

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2530

H.P. 1803

House of Representatives, January 28, 2000

An Act to Restore Federal Protections to Maine State Employees.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative SAXL of Portland.

Cosponsored by Representative RICHARDSON of Brunswick and

Representatives: BULL of Freeport, LaVERDIERE of Wilton, MITCHELL of Vassalboro, NORBERT of Portland, SAXL of Bangor, Senators: MICHAUD of Penobscot, TREAT of Kennebec.

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

4 **Sec. 1. 1 MRSA §30** is enacted to read:

6 **§30. Consent to be sued by state employees under federal employment laws**

8 The State consents to be sued in state or federal court by
10 its employees, former employees and employment applicants seeking
12 to enforce rights or obtain remedies afforded by federal law when
14 the United States Congress has indicated its intent that such
16 laws be applicable to the states in their capacity as employers.
This consent is given for the sole purpose described in this
section and does not constitute consent to be sued for any other
purpose nor does it constitute a waiver of the State's statutory,
common law or constitutional immunity for any other purpose.

18 **Sec. 2. Application.** This Act applies to suits initiated
20 after the effective date of this Act. Notwithstanding this
22 limitation, the State authorizes the plaintiffs in the cases of
24 Mills v. Maine, 118 F.3d 37 (1st Cir. 1997) and Alden v. Maine,
26 119 S.Ct. 2240 (1999) to sue the State in state court to assert
28 the claims arising under the Fair Labor Standards Act that were
30 asserted in Mills and Alden. Such a suit must be filed no later
32 than 90 days after the effective date of this Act. The State
34 agrees to toll the statute of limitations for the period from the
date of the initial filing of Mills until the date a new action
is commenced pursuant to this statute, provided that the action
is initiated within the prescribed time period. Nothing in this
section is intended to preclude the court from appointing a
special master to decide the case or from accepting or adopting
the filings, evidence and determinations of the special master
and the federal court in Mills. Neither is it intended to
discourage the parties from resolving the dispute informally.

36 **SUMMARY**

38 **This bill provides that state employees may sue the State in**
40 **state or federal court to seek enforcement of the rights and**
42 **remedies provided by federal employment-related laws. The**
44 **purpose of the bill is to provide a forum for individuals or**
46 **groups of individuals to sue the State in its capacity as**
employer, since access to both federal and state courts has been
denied by decisions of the United States Supreme Court.

48 **In the case of Seminole Tribe of Florida v. Florida, 517**
50 **U.S. 44 (1996), the United States Supreme Court ruled that the**
11th Amendment to the United States Constitution provides states
with immunity from suit in federal court. In early 1999, the

2 United States Supreme Court, in its majority decision in the case
of Alden v. Maine, 119 S.Ct. 2240 (1999), ruled that the
4 Constitution provides states with immunity from suit by their
employees in a state court. The states may, however, consent to
such suits. The purpose of this bill is to provide that consent.

6
8 The consent applies in all suits initiated after the
effective date of the law, including suits for acts or omissions
that occurred before the effective date, in keeping with the
10 applicable statutes of limitations. The bill also states the
Legislature's intent that the plaintiffs in the Alden and Mills
12 cases have their claims adjudicated under the Fair Labor
Standards Act.