



# 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 a 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.
- LGTCA 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.**