

Tort Liability Reform (Title 59)

Tort Liability claims against New Jersey public entities have increased significantly faster than inflation because of a series of court decisions. The MEL supports efforts to amend Title 59 to reflect the original intent of the legislature 40 years ago when this law was first adopted.

Direct Right of Appeal

A provision should be added within the Statute to grant public entities a “direct right of appeal” on all lower court rulings involving immunities and notice provisions. Currently, a public entity may only apply to the appellate court through a so called interlocutory appeal which is seldom granted. As a result, public entities are forced to either try the case or settle without the benefit of an appellate decision or court ruling with respect to immunities and other protections under Title 59. This significantly increases legal costs as well.

Weather Immunity

Under Title 59:4-7 municipalities enjoy immunity for accidents on streets and highways arising “solely” due to weather conditions. This immunity should be expanded to include all municipal property including storm water and waste system, dams, rivers etc. Further, the word “solely” should be changed to “primarily” to make it more consistent with the legislature’s original intent.

Sidewalks

Currently liability for trips and falls on sidewalks is determined by case law. Sidewalks that abut commercial property are the responsibility of the commercial property owner. The courts have held that sidewalks abutting homeowner property are the responsibility of the municipality even if the municipality has an ordinance holding the homeowner responsible for the maintenance and repair of the sidewalk. The beneficiaries of these decisions are the homeowner’s insurance carriers. The MEL believes that the municipality should not be responsible for sidewalk injuries where an ordinance makes the homeowner responsible for the repair and maintenance of their sidewalks.

Boardwalks

The MEL also supports a Title 59 amendment to provide that a public entity is not liable for injury caused by a condition of a board walk if public entity has an ongoing maintenance program.