

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 16
Judiciary

(Delegate Smigiel)

Judicial Proceedings

Local Government Tort Claims Act - Notice

This bill extends to one year the time period during which notice must be given in order to bring an action for unliquidated damages against a local government or its employees under the Local Government Tort Claims Act (LGTCA) and repeals an exception for providing notice after the time period expires.

Fiscal Summary

State Effect: Any increase in workload for the Judiciary from additional claims filed could be handled with existing resources.

Local Effect: Potentially significant increase in expenditures for local governments associated with litigating additional claims and tort claim payments.

Small Business Effect: Potential minimal.

Analysis

Current Law: 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 does not meet LGTCA notice requirements.

Background: The 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.

The 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.

Local Fiscal Effect: The bill could significantly impact local government expenditures if more claims are filed as a result of the longer notice period. Various local governments advise that each additional claim, the number of which cannot be reliably estimated, would subject the local government to additional costs in order to prepare a defense. Likewise, the extended time period under which a claim may be filed could make it difficult for local governments to investigate claims and determine facts while the incidents are still fresh in the minds of witnesses. Any additional claims filed have the potential to result in more judgments against local governments. Additional claims could also result in more settlements by local governments.

For example, Montgomery County advises that it receives approximately 300 lawsuits and notices of claims per year and budgets approximately \$2.3 million annually to pay liability claims. The county estimates that a 10% increase in the number of claims filed could increase annual expenditures by approximately \$149,500 for additional staff and \$250,000 for additional liability claim payments and litigation costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Montgomery County, Maryland Municipal League, Maryland Association of Counties, Frederick County, Baltimore City, Department of Legislative Services

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Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510