

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

House Bill 1130

(Chair, Judiciary Committee)

(By Request – Departmental – Transportation)

Judiciary

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Maryland Transit Administration - Limits of Liability

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This departmental bill limits the liability of the Maryland Transit Administration (MTA) in a tort action to \$1,000,000 to a single claimant for injuries arising from a single accident or occurrence.

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Fiscal Summary

**State Effect:** Significant decrease in expenditures by the MTA on tort liability awards. Possible additional decrease in expenditures due to reduced procurement costs.

**Local Effect:** Possible decrease in liability premiums by local government organizations contracting with MTA. The bill will also facilitate collaborative projects between MTA and local governments that would have previously been stymied by high insurance coverage requirements.

**Small Business Effect:** The Department of Transportation has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment as discussed below.

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Analysis

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

**Background:** The MTA currently self-insures for approximately \$5 million per year. Furthermore, any company that contracts with MTA is required to hold a \$5 million liability insurance policy. This has prevented small and minority businesses, especially in the Baltimore metropolitan region, from contracting with MTA to providing services such as paratransit.

**State Fiscal Effect:** Expenditures by MTA would decrease in future years, accounting for lower liability awards. Because MTA self-insures and liability awards over \$1,000,000 are uncommon, it is difficult to estimate the amount by which expenditures would decrease.

In the past 10 fiscal years (fiscal 1997 to 2006), 11 individuals or estates making tort claims against MTA have negotiated settlements or been awarded damages greater than \$1,000,000. These settlements totaled \$18,232,515. Had the liability cap in this bill been in place, MTA would have saved \$7,232,515. *For illustrative purposes only*, the MTA would save an estimated \$723,252 per year in tort liability payments if the number of awards or settlements over \$1,000,000 in future years is similar that over the past 10 years.

The MTA may also be able to decrease expenditures on procurements from third-party vendors. Without the \$5 million liability insurance coverage requirement, these vendors may be able to provide services to MTA at lower prices. The possible savings to MTA on procurement costs cannot be estimated at this time.

**Local Fiscal Effect:** This bill will facilitate collaborative projects between the MTA and local governments. In the past, the \$5 million liability insurance requirement has deterred local government organizations from contracting with MTA on joint projects. For example, a proposed passageway under the MTA's light rail in Mount Washington was scrapped when Baltimore City was unable to obtain the required insurance coverage. Additionally, local governments that already contract with MTA on projects may be able to decrease expenditures on liability premiums.

**Small Business Effect:** This bill would allow small businesses to contract with MTA to provide additional services without needing to hold a \$5 million liability insurance policy. This insurance requirement currently places small businesses at a competitive disadvantage with large commercial companies, who can more easily obtain \$5 million in coverage.

## **Additional Information**

**Prior Introductions:** SB 154 of 2005, a similar bill, received an unfavorable report in the Senate Judicial Proceedings Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 11, 2007  
ncs/jr

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