

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 1097

(Senator Mathias, *et al.*)

Judicial Proceedings

Judiciary

Local Government Tort Claims Act - Regional Development Councils

This bill limits the liability of a “regional development council” by expanding the definition of “local government” for purposes of the Local Government Tort Claims Act (LGTCA) to include a regional development council. The bill defines a “regional development council” as a regional or municipal council established under Title 13 of the Economic Development Article. A regional development council includes the Baltimore Metropolitan Council, the Mid-Shore Regional Council, the Upper Shore Regional Council, the Tri-County Council for the Lower Eastern Shore of Maryland, the Tri-County Council for Southern Maryland, and the Tri-County Council for Western Maryland. The bill also repeals statutes establishing that the Tri-County Council for Southern Maryland and the Tri-County Council for Western Maryland are immune from being sued.

The bill applies prospectively to a cause of action arising on or the bill’s July 1, 2016 effective date.

Fiscal Summary

State Effect: Minimal decrease in general fund revenues annually beginning in FY 2017 from reduced insurance premium tax revenues if the bill results in reduced insurance premiums for regional development councils. Minimal decrease in State expenditures for councils that use State funds to pay insurance premiums.

Local Effect: Minimal decrease in local expenditures for regional development councils and counties that support regional development councils from reduced liability payments and insurance premiums, as discussed below.

Small Business Effect: None.

Analysis

Current Law/Background: 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. The Baltimore Metropolitan Council, which is specifically included in the bill's definition of "regional development council" is already included in LGTCA's definition of local government.

Pursuant to Chapter 131 of 2015, for causes of action arising on or after October 1, 2015, LGTCA limits the liability of a local government to \$400,000 per individual claim and \$800,000 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, LGTCA prevents local governments from asserting a common law claim of governmental immunity from liability for such acts of its employees.

All of the entities specifically added to LGTCA under the bill are established under Title 13 of the Economic Development Article. These councils are cooperative regional planning and development units for various regions of the State. The purpose of these councils is to foster the physical, economic, and social development of the region and effectively use the assistance provided to the region by the State.

Under §§ 5-505 and 5-506 of the Courts and Judicial Proceedings Article, the Tri-County Council for Southern Maryland and the Tri-County Council for Western Maryland are immune from being sued.

State Revenues: The State assesses a 2% tax on gross or renewal insurance premiums. Inclusion in LGTCA may allow regional development councils to save on insurance premiums. Thus, general fund revenues from insurance premium taxes decrease beginning in fiscal 2017.

State/Local Expenditures: State and/or local expenditures for regional development councils and counties that support regional development councils may decrease from reduced liability payments or insurance premiums.

The councils affected by the bill receive funding from a variety of sources and use a variety of sources to pay for their insurance premiums. For instance, the Tri-County Council for the Lower Eastern Shore, which provides transportation services in its region, advises that it uses federal funds that are transmitted through the Mass Transit Administration to pay

for its insurance premiums. However, the Mid-Shore Regional Council pays for its insurance with State funds.

The bill also repeals statutory provisions that specify that the Tri-County Council for Southern Maryland and the Tri-County Council for Western Maryland are immune from being sued. Under the bill, these councils are no longer immune from being sued, but their liability is subject to the monetary limits under LGTCA. This analysis assumes that the repeal of these immunity provisions does not materially affect the finances of the member local governments of the Tri-County Council for Southern Maryland and the Tri-County Council for Western Maryland. Neither of these councils can recall any instance in which the immunity provisions repealed by the bill were raised in a lawsuit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of Counties, Mid-Shore Regional Council, Tri-County Council for the Lower Eastern Shore, Tri-County Council for Southern Maryland, Tri-County Council for Western Maryland, Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2016
min/kdm Revised - Enrolled Bill - May 16, 2016

Analysis by: Amy A. Devadas

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