

House Bill No. 5 - Doctrine of Sovereign
Immunity in State

AN ACT concerning

Local Governments - Defense of Sovereign Immunity

FOR the purpose of providing that the State, and all units of State government; the counties governed by county commissioners, and all units of government of those counties; the chartered counties, and all units of government of those counties; the code county, and all units of government of that county; and the municipal corporations, and all units of government of municipal corporations are liable for any action in contract, and may not raise the defense of sovereign immunity, for any contract made by the State, county, chartered county, code county, or municipal corporation or for any contract made by any officer, department, agency, board, commission, or other unit of government of the State, county, chartered county, code county, or municipal corporation, unless otherwise specifically provided by the laws of the State of Maryland.

May 31, 1974.

Honorable John Hanson Briscoe
Speaker of the House of Delegates
State House
Annapolis, Maryland 21404

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 5.

The purpose of this bill is to remove the common law defense of sovereign immunity in actions ex contractu against the State and its political subdivisions. As worded, the bill provides that the State and its counties, and the officers, departments, agencies, boards, commissions, and other units thereof are "liable in any action of contract, and may not raise the defense of sovereign immunity, for any contract made by" them.

My principal objection to the bill is that, as worded, and in the context of prevailing decisions of the Court of Appeals, it is uncertain what the effect of the bill will be both as to fiscal impact and upon the actual operations of State and local government. This uncertainty is implicit in a number of respects.