

SB 993 Eckardt tort claims TESTIMONY.pdf

Uploaded by: Adelaide Eckardt

Position: FAV

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Health and Human Services
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Joint Committees
Administrative, Executive,
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Audit

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Fair Practices and
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Testimony for Senate Bill 993
Local Government Tort Claims Act - Definition of Local Government
Judicial Proceedings Committee
March 17, 2022

Chairman Smith and Honorable Members of the Committee,

Thank you for the opportunity to present **Senate Bill 993 Local Government Tort Claims Act - Definition of Local Government**. This bill would add Delmarva Community Services, Inc and the Maryland Association of Counties Pooled OPEB Trust Fund to the definition of “local government” under the Local Government Tort Claims Act.

Delmarva Community Services (DCS) has a large impact in our communities, offering transportation services, senior center services, meal deliveries, residential and day services for the disabled population, and more. DCS’s primary funding sources are federal and State grants and private donations. DCS advises that it receives less than 1% of its funding from Dorchester County.

The Maryland Association of Counties Pooled OPEB Trust Fund was created to assist and serve its members who may not have sufficient investments to merit establishing their own trusts with the necessary investment advisors and other associated personnel, services, and requirements. Current members of the trust include various smaller local governments and affiliated entities, such as libraries and sanitary commissions.

Being added to the Tort Claims Act would allow these two bodies to obtain less expensive insurance coverage, therefore allowing for them to have a larger impact with more focused funds. Thank you for your consideration and I respectfully ask for a favorable report of Senate Bill 993.

Best regards,

A handwritten signature in black ink that reads "Addie C. Eckardt".

Senator Addie C. Eckardt

SB0993-JPR_MACo_SUP.pdf

Uploaded by: Michael Sanderson

Position: FAV



Senate Bill 993

Local Government Tort Claims Act - Definition of Local Government

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: March 17, 2022

From: Michael Sanderson

The Maryland Association of Counties (MACo) **SUPPORTS** SB 993. This bill adds two additional entities to a list of those performing governmental services outside the formal local government structure, to be covered under the Local Government Tort Claims Act.

Delmarva Community Services, Inc., is a multi-service organization dedicated to assisting local residents in maintaining their dignity and independence. They serve residents and clients across multiple counties on the Eastern Shore of Maryland. In many respects, the services they deliver mirror those offered by county governments through Citizen Services departments or the like.

The MACo Pooled OPEB Trust is a vehicle designed and formed by and for local governments to collaborate in their effort to invest current funds toward long-term liabilities, specifically for employee health insurance coverage. For counties and other local governmental units, such a financial plan is widely viewed positively as a best practice, and the pooled Trust enables Maryland local governments to do so while sharing overhead costs. In essence, this Trust serves the same function that an investment committee of a larger government might accomplish on its own.

SB 993 seeks to specify that these two entities, clearly performing a governmental function on behalf of their member units, are a covered entity under Maryland's Local Government Tort Claims Act. This would ensure that the government employees are insured by the Trust for their actions in this specific capacity, and that the entity receives the same treatment as other governments and comparable entities under the State's tort laws.

The more immediate case for SB 993 is that this clarification would allow the two entities to receive insurance through yet another instrument of Maryland local governments, the Local Government Insurance Trust (LGIT). Under LGIT's forming documents, it may only serve members that are under the Local Government Tort Claims Act, as its underwriting and rate-setting structure is wholly predicated on those laws. SB 993 would enable insurance for the Pooled Trust that is closer to home, and more affordable, since LGIT more clearly understands the limited role of an admittedly peculiar entity.

SB 993 would include two quasi-governmental service entities under tort laws for local governments, and allow them to receive insurance coverage tailored to its limited scope, saving member jurisdictions some overhead costs and promoting this best practice. For these reasons, MACo **SUPPORTS** SB 993 and urges a **FAVORABLE** report.

MAJ - SB 993 - OPP - LGTCA Expansion.pdf

Uploaded by: Josh Howe

Position: UNF



Maryland Association for Justice, Inc.

2022 Position Paper

SB 993

Local Government Tort Claims Act - Definition of Local Government UNFAVORABLE

SB 993 amends § 5-301(d) of the Local Government Tort Claims Act (LGTC) to add, Delmarva Community Services, Inc. and the Maryland Association of Counties Pooled OPEB Trust Fund. "local government," entitled to damage caps under the Act (currently \$400,000 as opposed to the \$850,000 cap on normal personal injury claims).

The MAJ opposes limiting the liability of this private company by adding the entity to the LGTC for the following reasons:

- Damage caps deny justice to those most seriously damaged or injured, by cutting off their right to recover all their losses from a wrongdoer.
- Who are the likely victims of these capped damages? Residents and businesses located in Dorchester County, who have been injured or damaged by wrongdoing by a private corporation.
- A private corporation, incorporated to generate private sector business and employment opportunities is not doing the business of a local government, so it should not be entitled to local government immunity.
- If the cost of liability insurance is truly an issue for the Corporation, the local governments should offer premium support, rather than cutting off the compensation needed by those seriously injured or damaged by corporate wrongdoing.
- Damage caps encourage "ghoulish math," a decision not to spend money on costly precautions, because the worst thing that can happen is a capped verdict.
- Like all private companies, Cambridge Waterfront Development, Inc., can limit its liability by exercising due care.
- LGTC is not just about "caps" but a shortened statute of limitations. The planned development encompasses bars, dining, docks, boat ramp, canoe & kayak rentals, parking lot, mixed use housing & playgrounds. How would an individual be aware that these are governmental activities and entitled to a shortened statute of limitations?

MAJ urges an UNFAVORABLE report on SB 993.