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SENATE JOINT RESOLUTION NO. 30

Offered January 13, 2010

Prefiled January 11, 2010

Directing the Joint Legislative Audit and Review Commission to study the costs incurred by the Commonwealth and its localities resulting from tort claims brought against such entities. Report.

Patron—Edwards

Referred to Committee on Rules

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 expressly does not apply to "any county, city, and town in the Commonwealth"; and

WHEREAS, the Boyd-Graves Conference of the Virginia Bar Association has studied this issue and supports extending the Tort Claims Act to localities after a determination of the potential financial impact of such extension is made; 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 by the Senate, the House of Delegates concurring, That 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.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) examine claims filed against the Commonwealth or localities and ascertain the number of these claims that constitute tort claims and (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.

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 Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2010, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2011 Regular Session of the General Assembly. The executive summary shall state whether the Joint Legislative Audit and Review Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

INTRODUCED

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