

Date:

(Filing No. S-)

JUDICIARY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

132ND LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 564, L.D. 1347, “An Act to Increase the Cap on Liability for Governmental Entities Under the Maine Tort Claims Act”

Amend the bill by striking out the title and substituting the following:

'Resolve, Establishing the Commission to Study the Maine Tort Claims Act'

Amend the bill by striking out everything after the title and inserting the following:

'Sec. 1. Commission established. Resolved: That the Commission to Study the Maine Tort Claims Act, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 13 members as follows:

1. Six members appointed by the President of the Senate as follows:

A. Two members of the Senate, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature;

B. One member from an organization representing municipalities in the State;

C. One member representing insurance companies in the State;

D. One member representing an educational management organization in the State; and

E. One member representing a large municipality in the State;

2. Six members appointed by the Speaker of the House of Representatives as follows:

A. Two members of the House of Representatives, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature;

B. One member who is an attorney with experience representing plaintiffs in cases arising under the Maine Tort Claims Act;

C. One member representing a law enforcement agency in the State;

1 D. One member representing a small municipality in the State; and

2 E. One member representing a county government in the State; and

3 3. The Governor or the Governor's designee.

4 **Sec. 3. Chairs. Resolved:** That the first-named Senate member is the Senate chair
5 and the first-named House of Representatives member is the House chair of the
6 commission.

7 **Sec. 4. Appointments; convening of commission. Resolved:** That all
8 appointments must be made no later than 30 days following the effective date of this
9 resolve. The appointing authorities shall notify the Executive Director of the Legislative
10 Council once all appointments have been completed. After appointment of all members,
11 the chairs shall call and convene the first meeting of the commission. If 30 days or more
12 after the effective date of this resolve a majority of but not all appointments have been
13 made, the chairs may request authority and the Legislative Council may grant authority for
14 the commission to meet and conduct its business.

15 **Sec. 5. Duties. Resolved:** That the commission shall review the Maine Tort Claims
16 Act, taking into consideration:

17 1. Whether any additional negligent acts or omissions by a governmental entity should
18 be excepted from tort claim immunity, including an assessment of schools and school field
19 trips;

20 2. Whether to increase the cap on damages or change the structure of available damages
21 awards, including a consideration of different damages caps for a single claimant versus a
22 single occurrence;

23 3. Other states' use of medical pay coverage in addition to any damages from those
24 states' tort claims laws;

25 4. The fiscal impact of changes to the Maine Tort Claims Act on municipalities,
26 including the impact to municipal budgets, as well as any costs associated with insurance;

27 5. The data available on the number of potential claims brought against the State or a
28 governmental entity under the Maine Tort Claims Act; and

29 6. Any other changes necessary to the Maine Tort Claims Act.

30 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
31 necessary staffing services to the commission, except that Legislative Council staff support
32 is not authorized when the Legislature is in regular or special session.

33 **Sec. 7. Report. Resolved:** That, no later than December 3, 2025, the commission
34 shall submit a report that includes its findings and recommendations pursuant to section 5,
35 including suggested legislation, to the Joint Standing Committee on Education, the Joint
36 Standing Committee on Judiciary and the Joint Standing Committee on State and Local
37 Government. After receipt and a review of the report, each joint standing committee may
38 submit legislation relating to the report to the Second Regular Session of the 132nd
39 Legislature.'

40 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
41 number to read consecutively.

SUMMARY

This amendment replaces the bill with a resolve that establishes the Commission to Study the Maine Tort Claims Act. The commission is composed of 13 members, including Legislators, members with experience in insurance, education and the Maine Tort Claims Act, members representing municipalities in the State and the Governor. The commission must review the Maine Tort Claims Act, taking into consideration any necessary increases or changes in the structure of damages, any changes to the conduct excepted from tort claim immunity for a governmental entity and any impact on municipalities due to changes to the Maine Tort Claims Act.

The commission must report its findings and recommendations to the Joint Standing Committee on Education, the Joint Standing Committee on Judiciary and the Joint Standing Committee on State and Local Government by December 3, 2025. Each joint standing committee has authority to report out legislation related to the report to the Second Regular Session of the 132nd Legislature.

FISCAL NOTE REQUIRED

(See attached)