

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 556  
Judiciary

(Delegate Hornberger)

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**Maryland Transit Administration - Limits of Liability**

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This bill limits the liability of the Maryland Transit Administration (MTA) in a tort action to \$1.0 million to a single claimant for injuries arising from a single incident or occurrence.

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**Fiscal Summary**

**State Effect:** Significant decrease in Transportation Trust Fund (TTF) expenditures on tort liability awards, as discussed below. Revenues are not affected.

**Local Effect:** Potential decrease in liability premiums by local government agencies contracting with MTA, as discussed below. Revenues are not affected.

**Small Business Effect:** Potential meaningful.

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**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 \$400,000 to a single claimant, the Transportation Article does not include a limit on liability.

**Background:** MTA self-insures for approximately \$5.0 million per year. Furthermore, any company that contracts with MTA is required to hold a \$5.0 million liability insurance policy. According to MTA, this has prevented small businesses from contracting with MTA to provide services.

**State Fiscal Effect:** TTF expenditures by MTA decrease significantly in future years, reflecting lower liability awards. Because MTA self-insures and liability awards of more than \$1.0 million are uncommon, it is difficult to estimate the amount by which expenditures decrease as a result of the bill.

In the past four years, MTA has paid out two liability claims in excess of \$1.0 million. These claims totaled \$3.1 million. Had the liability cap in this bill been in place, MTA would have saved \$1.1 million. MTA further advises that it just settled a claim for \$1.2 million.

MTA has historically advised that a liability cap may also allow it to decrease expenditures on procurements from third-party vendors. Without the \$5.0 million liability insurance coverage requirement, these vendors may be able to provide services to MTA at lower prices. The possible savings to MTA with respect to procurement costs cannot be estimated at this time.

MTA also notes that the liability cap in the bill may allow MTA to reduce its excess liability insurance policies. MTA carries a total in excess liability coverage of \$500 million for rail and \$200 million for bus and MTA. The federal government requires rail coverage of at least \$295 million, but pursuant to MTA's contract with CSX, the administration carries \$500 million in rail coverage, which is included in the contract.

**Local Fiscal Effect:** The bill may facilitate collaborative projects between the MTA and local governments that might have been stymied due to high insurance coverage requirements. With respect to identical legislation introduced in 2007, MTA advised that the \$5.0 million liability insurance requirement had deterred local government agencies from contracting with MTA on joint projects.

**Small Business Effect:** Small businesses may be able to contract with MTA to provide additional services without needing to hold a \$5.0 million liability insurance policy. The existing insurance requirement places small businesses at a competitive disadvantage with large commercial companies, who can more easily obtain \$5.0 million in coverage.

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### **Additional Information**

**Prior Introductions:** HB 1130 of 2007 received a hearing in the House Judiciary Committee, but was later withdrawn.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2019  
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Analysis by: Amy A. Devadas

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