

House Bill 531 ((COMMITTEE SUBSTITUTE))

By: Representatives Reeves of the 99th, Leverett of the 123rd, Efstoration of the 104th, Gunter of the 8th, and Silcox of the 53rd

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 33 of Title 36 of the Official Code of Georgia Annotated, relating to
2 liability of municipal corporations for acts or omissions, so as to provide that when a
3 municipal corporation is participating in a joint undertaking and another local government
4 participating in such joint undertaking acquires liability insurance the sovereign immunity
5 of the other participating local government is not waived; to extend the period of the notice
6 for a cause of action against a municipality; to provide that tort and nuisance liability of any
7 consolidated government shall follow the law and rules of tort liability applicable to counties;
8 to provide limitations on the amounts and types of damages and interest recoverable; to
9 provide a short title; to provide for related matters; to provide for an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Municipal Sovereign Immunity Act."

14

SECTION 2.

15 Chapter 33 of Title 36 of the Official Code of Georgia Annotated, relating to liability of
 16 municipal corporations for acts or omissions, is amended by revising subsection (b) of Code
 17 Section 36-33-5, relating to written demand prerequisite to action for injury to person or
 18 property, time for presenting claim and for consideration by governing authority, suspension
 19 of limitations, statement of specific amount of monetary damages sought, and service of
 20 claim on city officials, as follows:

21 "(b) Within ~~six~~ 12 months of the happening of the event upon which a claim against a
 22 municipal corporation is predicated, the person, firm, or corporation having the claim shall
 23 present the claim in writing to the governing authority of the municipal corporation for
 24 adjustment, stating the time, place, and extent of the injury, as nearly as practicable, and
 25 the negligence which caused the injury. No action shall be entertained by the courts
 26 against the municipal corporation until the cause of action therein has first been presented
 27 to the governing authority for adjustment. "

28

SECTION 3.

29 Said chapter is further amended by adding a new Code section to read as follows:

30 "36-33-7.

31 (a) It is the specific intent of the General Assembly that municipal tort claims shall be
 32 subject to the limitations provided in this Code section. In any civil action or claim for
 33 damages brought under the provisions of this chapter, no claimant shall recover a sum
 34 exceeding \$3 million from any single municipality because of loss arising from a single
 35 occurrence; and any single municipality's aggregate liability per occurrence shall not
 36 exceed \$5 million. The existence of these caps on liability shall not be disclosed or
 37 suggested to the jury during the trial of any action brought under this chapter.

38 (b) No award for damages under this chapter shall include punitive or exemplary damages.

39 (c) Trial of tort claims against the municipality under this chapter shall be conducted by
40 a judge with a jury; provided, however, that the parties may agree that the same be tried by
41 a judge without a jury.

42 (d) This Code section shall not be construed as a new waiver of immunity as required by
43 Article IX, Section II, Paragraph IX of the Constitution of the State of Georgia. Any such
44 new waiver must be pled and proven by the claimant as provided by law."

45 **SECTION 4.**

46 This Act shall become effective upon its approval by the Governor or upon its becoming law
47 without such approval.

48 **SECTION 5.**

49 All laws and parts of laws in conflict with this Act are repealed.