

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 262, L.D. 364, 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. 5 MRSA c. 155-A is enacted to read:

CHAPTER 155-A

EXPENDITURE OF PUBLIC FUNDS

§1827. Limitation on use of state funds

Except as provided in section 1828, an employer that is a community agency or nonprofit organization, as defined in section 1653, or that is a health care facility or provider of health care, 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 chapter may not expend state funds or state-administered funds to:

1. Collective bargaining rights. 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 Title 26; or

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

COMMITTEE AMENDMENT

§1828. Exceptions

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

10 2. Entities exempt. The following entities are not subject
12 to this chapter: municipalities as defined in Title 30-A,
14 section 2001, subsection 8; plantations, or quasi-municipal
16 corporations or districts as defined in Title 30-A, section 2351,
subsection 4; school administrative units as defined in Title
20-A, section 1, subsection 26; and health care facilities or
providers of health care subject to Title 22, chapter 405-B.

18 **§1829. Disallowed expenditures**

20 Enforcement of the restrictions imposed by section 1827 must
22 be made in accordance with this section.

24 1. Department investigation. In response to a complaint or
26 information obtained through normal auditing procedures alleging
28 that an employer or an employee organization subject to this
30 chapter has violated this chapter, the department that provided
32 state funds or state-administered funds to that employer or
34 employee organization shall investigate whether this chapter has
36 been violated. The employer or employee organization shall make
available to the department records relating to any program or
position funded by state funds or state-administered funds.
Records that are excepted from the definition of public records
in Title 1, section 402, subsection 3 are not subject to
disclosure. The personnel records of an employee that are
considered confidential for state employees under Title 5,
section 7070 are not subject to disclosure.

38 2. Court determination. If the investigating department
40 pursuant to subsection 1 makes an initial determination that a
42 violation has occurred, the investigating department may file an
action in Superior Court or District Court to obtain a finding as
to whether an employer or employee organization violated section
1827.

44 3. Payment reduction. When judicial appeals of the court's
46 decision under subsection 2 are completed, the department that
48 provided the funds shall withhold an amount equal to the
disallowed expenditure from future payments to be received by the
employer or employee organization, according to a schedule
50 determined by that department.'

R 018

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

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FISCAL NOTE

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State departments and agencies that provide funding to
community agencies or nonprofit organizations can absorb the
costs of a limited number of investigations related to certain
improper uses of state funds. If agencies with limited auditing
capacity receive several complaints, they may require additional
General Fund appropriations to investigate these complaints.

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

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STATEMENT OF FACT

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This amendment differs from the original bill by providing
that the restrictions on the use of public funds do not apply to
municipalities, plantations and school administrative units nor
to health care facilities already covered by a similar law. The
original bill placed the provisions regarding the use of state
funds in the Maine Revised Statutes, Title 26. The amendment
enacts a new chapter in Title 5. The amendment also adds a
fiscal note.

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