

MAINE STATE LEGISLATURE

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(New Draft of S.P. 485, L.D. 1501)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1728

S.P. 602

In Senate, June 2, 1983

Reported by Senator Bustin of Kennebec from the Committee on Health and Institutional Services and printed under Joint Rule 2.

Original bill presented by Senator Bustin of Kennebec. Cosponsored by Senator Hayes of Penobscot, Representative Clark of Millinocket and Representative Parent of Benton.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Limit Payments to Health Care
Institutions which Engage Persons to Defeat
the Organization of Collective Bargaining
Units.

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

22 MRSA c. 405-B is enacted to read:

CHAPTER 405-B

LIMITATION ON PAYMENTS TO HEALTH CARE INSTITUTIONS

§1861. Limitation on payments to health care institutions

1 The Legislature is concerned that certain health
2 care institutions have engaged persons with the
3 intent to interfere with, inhibit or disrupt the free
4 exercise of the right of all employees to organize
5 and choose representatives for the purpose of nego-
6 tiating the terms and conditions of their employment
7 or other mutual aid or protection as provided in
8 Title 26, section 911. The Legislature declares that
9 it is consistent with public policy to prohibit the
10 use of funds received from the State for the purpose
11 of engaging those persons. The Legislature acknowl-
12 edges the right of employers to communicate with
13 employees concerning the issue of unionization and
14 further recognizes that employers may obtain counsel
15 for advice and assistance.

16 §1862. Definitions

17 As used in this chapter, unless the context
18 otherwise indicates, the following terms have the
19 following meanings.

20 1. Disallowed expenditure. "Disallowed expendi-
21 ture" means an amount paid to any person for those
22 acts or services rendered, which result in:

23 A. The commission of an unfair labor practice or
24 prohibited practice as determined by:

25 (1) The National Labor Relations Board pur-
26 suant to the United States Code, Title 29,
27 Section 158;

28 (2) The Maine Labor Relations Board pur-
29 suant to Title 26, chapter 7, 9, 9-A or 9-B;
30 or

31 (3) A court of competent jurisdiction pur-
32 suant to Title 26, section 911; and

33 B. Influencing employees respecting
34 unionization, when costs for these activities are
35 disallowed for reimbursement pursuant to Medicare
36 law and regulation.

37 2. Health care institution. "Health care insti-
38 tution" means any person, partnership, association or

1 corporation, including county or local government
2 unit, required to obtain a license pursuant to chap-
3 ter 405.

4 3. Person. "Person" means any person, partner-
5 ship, association or corporation engaged or employed
6 by a health care institution.

7 4. Proportional share. "Proportional share"
8 means the revenue received from the State during the
9 previous 12 months, divided by the sum of revenue
10 received from the State, 3rd party payors and
11 patients during the corresponding 12 months.

12 §1863. Recovery of state funds

13 Upon notification that a health care institution
14 has paid an amount for a disallowed expenditure, the
15 department shall make a determination as to the
16 amount of the disallowed expenditure. The department
17 shall withhold an amount equal to a proportional
18 share of the amount of the disallowed expenditure,
19 according to a schedule determined by the department,
20 from future payments of medical assistance reimburse-
21 ments to be received by the health care institution.
22 If that agency or court determination of a violation
23 is under appeal, the withholding shall be stayed
24 pending a final adverse decision against the institu-
25 tion.

26 §1864. Expenditures not included

27 To the extent consistent with Medicare and
28 Medicaid law and regulation, disallowed expenditures
29 shall not include amounts paid to any person for ser-
30 vices rendered as follows:

31 1. Unfair labor practice. In the commission of
32 any unfair labor practice out of necessity to obtain
33 judicial review of a unit determination finding;

34 2. Contract negotiations. Reasonable expenses
35 for contract negotiations or preparations therefor;

36 3. Disputes concerning contracts. Reasonable
37 expenses associated with disputes concerning the
38 interpretation of contracts;

1 In Title 22, section 1863, the department's ac-
2 tion is now on the basis of notification of a disal-
3 lowed expenditure, consistent with the new defini-
4 tion, and a new provision has been added that the
5 amount in question will not be withheld until a final
6 decision against the institution is made.

7 Title 22, section 1864 further specifies the
8 amounts which are considered in disallowed expendi-
9 tures.

10 In Title 22, section 1865, subsection 1, a new
11 phrase has been added explaining a restriction on
12 coercing employees. In Title 22, section 1865, sub-
13 section 2, the fine has been decreased from \$5,000 to
14 \$500.

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