

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 364

H.P. 262

House of Representatives, January 31, 1995

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

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CHASE of China.
Cosponsored by Senator BUSTIN of Kennebec and
Representatives: BERRY of Livermore, HATCH of Skowhegan, JONES of Bar Harbor,
LEMAIRE of Lewiston, ROSEBUSH of East Millinocket, SAMSON of Jay, VOLENIK of
Sedgwick, Senators: RAND of Cumberland, RUHLIN of Penobscot.

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 state funds**

12 **1. Limitation on use of state funds.** Except as provided in
14 subsection 2, an employer that is a community agency or nonprofit
16 organization, as defined in Title 5, section 1653, or that is a
18 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 section may not expend state funds or
state-administered funds to:

20 A. Influence employees for or against an attempt to
22 exercise their right to organize and choose representation
24 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

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

30 **2. Exceptions.** The prohibitions on expenditures contained
32 in subsection 1 do not apply to those reasonable expenditures
34 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.

36 **3. Disallowed expenditures.** Enforcement of the
38 restrictions imposed by subsection 1 must be made in accordance
with this subsection.

40 A. In response to a complaint or information obtained
42 through normal auditing procedures alleging that an employer
44 or an employee organization subject to this section has
46 violated this section, the department that provided state
funds or state-administered funds to that employer or
employee organization shall investigate whether this section
has 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
50 the definition of public records in Title 1, section 402,

2 subsection 3 are not subject to disclosure. The personnel
3 records of an employee that are considered confidential for
4 state employees under Title 5, section 7070 are not subject
5 to disclosure.

6 B. If the investigating department pursuant to paragraph A
7 makes an initial determination that a violation has
8 occurred, the investigating department may file an action in
9 Superior Court or District Court to obtain a finding as to
10 whether an employer or employee organization violated
11 subsection 1.

12 C. When judicial appeals of the court's decision under
13 paragraph B are completed, the department that provided the
14 funds shall withhold an amount equal to the disallowed
15 expenditure from future payments to be received by the
16 employer or employee organization, according to a schedule
17 determined by that department.

20

21 **STATEMENT OF FACT**

22

23 This bill makes it unlawful for an employer to use state
24 funds or state-administered funds to influence employees for or
25 against unionization or to commit a violation of a labor, wage
26 and hour, fair employment or human rights law or rule.