MAINE STATE LEGISLATURE

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13   **STATE OF MAINE**
14

15   **IN THE YEAR OF OUR LORD**
16   **NINETEEN HUNDRED AND EIGHTY-TWO**
17

18   **RESOLVE, Authorizing the City of South Portland**
19   **to Bring a Civil Action Against the State.**
20

21   **Emergency preamble.** Whereas, Acts and resolves of the
22   Legislature do not become effective until 90 days after ad-
23   journment unless enacted as emergencies; and

24   Whereas, the Department of Audit performed the annual
25   municipal audit, dated July 22, 1976, for the City of South
26   Portland for calendar year 1975 and   negligently failed to
27   detect the embezzlement of $289,300, plus interest; and

28   Whereas, the City of South Portland must file its civil
29   action against the State and its officers, agents and
30   employees by July 22, 1982, or be forever barred; and

1   Whereas, in the judgment of the Legislature, these
2 facts create an emergency within the meaning of the Consti-
3 tution of Maine and require the following legislation as
4 immediately necessary for the preservation of the public
5 peace, health and safety; now, therefore, be it

6   **City of South Portland; authorized to sue the**
7 **State. Resolved:** That the City of South Portland, a munic-
8 ipal corporation existing under the laws of the State, and
9 located in the County of Cumberland, State of Maine, which
10 suffered a loss in the amount of $289,300, plus interest,
11 from July 22, 1976, due to the negligent performance of its
12 annual municipal audit by the Department of Audit, which
13 charged the city $3,691.29 for the performance of that
14 audit, is authorized to bring suit against the State, its
15 officers, agents and employees in connection with that
16 audit.

17   This action is to be brought in the Superior Court for
18 the County of Cumberland within one year from the passage of
19 this resolve, against the State, its officers, agents and
20 employees for damages, if any, and the conduct of this ac-
21 tion shall be according to the practice of actions or pro-
22 ceedings between parties in the Superior Court. The liabil-
23 ities of the parties and elements of damages, if any, shall
24 be according to the practice of actions or proceedings
25 between parties in the Superior Court. The liabilities of
26 the parties and elements of damages, if any, shall be the
27 same as liabilities and elements of damage as between indi-
28 viduals. The complaint issuing out of the Superior Court
29 under the authority of this resolve shall be served on the
30 Secretary of State by attested copy by the sheriff or his
31 deputies in any county in the State. To avoid possible con-
32 flict the Attorney General is authorized to retain private
33 counsel to appear, answer and defend this action.

34   Any judgment that may be recovered in this civil action
35 shall be payable from the State Treasury on file process
36 issued by the Superior Court, or, if applicable, the Supreme
37 Judicial Court, and costs may be taxed for the City of South
38 Portland if it recovers in the action. Its recovery shall
39 not exceed $289,300, plus interest, from July 22, 1976.
40 Hearing shall be before a Justice of the Superior Court with
41 or without jury; the justice to be the regularly scheduled
42 justice presiding in the Cumberland County Superior Court
43 when the matter is scheduled for trial.

44   **Emergency clause.** In view of the emergency cited in
45 the preamble, this resolve shall take effect when approved.

1 STATEMENT OF FACT

2   The purpose of this resolve is to authorize the City of
3 South Portland to bring suit against the State for damages
4 allegedly resulting from an allegedly negligent municipal
5 audit.

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