

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2109

6
7 S.P. 783

In Senate, February 23, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint
9 Rule 26.

10 Referred to the Committee on Audit and Program Review. Ordered
printed and sent down for concurrence.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Diamond of Cumberland.

11 Cosponsors: Senator Pray of Penobscot and Representative Rolde of
York.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Strengthen the Audit and
18 Program Review Processes.
19

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

22 3 MRSA §505, sub-§1-A is enacted to read:

23 1-A. Right of persons to cooperate and provide
24 information. It is unlawful for the State, its de-
25 partments, agencies and commissions of the executive
26 branch to retaliate in any manner against a person
27 because that person has provided information to the
28 joint standing committee of the Legislature having
29 jurisdiction over audit and program review, its mem-
30 bers or staff, or because that person has cooperated
31 with that committee, its members or staff, in the
32 performance of its functions. This unlawful
33 retaliation shall include, but not be limited to, any
34 adverse action such as reprimand, suspension or dis-
35 charge, change in duties, failure to promote or hire;

1 or statements or actions which can reasonably be con-
2 strued as a threat of adverse action. This protec-
3 tion from retaliation shall apply to persons provid-
4 ing information to the joint standing committee of
5 the Legislature having jurisdiction over audit and
6 program review, its members or staff, concerning a
7 department, agency or commission subject to that com-
8 mittee pursuant to this chapter, regardless of wheth-
9 er the committee is engaged in an analysis of that
10 department, agency or commission at the time the in-
11 formation is provided or the retaliation takes place.

12 A person who is subject to unlawful retaliation in
13 violation of this subsection may file a civil action
14 in Superior Court. In any such action, the Superior
15 Court may order damages and declaratory and injunc-
16 tive relief, and any other relief necessary to carry
17 out the purposes of this subsection. The right of
18 action provided by this paragraph shall not replace
19 or in any way affect any other right of action or
20 remedy otherwise available.

21 A person who is subject to unlawful retaliation in
22 violation of this subsection may notify the joint
23 standing committee of the Legislature having juris-
24 diction over audit and program review, its members or
25 staff, that such retaliation has or is taking place.
26 Upon the notification, the committee may, by commit-
27 tee vote, refer the matter to the Attorney General.
28 The Attorney General shall take appropriate action,
29 which may include bringing a civil action in Superior
30 Court seeking declaratory or injunctive relief, and
31 any other relief necessary to carry out the purposes
32 of this subsection. The action by the Attorney Gen-
33 eral shall not replace or in any way affect any other
34 right of action under this subsection or any right of
35 action or remedy otherwise available.

36 In any judicial proceeding authorized by this subsec-
37 tion in which injunctive relief is sought, neither
38 allegation nor proof of unavoidable substantial and
39 irreparable injury to the plaintiff shall be required
40 to obtain a temporary restraining order or injunc-
41 tion.

42 Information provided to the joint standing committee
43 of the Legislature having jurisdiction over audit and

1 program review which is within the scope of a privi-
2 lege against discovery or use as evidence recognized
3 by courts of this State in civil or criminal trials
4 shall not be subject to the freedom of access law,
5 Title 1, chapter 13, subchapter I.

6 STATEMENT OF FACT

7 This bill will assure employees the right to com-
8 municate freely with the joint standing committee of
9 the Legislature having jurisdiction over audit and
10 program review.

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