

TO: Boyd Graves Conference

FROM: Committee to Study Sovereign Immunity

Date: Fall 2007

The Conference established this Committee in 2005. The Committee's 2005 report suggested its members felt there were serious problems in the current system, and noted particular areas of concern. At the 2005 meeting of the Conference, the Committee sought guidance regarding what further study, if any, should be performed in regard to efforts at reforming the system. The Conference authorized further work by the Committee, and in 2006 it submitted proposals in two procedural areas. One of the proposals was enacted into law. It created a uniform notice for tort claims, enacted as Va. Code Sec. 15.2-209 for local government claims, and Va. Code Sec. 8.01-195.6 was rewritten. Senator Mark Obenshain patroned the legislation which implemented these changes.

The Committee convened in June 2007 to consider its role, and what course to recommend to the Conference. The Committee consists of Gary Bryant, David Corrigan, Judge Arthur Kelsey, Maureen Matsen, Christopher Meyer, Wiley Mitchell, Roger Mullins, Tim Oksman, Robin Wood, and Tom Albro (Chair). There was consensus that although there may be serious problems with the way local governmental tort liability is handled by the Virginia legal system, the Committee has neither the power nor the resources to obtain the information necessary to determine the economic consequences to local governments of potential changes in the law. Forecasting the potential impact of extending the State Tort Claims Act to localities, for example, requires the collection of detailed data covering the current costs being incurred by the state, and by local governments, in handling tort claims, including such items as insurance costs, claims settlement costs, and legal and administrative costs.

The Committee recommends that the Conference recommend to the General Assembly that it approve a legislative study or a study conducted by the Joint Legislative Audit and Review

Commission (JLARC) of the current costs being incurred by state and local governments for handling tort claims against those entities and recommends the Conference offer to make its members and resources, including reports previously compiled for consideration of the Conference, available to any legislative study committee created by the General Assembly.

**Thomas E. Albro
Committee Chair**

Editor's Note:

The Committee recommendation that the General Assembly be requested to form a study committee on this issue was passed unanimously.