

March 11, 2025

Representative Robert E. Craven, Sr.
Chairman, House Committee on Judiciary
State of Rhode Island General Assembly
82 Smith Street
Providence, RI 02903

Re: *Opposition to House Bill 5905*

Dear Chairman Craven:

As you are likely aware, the Rhode Island Interlocal Risk Management Trust (“The Trust”) is an intergovernmental risk sharing pool that was statutorily authorized and is created by Member cities and towns, school districts, and special purpose districts. Specifically, The Trust is comprised of 35 of the 39 cities and towns in Rhode Island, 34 of the 36 School Departments, and more than 50 special purpose districts and other Members. On behalf of The Trust Members, we oppose the proffered amendment to the so-called Recreational Use Statute.

By way of background, in 1978, the General Assembly enacted what is known as the Recreational Use Statute. The statute was intended to encourage landowners to make their land available to the public for recreational uses by limiting their liability to those who use the property. If a property owner allowed the public to use his land, without charge, for recreational purposes, he owed no duty to those persons other than to refrain from the willful or malicious failure to guard or warn against a dangerous condition, and then, only after discovering the user’s peril. R.I. Gen. Laws §32-6-5(a)(1).

At the time the statute was enacted, though, the definition of the term “owner” did not include the State or its municipalities. Accordingly, the State and its municipalities were forced to rely solely upon the public duty doctrine for protection from claims arising from the public’s use of State or municipal owned land. This was problematic on a number of fronts. Plaintiffs were able to circumvent the protections afforded by the public duty doctrine by arguing that the special duty doctrine applied or that, by making these lands available to the public for use as recreational areas, the State and/or its municipalities were acting as a private person or corporation might act. However, in the latter circumstance, they were not afforded the protections that a private person or corporation would have under the Recreational Use Statute.

Recognizing the absurdity and inequity of this circumstance, in 1996 the Legislature explicitly added the State and municipalities to the definition of “owner” under the Recreational Use Statute. R.I. Gen. Laws §32-6-2(3). In doing so, the Legislature made a conscious decision to protect the State and its political subdivisions from liability when people are using publicly owned land for recreational purposes. This proposed amendment runs counter to that considered judgment.

In this time of significant budget cuts being required at the State and municipal level, and with the ability of cities and towns to raise revenue severely curtailed by existing statutes, losing this protection would deal cities and towns a devastating blow. It may also leave them with no option other than to close recreational areas to the public so as to avoid potential liability. While an unintended consequence of this proposed

amendment, it would be a consequence nonetheless. It is for these reasons that The Trust and its Members strongly oppose House Bill 5905.

If the Committee would find additional information regarding this matter helpful, I would be happy to supplement this written testimony. Regards.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ian C. Ridlon', with a stylized, cursive flourish.

Ian C. Ridlon, Esq.
President and Executive Director