

MAINE STATE LEGISLATURE

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L.D. 719

(Filing No. H-235)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 514, L.D. 719,
Bill, "AN ACT Defining the Right of Employees of Public Utilities to Testify before Legislative Committees and the Public Utilities Commission."

Amend the Bill by striking out everything after the enacting clause and inserting in its place the following:

'35 MRSA §21 is enacted to read:

§21. Testimony provided by employees of public utilities to legislative committees and to the Public Utilities Commission

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, expressed or implied, but does not include an independent contractor.

B. "Employer" means a public utility licensed to do business in this State with one or more employees.

C. "Legislative committee" means a joint standing committee of the Legislature, a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business.

D. "Own time" means an employee's vacation or

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1 personal time, earned as a condition of employ-
2 ment.

3 2. Right to provide testimony. Every employee of
4 a public utility has the right to represent himself
5 and to testify before a legislative committee or the
6 Public Utilities Commission on his own time. No em-
7 ployee of a public utility who complies with this
8 chapter may be denied the right to testify before a
9 legislative committee or the Public Utilities Commis-
10 sion.

11 3. Discharge of, threats to or discrimination
12 against employees of public utilities for testimony
13 presented to legislative committees or the Public
14 Utilities Commission. Unless otherwise provided for,
15 a supervisor shall not discharge, threaten or other-
16 wise discriminate against an employee of a public
17 utility regarding the employee's compensation, terms,
18 conditions, location or privileges of employment be-
19 cause the employee, in compliance with this chapter,
20 in good faith testifies before or provides informa-
21 tion to a legislative committee or to the Public
22 Utilities Commission regarding the operation of the
23 business of a public utility or because the employee
24 brings the subject matter of the testimony or infor-
25 mation to the attention of a person having supervisory
26 authority.

27 This subsection does not apply to an employee who has
28 testified before or provided information to a legis-
29 lative committee or to the Public Utilities Commis-
30 sion unless the employee has first brought the sub-
31 ject matter of the testimony or information in writ-
32 ing to the attention of a person having supervisory
33 authority with the employer and has allowed the em-
34 ployer a reasonable time to address the subject mat-
35 ter of the testimony or information. If appropriate,
36 the employer shall respond in writing.

37 4. Exceptions. The right created in subsection 3
38 does not apply to testimony which, upon reasonable

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1 inquiry by the employee, would be found to be false,
2 slanderous, libelous or defamatory or to testimony
3 which violates a term or condition of a collectively
4 bargained agreement or to testimony which discloses
5 trade secrets or corporate strategy, the disclosure
6 of which would result in harm to the employer.

7 5. Civil actions for injunctive relief or other
8 remedies. An employee of a public utility who alleges
9 a violation of his rights under this chapter and who
10 has made reasonable efforts to exhaust all grievance
11 procedures, as provided for in the contract of em-
12 ployment or which otherwise may be available at his
13 place of employment, may bring a civil action, in-
14 cluding an action for injunctive relief, within 90
15 days after the occurrence of that alleged violation
16 or if a grievance procedure or similar process termi-
17 nates. The action may be brought in the Superior
18 Court for the county where the alleged violation oc-
19 curred, the county where the complainant resides or
20 the county where the person against whom the civil
21 complaint is filed resides. An employee shall estab-
22 lish each and every element of his case by a prepon-
23 derance of the evidence.

24 6. Remedies ordered by court. A court, in ren-
25 dering a judgment in an action brought pursuant to
26 this chapter, may order reinstatement of the employ-
27 ee, the payment of back wages, full reinstatement of
28 fringe benefits and seniority rights or any combina-
29 tion of these remedies. A court may also award the
30 prevailing party all or a portion of the costs of
31 litigation, including reasonable attorneys' fees and
32 witness fees, if the court determines that the award
33 is appropriate.

34 7. Collective bargaining rights. This chapter
35 shall not be construed to diminish or impair the
36 rights of a person under any collective bargaining
37 agreement.

38 8. Jury trial; common-law rights. Any action

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1 brought under this chapter may be heard by a jury.
2 Nothing in this chapter may be construed to derogate
3 any common-law rights of an employee or employer.

4 STATEMENT OF FACT

5 This amendment retains the language of the origi-
6 nal bill which prohibits discrimination by supervi-
7 sors for employees of public utilities who provide
8 information to legislative committees, such as the
9 Public Utilities Commission. The amendment added lan-
10 guage so that the protection would not apply if the
11 employee acted in bad faith or presented false or
12 slanderous testimony. The employee also would have to
13 bring the matter to the employer's attention in writ-
14 ing. The amendment also requires the employee to fol-
15 low contractual grievance procedures before bringing
16 a civil suit under the amendment.

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Reported by the Committee on Utilities
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Clerk of the House

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