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HOUSE JOINT RESOLUTION NO. 510

Offered January 12, 2011

Prefiled November 9, 2010

Directing the Joint Legislative Audit and Review Commission to study the costs incurred by localities of the Commonwealth resulting from claims brought against localities and the costs that reasonably could have been incurred by localities if such entities were subject to the Virginia Tort Claims Act. Report.

 Patron—Knight

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

WHEREAS, the number of otherwise valid claims that have been avoided by localities through the assertion of the doctrine of sovereign immunity is 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 House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study the costs incurred by localities of the Commonwealth resulting from claims brought against localities and the costs that reasonably could have incurred by localities if such entities were subject to the Virginia Tort Claims Act.

In conducting its study, the Joint Legislative Audit and Review Commission shall study (i) the cost localities in the Commonwealth incurred annually from January 1, 2005, through December 31, 2010, as a consequence of insuring against, investigating, defending, and settling claims for personal injury, death, or property damage asserted against them or their agents or employees, exclusive of Workers Compensation claims, and (ii) the cost localities in the Commonwealth could reasonably have been expected to incur in consequence of insuring against, investigating, defending, and settling such claims from January 1, 2005, through December 31, 2010, had all localities in the Commonwealth been subject to the provisions of the Virginia Tort Claims Act. Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Division of Risk Management of the Department of the Treasury. 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, 2011, 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 2012 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.

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