

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 1758

DATE: 3/18/94

(Filing No. H- 865 )

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1303, L.D. 1758, Bill, "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 26 MRSA c. 7, sub-c. X is enacted to read:

SUBCHAPTER X

EXPENDITURE OF PUBLIC FUNDS

§872. Proper expenditure of state funds

1. Limitation on use of state funds. Except as provided in subsection 2, an employer that is a community agency or nonprofit organization, as defined in Title 5, section 1653, or that is a health care facility or provider, as defined in Title 22, section 382, or an employee organization seeking bargaining agent status on behalf of the employees of an employer subject to this section may not expend state funds or state-administered funds to:

A. Influence employees for or against an attempt to exercise their right to organize and choose representation for the purpose of negotiating terms and conditions of their employment or other mutual aid or protection as provided in the National Labor Relations Act or this Title; or

**COMMITTEE AMENDMENT**

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 1303, L.D. 1758

2 B. Commit violations of a labor, wage and hour, fair  
employment or human rights law or rule.

4 2. Exceptions. The prohibitions on expenditures contained  
in subsection 1 do not apply to those reasonable expenditures  
6 necessary to negotiate and administer collective bargaining  
agreements, to obtain judicial review of a unit determination or  
8 to inform supervisors, management employees or employee  
organizers concerning state or federal labor laws.

10 3. Disclosure of information. Records relating to a  
program or position funded by state funds or state-administered  
12 funds are public records for purposes of Title 1, section 408 and  
14 employers and employee organizations subject to this section  
holding those records are deemed to be state agencies for  
16 purposes of enforcing and implementing that section. Records  
that are excepted from the definition of public records in Title  
18 1, section 402, subsection 3 are not subject to disclosure.

20 4. Disallowed expenditures. Enforcement of the  
restrictions imposed by subsection 1 must be made in accordance  
22 with this subsection.

24 A. In response to a complaint or information obtained  
through normal auditing procedures, a department that  
26 provided state funds or state-administered funds to an  
employer or an employee organization subject to this section  
28 shall investigate whether this section has been violated.  
If that department makes an initial determination that a  
30 violation has occurred, the department may file an action in  
Superior Court or District Court to obtain a finding as to  
32 whether an employer or employee organization violated  
subsection 1.

34 B. When judicial appeals of the court's decision under  
36 paragraph A are completed, the department that provided the  
funds shall withhold an amount equal to the disallowed  
38 expenditure from future payments to be received by the  
employer or employee organization, according to a schedule  
40 determined by that department.'

42 Further amend the bill by inserting at the end before the  
statement of fact the following:

44 **FISCAL NOTE**

46 State departments and agencies that provide funding to  
48 community agencies or nonprofit organizations can absorb the  
costs of a limited number of investigations related to certain  
50 improper uses of state funds. If agencies with limited auditing

2 capacity receive several complaints, they may require additional  
General Fund appropriations to investigate these complaints.

4 The additional workload and administrative costs associated  
with the minimal number of new cases filed in the court system  
6 can be absorbed within the budgeted resources of the Judicial  
Department.'

8  
10  
12 **STATEMENT OF FACT**

14 This amendment replaces the original bill but retains the  
bill's intent to limit the use of public funds to influence  
employees regarding unionization. The amendment extends the  
16 coverage of the bill to employee organizations seeking to  
unionize employees of covered employers and removes all  
18 governmental entities from the application of the bill. The  
amendment provides an exception to the disclosure requirement of  
20 records that would fall within an exception to the freedom of  
access laws and removes the requirement that a list of employees  
22 be provided upon demand. The amendment removes the provision  
prohibiting discrimination and streamlines the enforcement  
24 procedures. The amendment also removes the administrative  
penalty section and adds a fiscal note.