



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 19, 2025

Committee: House Judiciary

Bill: HB 818 - Award of Attorney's Fees and Expenses - Violation of Maryland Constitutional Right

Position: Oppose

Reason for Position:

The Maryland Municipal League (MML) respectfully opposes House Bill 818, which would authorize courts to award attorney's fees to prevailing plaintiffs in civil rights cases against local governments. This approach risks draining municipal resources, encouraging excessive litigation, and forcing settlements even in defensible cases—ultimately harming taxpayers and public services.

While ensuring accountability for civil rights violations is a critical goal, awarding attorney's fees to prevailing plaintiffs in lawsuits against local governments presents serious concerns for the following reasons.

Financial Burden on Local Governments and Taxpayers. Authorizing attorney's fees in civil rights cases against municipalities would impose a direct financial burden on local governments, which must fund these awards from taxpayer dollars.

- Limited budgets and essential services: Local governments operate under strict financial constraints, and fee awards could divert resources away from critical public services such as policing, education, road maintenance, and emergency response.
- Taxpayer impact: Unlike private entities, municipalities cannot simply absorb increased legal costs—they must either raise taxes or cut essential services to cover the expense. This creates an unfair burden on residents who rely on these services.

Encourages Weak or Opportunistic Lawsuits. Allowing the awarding of attorney's fees incentivizes lawsuits, even those with marginal claims, because plaintiffs and their attorneys know they may recover fees regardless of the degree of harm or complexity of the legal question.

- Increased litigation against municipalities: Municipalities may face an uptick in lawsuits, not necessarily because of clear wrongdoing, but because plaintiffs and their lawyers see an opportunity to recover fees, even in borderline or technical claims.
- Profit-driven lawsuits: In some cases, attorneys may take advantage of fee inflation tactics, driving up litigation costs to secure higher awards, rather than focusing on just and fair resolutions.

The Maryland Municipal League uses its collective voice to advocate, empower and protect the interests of our 160 local governments members and elevates local leadership, delivers impactful solutions for our communities, and builds an inclusive culture for the 2 million Marylanders we serve.

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Forces Settlements Even in Defensible Cases. Local governments will often feel pressured to settle cases early, even when they have strong legal defenses, simply to avoid the risk of paying high attorney's fees in addition to potential damages.

- Chilling effect on legal defenses: Municipalities may decide not to fight valid legal claims simply because the risk of losing and paying high attorney's fees is too great.
- Encourages inflated settlements: Knowing that municipalities fear excessive fee awards, plaintiffs' attorneys may use this as leverage to demand larger settlements than they might otherwise receive.

Unfairly Penalizes Good-Faith Municipal Actions. Not all civil rights violations are the result of intentional wrongdoing. Many cases involve complex constitutional or policy questions, and municipal officials may act in good faith but later be found to have technically violated a law.

- Reasonable policy decisions could result in fee awards: For example, a local government's law enforcement policy might be upheld in lower courts but later ruled unconstitutional. Under this bill, municipalities could be penalized with attorney's fees, even if their original policy was based on reasonable legal interpretation.
- Judges currently have discretion to award fees: Existing federal law (such as 42 U.S.C. § 1988) already allows courts to award attorney's fees in appropriate cases. A state-level authorization dilutes judicial discretion and punishes municipalities even in close or unclear cases.

Disproportionate Impact on Small and Rural Municipalities. Larger cities may have legal departments and financial reserves to absorb attorney's fees, but small towns and rural municipalities do not.

- Small towns may lack legal resources: Many local governments, especially in rural areas, have small legal teams or rely on outside counsel. Increased litigation and fee awards could financially cripple these municipalities.
- Could lead to higher insurance costs or reduced services: If municipalities face increased legal expenses, they may have to increase liability insurance premiums, pass costs onto taxpayers, or reduce essential services to stay within budget.

While ensuring accountability for civil rights violations is essential, enforcing attorney's fees against municipalities is not the right approach. It risks draining local government resources, encouraging excessive litigation, and forcing unfair settlements, to the detriment of taxpayers and the benefit of plaintiff's attorneys. For these reasons, the Maryland Municipal League urges this Committee to consider these unintended consequences and respectfully requests an unfavorable report on House Bill 818. For more information, please contact Angelica Bailey Thupari, Director of Advocacy & Public Affairs, at angelicab@mdmunicipal.org or (443) 756-0071. Thank you in advance for your consideration.

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