



Maine Human Rights Commission

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The Honorable Anne Carney, Senate Chair
The Honorable Matthew Moonen, House Chair
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333

Re: An Act Regarding the Limits on Civil Remedies Available Under the Maine Human Rights Act, LD 960

Dear Senator Carney, Representative Moonen, and Members of the Joint Standing Committee on Judiciary:

The Maine Human Rights Commission ("Commission") is Maine's quasi-independent, neutral, apolitical State agency charged with enforcing our state anti-discrimination law, the Maine Human Rights Act, 5 M.R.S. §§ 4551, *et seq.* ("MHRA"). The Commission is statutorily charged with the duties of: investigating, conciliating, and at times litigating protected-class discrimination cases under the MHRA; promulgating rules and regulations to effectuate the Act; and making recommendations for further legislation or executive action concerning infringements on human rights in Maine. 5 M.R.S. § 4566(7), (11). With those duties in mind, the Commission is pleased to provide this testimony neither for nor against LD 960.

As the Commission has statutory authority only to seek MHRA remedies in court, we do not encounter the situation at which LD 960 seems targeted: a person alleging violations of state and federal anti-discrimination laws. With respect to Section 1, the Commission wishes to note that the addition of "any other provision of law" may lead to unintended (or intended but nonsensical) consequences. That phrase could be interpreted to apply the MHRA's damages cap to all recovery in a given lawsuit, even if a lawsuit includes anti-discrimination law claims along with claims under other statutes or causes of action that are not based on discrimination law. Since this would apply the MHRA cap to legally distinct claims having nothing to do with discrimination – such as alleged violations of the Family and Medical Leave Act, National Labor Relations Act, or of wage and hour laws – that would not make sense. It also seems unnecessary given the proposal within Section 4.

It is also worth noting that the Commission has a longstanding worksharing agreement with the U. S. Equal Employment Opportunity Commission ("EEOC"), which enforces the federal employment anti-discrimination laws referenced in LD 960. That worksharing agreement is predicated on the EEOC's determination that the MHRA provides parties with procedural and substantive due process that are substantially equivalent to those provided by parallel federal anti-discrimination laws. Should LD 960 be enacted, the EEOC may raise concerns about whether the MHRA remains substantially equivalent to federal anti-discrimination laws.

Thank you for this opportunity to provide testimony related to LD 960. The Commission would be pleased to discuss these issues with you at your convenience, including at the work session on this matter.

Sincerely,

Amy M. Sneirson, Executive Director

Cc: Commissioners