

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1040

S.P. 348

In Senate, April 1, 1987

Reference to the Committee on State and Local Government suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator TUTTLE of York.

Cosponsored by Representative ROTONDI of Athens, Senator
BUSTIN of Kennebec, Representative BICKFORD of Jay.

STATE OF MAINE

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

1 **AN ACT to Allow Increased Participation of**
2 **State Employees in the Electoral**
3 **Process.**
4

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

7 **Sec. 1. 5 MRSA §14, as enacted by PL 1975, c.**
8 **597, is repealed.**

9 **Sec. 2. 5 MRSA §7056, as enacted by PL 1985, c.**
10 **785, Pt. B, §38, is repealed.**

11 **Sec. 3. 5 MRSA §7056-A is enacted to read:**

12 §7056-A. Political activity

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

4 A. "Coerce," "command" or "advise" means to com-
5 pel by threat or force, to instruct any person
6 over whom the officer or employee has a supervi-
7 sory authority, to instruct during business
8 hours, upon the property or premises of the State
9 or by using the facilities or services of the
10 State.

11 B. "Election" means any primary, general or spe-
12 cial election for the nomination or election of
13 municipal county or state officials. "Election"
14 may not include referenda.

15 C. "Nonpartisan election" means an election oth-
16 er than a partisan election.

17 D. "Officer" or "employee of this State" means
18 an employee in the classified or unclassified
19 service, as defined in sections 931 and 7032,
20 subsection 3.

21 E. "Partisan election" means an election in
22 which a candidate may be nominated or elected as
23 a representative of a party, as defined in Title
24 21-A, section 1, subsection 28.

25 2. Use of official authority. No officer or em-
26 ployee in the classified service of this State may
27 use his official authority or influence for the pur-
28 pose of interfering with or affecting the result of
29 an election or a nomination for office.

30 3. Coercion of contributions. No officer or em-
31 ployee in the classified service of this State may
32 directly or indirectly coerce, attempt to coerce,
33 command or advise a state officer or employee to pay,
34 lend or contribute anything of value to a party, com-
35 mittee, organization, agency or person for political
36 purposes.

37 An officer or employee of this State may make and so-
38 licit contributions to a political party, organiza-
39 tion or candidate and may donate his own funds, time

1 or services to a political cause provided the solici-
2 tation or donation of time or services is not made
3 during the employee's state working hours or upon the
4 property or premises of the State or by using the fa-
5 ilities or services of the State. An officer or em-
6 ployee of this state may not solicit political con-
7 tributions from persons with whom he deals in an of-
8 ficial capacity.

9 4. Participation in nonpartisan affairs and non-
10 partisan elections. No officer or employee of this
11 State may directly or indirectly interfere with the
12 participation of any employee of this State in the
13 nonpartisan affairs of any municipality or other po-
14 litical subdivision of this State provided that no
15 conflict of interest results.

16 For the purpose of this section, a "conflict of in-
17 terest" means a situation in which an employee's par-
18 ticipation in the affairs of a municipality results
19 in financial gain to him or members of his family
20 other than any regular compensation paid to him as an
21 officer of that municipality.

22 5. Participation in partisan affairs. No offi-
23 cer or employee of this State may be a candidate for
24 a state office, except those identified under section
25 931, subsection 1, paragraphs A, B and E, nor may
26 they be a candidate for a partisan office without re-
27 ceiving, prior to filing as a candidate, a written
28 statement from the Director of Human Resources indi-
29 cating that he is not a "state or local officer or
30 employee" as defined by the United States Code, Title
31 5, Section 1501, as amended. A partisan election is
32 one in which any of the candidates is to be nominated
33 or elected as representing a party any of whose can-
34 didates for presidential election received votes in
35 the last preceding election at which presidential
36 electors were selected.

37 6. Right of voting and free expression. An of-
38 ficer or employee in the classified service of this
39 State shall retain the right to vote as he chooses
40 and to express his opinions on political subjects and
41 candidates.

1 STATEMENT OF FACT

2 When the present Civil Service Law was
3 recodified, there was an effort to consolidate provi-
4 sions related to political activity of state employ-
5 ees. This bill completes that effort. The bill also
6 increases state employees' rights to participate in
7 the electoral process. State employees may only be a
8 candidate for local and county partisan office if
9 they receive a statement from the Director of the Bu-
10 reau of Human Resources that they are not covered by
11 the Federal Hatch Act. State employees may partici-
12 pate in raising and solicitation of political funds,
13 but may not coerce contributions from other state em-
14 ployees. Coercion is defined consistently with deci-
15 sions under the Federal Hatch Act and applies to all
16 state employees even if they are not covered by the
17 Act. State employees are also prohibited from solici-
18 ting from citizens with whom they have dealings in
19 their official capacity. This bill does not cover
20 elected officials or officers and employees of the
21 Legislature.

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