created under Division II of the Housing and  
9 Community Development Article;

10           (16) A sanitary district, sanitary commission, metropolitan commission,  
11 or other sewer or water authority established or operating under public local law or  
12 public general law;

13           (17) The Baltimore Metropolitan Council;

14           (18) The Howard County Economic Development Authority;

15           (19) The Howard County Mental Health Authority;

16           (20) A commercial district management authority established by a  
17 county or municipal corporation if provided under local law;

18           (21) The Baltimore City Police Department;

19           (22) A regional library resource center or a cooperative library  
20 corporation established under Title 23, Subtitle 2 of the Education Article;

21           (23) Lexington Market, Inc., in Baltimore City;

22           (24) The nonprofit corporation serving as the local public transportation  
23 authority for Carroll County pursuant to a contract or memorandum of understanding  
24 with Carroll County (Carroll County Senior Overland Service, Inc., t/a Carroll Area  
25 Transit System); [and]

26           (25) The nonprofit corporation serving as the animal control and  
27 licensing authority for Carroll County pursuant to a contract or memorandum of  
28 understanding with Carroll County (the Humane Society of Carroll County, Inc.); **AND**

1           **(26) THE NONPROFIT CORPORATION SERVING AS THE LOCAL**  
2 **PUBLIC TRANSPORTATION AUTHORITY FOR GARRETT COUNTY PURSUANT TO A**  
3 **CONTRACT OR MEMORANDUM OF UNDERSTANDING WITH GARRETT COUNTY**  
4 **(GARRETT COUNTY COMMUNITY ACTION COMMITTEE, INC.).**

5 5-304.

6           (a) This section does not apply to an action against a nonprofit corporation  
7 described in § 5-301(d)(24) [or], (25), **OR (26)** of this subtitle or its employees.

8           (b) Except as provided in subsections (a) and (d) of this section, an action for  
9 unliquidated damages may not be brought against a local government or its employees  
10 unless the notice of the claim required by this section is given within 180 days after  
11 the injury.

12           (c) (1) Except in Anne Arundel County, Baltimore County, Harford  
13 County, and Prince George's County, the notice shall be given in person or by certified  
14 mail, return receipt requested, bearing a postmark from the United States Postal  
15 Service, by the claimant or the representative of the claimant, to the county  
16 commissioner, county council, or corporate authorities of a defendant local  
17 government, or:

18                           (i) In Baltimore City, to the City Solicitor;

19                           (ii) In Howard County, to the County Executive; and

20                           (iii) In Montgomery County, to the County Executive.

21           (2) In Anne Arundel County, Baltimore County, Harford County, and  
22 Prince George's County, the notice shall be given in person or by certified mail, return  
23 receipt requested, bearing a postmark from the United States Postal Service, by the  
24 claimant or the representative of the claimant, to the county solicitor or county  
25 attorney.

26           (3) The notice shall be in writing and shall state the time, place, and  
27 cause of the injury.

28           (d) Notwithstanding the other provisions of this section, unless the  
29 defendant can affirmatively show that its defense has been prejudiced by lack of  
30 required notice, upon motion and for good cause shown the court may entertain the  
31 suit even though the required notice was not given.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2    July 1, 2007.