

A Resolution of the Joint Legislative Audit and Review Commission directing staff to study the costs incurred by the Commonwealth or its localities resulting from tort claims and the limit on damages for claims brought pursuant to the Virginia Tort Claims Act

WHEREAS, at common law, the doctrine of sovereign immunity served to insulate the Commonwealth and its political subdivisions, including localities, from tort liability; and

WHEREAS, in 1981 the General Assembly of Virginia partially abrogated the doctrine of sovereign immunity for the Commonwealth through the enactment of the Virginia Tort Claims Act (§ 8.01-195.1 et seq. of the Code of Virginia); and

WHEREAS, the Virginia Tort Claims Act currently limits the Commonwealth's liability for tort claims against it to \$100,000, and this limit was last raised in 1993; and

WHEREAS, the Virginia Tort Claims Act expressly does not apply to "any county, city, and town in the Commonwealth"; and

WHEREAS, the current costs being incurred by the Commonwealth and localities in connection with tort claims against these entities are unknown; and

WHEREAS, it is necessary to determine the economic consequences of possible changes to the doctrine of sovereign immunity as it applies to localities; now, therefore, be it

RESOLVED that the staff of the Joint Legislative Audit and Review Commission be directed to study the costs incurred by the Commonwealth or its localities resulting from tort claims brought against such entities and the limit on damages for claims brought pursuant to the Virginia Tort Claims Act.

In conducting its study, the staff shall (i) examine claims filed against the Commonwealth or localities and ascertain the number of these claims that constitute tort claims; (ii) determine the costs associated with the defense of these claims, including the costs of settling or litigating these claims, the amount of any judgment entered against the Commonwealth or a locality, and the effect such claims have on the cost of insurance coverage; and (iii) assess limits on damages for tort claims against governmental entities in other states and the extent to which tort awards against nongovernmental entities exceed the \$100,000 limit, on average.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Division of Risk Management. All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The staff shall complete its work submit a report of its findings and recommendations to the Commission by November 30, 2010.