

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader

House Bill 394
 Judiciary

(Delegate Watson)

Judicial Proceedings

Maryland Tort Claims Act - Denial of Claims - Notice

This bill alters the notification requirements under the Maryland Tort Claims Act (MTCA) for the State Treasurer or designee when denying a tort claim by authorizing the written notice of denial to be made by email or regular mail, as specified. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures for postage and handling decrease by approximately \$17,800 beginning in FY 2024. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(17,800)	(17,800)	(17,800)	(17,800)	(17,800)
Net Effect	\$17,800	\$17,800	\$17,800	\$17,800	\$17,800

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Maryland Tort Claims Act – Denial of Claims Notice

Under current law, a tort claim is denied finally when the Treasurer or designee sends the claimant written notice of denial by certified mail. The bill repeals this requirement and

authorizes the Treasurer or designee to send the claimant written notice of denial by email or regular mail if regular mail is the only available means of notifying the claimant.

A tort claim may also be deemed denied if the Treasurer or designee fails to give notice of a final decision within six months after the filing of the claim.

Maryland Tort Claims Act

In general, the State is immune from tort liability for the acts of its employees and cannot be sued in tort without its consent. Under MTCA, the State statutorily waives its own common law (sovereign) immunity on a limited basis. MTCA applies to tortious acts or omissions, including State constitutional torts, by State personnel performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. Under MTCA, the State essentially “waives sovereign or governmental immunity and substitutes the liability of the State for the liability of the state employee committing the tort.” *Lee v. Cline*, 384 Md. 245, 262 (2004).

MTCA covers a multitude of personnel, including some local officials and nonprofit organizations. In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is not shielded by the State’s color of authority or sovereign immunity and may be held personally liable.

In general, MTCA limits State liability to \$400,000 to a single claimant for injuries arising from a single incident. However, for claims arising on or after July 1, 2022, if liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply: (1) the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and (2) in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed \$1,335,000, regardless of the number of claimants or beneficiaries who share in the award.

State Expenditures: The Treasurer sends out approximately 1,857 denial letters per year at a total cost of \$17,846, which includes the cost of certified mail (\$3.66 per letter over and above regular postage) as well as additional labor costs to handle the processing of certified mail (averaging \$5.95 per letter). Under the bill, the Treasurer is authorized to send denial notices via email, which will result in an estimated annual savings of \$17,846 in postage and handling expenses beginning in fiscal 2024.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 150 (Senator Augustine)(By Request - Joint Committee on the Management of Public Funds) - Judicial Proceedings.

Information Source(s): Maryland State Treasurer's Office; Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2023
js/hlb Third Reader - March 3, 2023

Analysis by: Trevor S. Owen

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