

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 575

(Senator Ramirez)

Judicial Proceedings

Judiciary

County Boards of Education - Limit on Liability

This bill increases the liability limit on a county board of education and the minimum amount of liability coverage a county board of education must maintain from \$100,000 to \$400,000. The bill also makes a corresponding change to the State Board of Education's existing statutory requirement to establish standards for these comprehensive liability insurance policies.

The bill applies prospectively to causes of action on or after the bill's October 1, 2016 effective date.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: Potential significant increase in costs of insurance premiums for local boards of education. Any increase in circuit court caseloads resulting from the bill can be handled with existing budgeted resources. Local revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful impact on small business law firms that litigate these types of claims.

Analysis

Current Law: A county board of education may raise the defense of sovereign immunity to any amount claimed above the limit of its insurance policy or, if self-insured or a member of an insurance pool, above \$100,000. A county board of education may not raise the

defense of sovereign immunity to any claim of \$100,000 or less. A county board employee acting within the scope of employment, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board, including damages that exceed the limitation on the county board's liability.

Each county board of education must carry comprehensive liability insurance to protect the board and its agents and employees. The purchase of this insurance is a valid educational expense. The State Board of Education must establish standards for these insurance policies, including a minimum liability coverage of not less than \$100,000 for each occurrence. The policies purchased must meet the standards established by the State Board of Education.

A county board complies with this requirement if it (1) is individually self-insured for at least \$100,000 for each occurrence under the rules and regulations adopted by the State Insurance Commissioner or (2) pools with other public entities for the purpose of self-insuring property or casualty risks.

Local Expenditures: Seventeen school systems participate in the Maryland Association of Boards of Education's (MABE) insurance pool. According to MABE's actuarial analysis, increasing the liability limit from \$100,000 to \$400,000 results in an estimated 35% increase in loss funding costs (totaling more than \$1 million) related to increased tort claims. MABE advises that loss funding costs represent a significant percentage of the overall combined premium contributions that will be required from each member of the insurance pool. While the actual cost increase depends on the actual outcomes of future claims, MABE expects the volume of claims to increase.

Additional Comments: The bill "...may not be interpreted to have any effect on or application to any cause of action before the effective date of this Act." However, the bill does not specify whether this provision pertains to a cause of action that *arises* before the effective date or a cause of action that is *filed* before the effective date.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Judiciary (Administrative Office of the Courts), Maryland State Department of Education, Maryland Association of Boards of Education, Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2016
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