

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

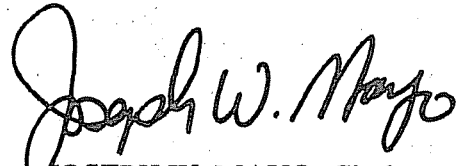
No. 1758

H.P. 1303

House of Representatives, January 20, 1994

**An Act to Protect the Rights of Employees and to Ensure the Proper
Expenditure of Public Funds.**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Labor suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative CHASE of China.
Cosponsored by Senator HANDY of Androscoggin and
Representative: RUHLIN of Brewer, Senator: BUSTIN of Kennebec.

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

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

6 SUBCHAPTER X

8 EXPENDITURE OF PUBLIC FUNDS

10 §872. Proper expenditure of public funds

12 1. Definitions. For the purposes of this section,
14 "employer" means a governmental entity, as defined in Title 14,
16 section 8102; the University of Maine System and the Maine
18 Maritime Academy; the legislative and judicial branches; a
community agency or nonprofit organization as defined in Title 5,
section 1653; or a health care facility or provider as defined in
Title 22, section 382.

20 2. Unlawful actions. Except as provided in subsection 3,
it is unlawful for an employer to expend state funds or
state-administered funds to:

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

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

32 3. Permitted expenditures. It is not unlawful for an
34 employer to expend state funds or state-administered funds to pay:

36 A. A person for services rendered in the commission of an
38 unfair labor practice out of necessity to obtain judicial
review of a unit determination finding;

40 B. Reasonable expenses for contract negotiations or
preparations for negotiations;

42 C. Reasonable expenses associated with disputes concerning
44 the interpretation of contracts;

2 D. Expenses for attorney's fees arising out of a court or
4 agency proceeding or appeal or in preparation for the
proceeding or appeal; or

6 E. Reasonable expenses for educational instruction of
8 supervisors or management employees concerning state or
federal labor laws.

10 4. Discrimination against employees prohibited. An
12 employer may not discharge, threaten or otherwise discriminate
against an employee regarding the employee's compensation, terms,
conditions, location or privileges of employment because:

14 A. The employee, acting in good faith, or a person acting
16 on behalf of the employee, reports orally or in writing to
18 the employer or a public body what the employee has
reasonable cause to believe is a violation of this
subchapter; or

20 B. The employee is requested to participate in an
22 investigation, hearing or inquiry held by that public body,
or in a court action.

24 5. Disclosure of information. Records relating to a
26 program or position funded by state funds or state-administered
28 funds are public records for purposes of Title 1, section 408,
30 and employers holding such records are deemed to be state
32 agencies for purposes of enforcing and implementing that
34 section. Employers who receive state funds or state-administered
funds shall maintain a list containing the names, addresses and
positions of all current employees and shall provide that list,
upon demand, to a state agency or department from whom they
receive funds, a state or federal auditor in performance of the
auditor's duties or an employee organization providing
organizational services or support to employees.

36 6. Disallowed expenditures. State funds or
38 state-administered funds expended in violation of subsection 2
are disallowed expenditures, as provided in this subsection.

40 A. If the National Labor Relations Board, the Maine Labor
42 Relations Board, or a court of competent jurisdiction finds
44 that an employer committed an act described in subsection 2,
46 paragraph A or B, and a state department or agency that
provided funds to the employer finds that state funds or
state-administered funds were expended in committing that
act, that department shall make a determination as to the
48 amount of the disallowed expenditure.

2 B. The department that provided the funds shall withhold an
4 amount equal to the disallowed expenditure, according to a
schedule determined by that department from future payments
to be received by the employer.

6 C. If the agency or court determination of a violation is
8 under appeal, the withholding must be stayed pending a final
adverse decision against the employer.

10 D. A department may not withhold funds if withholding would
12 jeopardize the State's receipt of federal or other funds.

14 E. A department that provided state funds or
16 state-administered funds to an employer may file an action
18 in Superior Court or District Court to obtain a finding as
to whether an employer committed an act described in
subsection 1, paragraph A.

20 7. Administrative penalty. The Department of Labor shall
22 impose an administrative fine of up to \$500 for each violation of
this section, as determined pursuant to the Maine Administrative
Procedure Act.

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STATEMENT OF FACT

This bill makes it unlawful for an employer to use state funds or state-administered funds to influence employees for or against unionization or to commit a violation of a labor, wage and hour, fair employment or human rights law or rule. This bill also requires employers to make certain records available to the public and to keep lists of employees and make them available to certain public agencies, auditors and employee organizations.

This document has not yet been reviewed to determine the need for cross-reference, stylistic and other technical amendments to conform existing law to current drafting standards.