

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 558

(Carroll County Senators)

Judicial Proceedings

Judiciary

Carroll County - Local Government Tort Claims Act - Industrial Development
Authority

This bill limits the liability of the nonprofit corporation serving as the Industrial Development Authority of Carroll County (IDACC) by expanding the definition of “local government” for purposes of the Local Government Tort Claims Act (LGTC) to include IDACC. The 180-day notice requirement under LGTCA does not apply to an action against IDACC.

The bill applies prospectively and takes effect July 1, 2014.

Fiscal Summary

State Effect: Potential general fund revenue decrease of \$30 annually beginning in FY 2015 from reduced insurance premium tax revenues as a result of reduced insurance premiums for IDACC.

Local Effect: Carroll County expenditures decrease by approximately \$1,500 annually beginning in FY 2015 due to reduced insurance premiums for IDACC.

Small Business Effect: None.

Analysis

Current Law: LGTCA defines local government to include counties, municipal corporations, Baltimore City, and various agencies and authorities of local governments such as community colleges, county public libraries, special taxing districts, nonprofit community service corporations, sanitary districts, housing authorities, and commercial district management authorities.

LGTCGA limits the liability of a local government to \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). It further establishes that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment. Thus, LGTCGA prevents local governments from asserting a common law claim of governmental immunity from liability for such acts or omissions of its employees.

LGTCGA also requires that an action for unliquidated damages may not be brought unless notice of the claim is given within 180 days after the injury. However, this notice requirement does not apply to actions against specified nonprofit corporations covered under LGTCGA.

Background: IDACC was created by the Carroll County Commissioners in 1980 for the purpose of promoting and fostering economic development, encouraging industrial expansion, assisting in the retention of existing industry, and creating and sustaining employment. IDACC was established under Title 12, Subtitle 1 of the Economic Development Article, which authorizes local governments to adopt resolutions to establish industrial development authorities to achieve statutorily specified goals, including (1) encouraging the increase of industry and commerce and a balanced economy in the State; (2) assisting in the retention of existing industry and commerce in the State; (3) assisting in the attraction of new industry and commerce to the State; and (4) promoting economic development.

A variety of entities are covered under LGTCGA, including the Howard County Economic Development Authority.

State Revenues: The State assesses a 2% tax on gross or renewal insurance premiums. Inclusion in LGTCGA allows IDACC to save \$1,500 on insurance premiums each year. Thus, assuming all other variables remain constant, general fund revenues from insurance premium taxes decrease by \$30 annually, beginning in fiscal 2015, as a result of IDACC's reduced insurance premiums.

Local Expenditures: Carroll County's expenditures for IDACC's insurance premiums decrease by \$1,500 (approximately 25%) each year. Inclusion under LGTCGA allows IDACC to procure insurance through the Local Government Insurance Trust (LGIT), a self-insurer. Carroll County advises that IDACC currently pays approximately \$6,000 in insurance premiums each year and expects to pay \$4,500 per year for comparable coverage through LGIT.

Additional Information

Prior Introductions: HB 475 of 2011, a similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 464, received a hearing in the Senate Judicial Proceedings Committee, but was subsequently withdrawn.

Cross File: HB 183 (Carroll County Delegation) - Judiciary.

Information Source(s): Carroll County, Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2014
mm/kdm Revised - Senate Third Reader - March 18, 2014

Analysis by: Amy A. Devadas

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