

MAINE STATE LEGISLATURE

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Date: 6-6-11

MAJORITY

(Filing No. S- 266)

JUDICIARY

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STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 377, L.D. 1256, Bill, "An Act Concerning Tort Claims and Governmental Entities"

Amend the bill by inserting after the title and before the enacting clause the following:

Mandate preamble. This measure may require one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 14 MRSA §8104-A, sub-§1-A is enacted to read:

1-A. Application. For the purposes of subsection 1, "use" means employed by the governmental entity for its purposes or in connection with its activities. A governmental entity is liable for its negligent acts or omissions in connection with such use regardless of whether its employee is operating the vehicle, machinery or equipment at the time of the occurrence causing property damage or bodily injury, but a governmental entity is not liable for the negligence of any nongovernmental person or entity in connection with such use. A governmental entity may be jointly and severally liable with a nongovernmental person or entity only if the negligent acts or omissions of the governmental entity were a cause of the property damage or bodily injury. This subsection applies to acts and omissions occurring on or after January 1, 2013.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Risk Management - Claims 0008

Initiative: Provides funds for one Assistant Risk Assessor position and related costs.

COMMITTEE AMENDMENT

R. 4. 8.

1	RISK MANAGEMENT FUND	2011-12	2012-13
2	POSITIONS - LEGISLATIVE COUNT	1.000	1.000
3	Personal Services	\$48,308	\$65,925
4	All Other	\$8,500	\$8,500
5			
6	RISK MANAGEMENT FUND TOTAL	\$56,808	\$74,425
7			

8

SUMMARY

9 This amendment, which is the majority report of the committee, strikes and replaces
10 the bill. It retains provisions from the bill regarding a governmental entity's liability for
11 negligent acts or omissions and adds an application date of January 1, 2013 to provide
12 sufficient time for governmental entities to obtain insurance or provide for self-insurance.
13 This amendment adds a mandate preamble and an appropriations and allocations section.

14

FISCAL NOTE REQUIRED

15

(See attached)



125th MAINE LEGISLATURE

LD 1256

LR 1890(02)

An Act Concerning Tort Claims and Governmental Entities

Fiscal Note for Bill as Amended by Committee Amendment "A" S-266

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - All Funds

Potential state mandate - Exempted

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Appropriations/Allocations				
Risk Management Fund	\$56,808	\$74,425	\$76,403	\$77,761

State Mandates

Required Activity

Defending themselves as a result of additional tort claims and obtaining the necessary insurance protections may represent an indirect modification of a municipal activity.

Unit Affected

Municipality

Local Cost

Significant statewide

The indirect modification of local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the state from the constitutional requirement to fund 90% of the additional costs.

Fiscal Detail and Notes

This legislation will increase costs to local governments in the form of higher costs for insurance protections and added legal costs. The impact to individual municipalities cannot be determined at this time and will depend on actual experience. The bill includes an allocation to the Division of Risk Management of \$56,808 in fiscal year 2011-12 and \$74,425 in fiscal year 2012-13 for one Assistant Risk Assessor position to review a large number of vendor contracts for adequate insurance protections. In addition, the State will be responsible for every successful claim up to the tort limit of \$400,000 per occurrence. The amount passed on to state agencies by the Division of Risk Management over and above the cost of the position cannot be determined at this time and will depend on actual experience. The additional costs to the Department of the Attorney General can be absorbed utilizing existing budgeted resources.

The Maine Community College System also anticipates increased staff, insurance and liability costs of approximately \$30,000 per year as a result of this legislation. This estimate assumes the system will have to defend an average of 2 cases per year. The actual cost to the system may be higher or lower depending on actual experience.