

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 270

H. P. 233

House of Representatives, January 15, 1981

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tuttle of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Provide for Service Fees for Nonmembers Represented by Collective Bargaining Agents.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 26 MRSA § 964, sub-§ 2, ¶C, as enacted by PL 1969, c. 424, § 1, is amended to read:

C. Engaging in:

- (1) A work stoppage;
- (2) A slowdown;
- (3) A strike; or
- (4) The blacklisting of any public employer for the purpose of preventing it from filling employee vacancies; **and**

Sec. 2. 26 MRSA § 964, sub-§ 2, ¶D is enacted to read:

D. Discriminating against an employee on the basis of the employee's membership, nonmembership or agency fee status in the employee organization or bargaining agent.

Sec. 3. 26 MRSA § 967, sub-§§ 3 and 4 are enacted to read:

3. Nonmembers' service fees. All employees, as defined in section 962,

subsections 5 and 6, within a bargaining unit who are not and do not become members of the organization certified as the bargaining agent for that unit shall, as a condition of continued employment, pay to the bargaining agent a service fee equal to that portion of the dues paid by members of the bargaining agent which is related to collective bargaining, contract administration and grievance adjustment. No bargaining agent may collect such a fee until it has:

A. Made a determination of the amount, as described in this subsection, which is due as the service fee, advising nonmembers of the basis of that determination, listing items included and amounts attributed thereto;

B. Established an internal procedure for review of challenges to the determination referred to in this subsection and for corrections and adjustments thereto; and

C. Established a mechanism by which the service fee shall be reviewed at least annually, with overcharges and undercharges accounted for in a redetermined fee.

4. Items included in and excluded from service fee. The service fee set out in subsection 3 may include dues or that portion of dues paid to affiliates of the bargaining agent by members of the bargaining agent for purposes related to collective bargaining, contract administration and grievance adjustment. "Affiliates" means a labor organization associated with the bargaining agent to or from which membership dues or per capita fees are paid or received.

In no event may any portion of the service fee be related to expenditures of the bargaining agent for such activities as:

A. Contributions to political candidates or political committees formed for a candidate or a political party;

B. Publicizing of an organizational preference for a candidate for political office;

C. Efforts to enact, defeat, repeal or amend legislation unrelated to wages, hours, standards of productivity and performance and other terms and conditions of employment and the welfare or the working environment of employees represented by the bargaining agent;

D. Contributions to charitable, religious or ideological causes not germane to its duties as bargaining agent;

E. Benefits which are not germane to the governance or duties of the bargaining agent related to collective bargaining, contract administration and grievance adjustment and available only to members of the bargaining agent; or

F. Any other activities not related to collective bargaining, contract administration or grievance adjustment.

The service fee may be deducted from the nonmember employee's paycheck and remitted by the employer to the bargaining agent if the nonmember employee executes a proper authorization for such a deduction.

STATEMENT OF FACT

This bill requires that employees covered under the Municipal Public Employees Labor Relations Law and represented by a bargaining agent, who are not members of the bargaining agent, pay a service fee to the bargaining agent which represents their share of the costs and expenditures of the bargaining agent attributable to collective bargaining, contract administration or grievance adjustment. Bargaining agents have a statutory obligation to represent employees in the bargaining unit without respect to membership status. Nonmember employees, while they should not have to support all activities of the agent should pay their share of costs related to service and activities from which they benefit.

The bill requires bargaining agents, before they may collect service fees, to determine the proper amount of the fee, to advise nonmembers of the basis of the determination, to develop procedures for review of challenges to the determination and for making necessary corrections, and to establish an at-least-annual review of the service fee amount with automatic adjustments for overcharges and undercharges.

The fee may include amounts paid to affiliates of the bargaining agent for purposes related to collective bargaining, contract administration and grievance adjustment, but explicitly may not include expenditures for specified political activities and other activities not germane to collective bargaining, contract administration or grievance adjustment for overcharges and undercharges.

The bill also makes it a prohibited practice for public employees, public employee organizations, their agents, members and bargaining agents to discriminate against employees on the basis of the employee's status as a member or nonmember of the bargaining agent.