



House Bill 353

Civil Actions - Violation of Rights - Governmental Liability

MACo Position: **OPPOSE**

To: Judiciary Committee

Date: February 10, 2021

From: Michael Sanderson

The Maryland Association of Counties (MACo) **OPPOSES** HB 353. The bill alters multiple longstanding standards for immunity and liability exposure for public sector employers, and potentially also for employees.

The basic concept of the Local Government Tort Claims Act is a framework that has advanced the interests of multiple parties for decades. Suits against employees, including law enforcement officers, are generally brought against the employer if the conduct causing the tort occurred in the course of the scope of employment (a court-tested standard). An eventual judgment or settlement against the government, rather than the employee as an individual, ensures that the result can be honored financially, advancing the interest of the injured plaintiff. Providing this shield for employees helps governments recruit for these positions, and coupled with the various notice requirements and limitations under the Act, represent a reasonable trade-off for governments.

HB 353, apparently in pursuit of individual officer accountability, seems to unravel much of this balance. Broadly enabling judgments against individual officers creates a veneer of promoting best practices by each officer, but surely could result in a practically uncollectible dollar figure beyond the capacity of the officer. A massive judgment, adorned with attorney fees, fully or partially levied against a single officer, likely fails to address any of the bill's goals of fairer justice, best police practices, or eventual compensation of any injured plaintiff.

The General Assembly, principally within this Committee, is contemplating a series of measures to alter training, screening, transparency, and accountability measures for law enforcement officers. MACo submits that these balanced efforts, developed into a workable comprehensive reform package, represent the best overall path toward the policy goals HB 353 appears to favor.

HB 353 applies a confusing and potentially contradictory set of immunity/indemnification rules for liability of public employers, but generally would expose governments to more lawsuits, including many marginal cases filed in pursuit of "settlement value." Accordingly, MACo requests the Committee give HB 353 an **UNFAVORABLE** report.