MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 489

H.P. 328

House of Representatives, February 24, 2015

An Act To Ensure the Right To Work without Payment of Dues or Fees to a Labor Union as a Condition of Employment

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

> R(+ B. Hunt Clerk

Presented by Representative LOCKMAN of Amherst. Cosponsored by Senator BRAKEY of Androscoggin and Representatives: O'CONNOR of Berwick, REED of Carmel, SAWICKI of Auburn, SIROCKI of Scarborough, STETKIS of Canaan, WARD of Dedham, Senators: BURNS of Washington, WILLETTE of Aroostook.

4	2. Not join a union and not pay union dues. Refrain from joining or participating
5	in the activities of organizations for the purposes of representation and collective
6	bargaining, except that an employee may be required to pay to the organization that is the
7	bargaining agent for the employee a service fee that represents the employee's pro rata
8	share of those expenditures that are germane to the organization's representational
9	activities and refrain from paying any dues, fees, assessments or other similar charges,
10	however denominated, of any kind or amount to a labor organization or to a 3rd party or
11	charity in lieu of payment to a labor organization.
12	Sec. 2. 26 MRSA §1023, sub-§2, as enacted by PL 2007, c. 415, §10, is amended
13	to read:
14	2. Not join a union and not pay union dues. Refrain from joining or participating
15	in the activities of organizations for the purposes of representation and collective
16	bargaining, except that an employee may be required to pay to the organization that is the
17	bargaining agent for the employee a service fee that represents the employee's pro rata
18	share of those expenditures that are germane to the organization's representational
19	activities and refrain from paying any dues, fees, assessments or other similar charges,
20	however denominated, of any kind or amount to a labor organization or to a 3rd party or
21	charity in lieu of payment to a labor organization.
22	Sec. 3. 26 MRSA §1283, sub-§2, as enacted by PL 2007, c. 415, §15, is amended
23	to read:
24	2. Not join a union and not pay union dues. Refrain from joining or participating
25	in the activities of organizations for the purposes of representation and collective
26	bargaining, except that an employee may be required to pay to the organization that is the
27	bargaining agent for the employee a service fee that represents the employee's pro rata
28	share of those expenditures that are germane to the organization's representational
29	activities and refrain from paying any dues, fees, assessments or other similar charges,
30	however denominated, of any kind or amount to a labor organization or to a 3rd party or
31	charity in lieu of payment to a labor organization.
32	Sec. 4. 26 MRSA c. 43 is enacted to read:
33	CHADTED 42
33	CHAPTER 43
34	RIGHT TO REFRAIN FROM JOINING A UNION
35	§3501. Definitions
26	As used in this abouton unless the content athermies indicates the fullin-terms
36 37	As used in this chapter, unless the context otherwise indicates, the following terms
3/	have the following meanings.

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

Sec. 1. 26 MRSA §963, sub-§2, as enacted by PL 2007, c. 415, §2, is amended to

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read:

1 1. Employer. "Employer" means a person, firm, association, corporation, public 2 employer, public school employer, public college, public university, public institution or 3 public education agency. 4 2. Labor organization. "Labor organization" means an organization, agency or 5 employee representation committee or union that exists for the purpose, in whole or in 6 part, of negotiating or bargaining with employers on behalf of employees concerning 7 wages, rates of pay, hours of work, other conditions of employment or other forms of 8 compensation. 9 §3502. Right to refrain 10 Notwithstanding any law to the contrary, a person may not be required, as a condition 11 of employment or continuation of employment, to: 12 1. Member. Become or remain a member of a labor organization; 13 2. Dues. Pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization; or 14 15 3. Payment to 3rd party. Pay to a charity or other 3rd party, in lieu of payments specified in subsection 2, any amount equivalent to or a pro rata portion of dues, fees, 16 17 assessments or other charges required of members of a labor organization. 18 §3503. Agreements in violation 19 An agreement, understanding or practice, written or oral, implied or expressed, 20 between a labor organization and an employer that violates a provision of this chapter is 21 unlawful, void and of no legal effect. 22 **§3504.** Penalty 23 A person who directly or indirectly violates any provision of this chapter commits a 24 Class D crime. 25 §3505. Injunctive relief 26 A person injured as a result of another person's violation or threatened violation of a 27 provision of this chapter is entitled to injunctive relief against the person violating or 28 threatening to violate this chapter. 29 **§3506.** Damages 30 A person injured as a result of a violation or threatened violation of a provision of 31 this chapter may recover all damages, including court costs and reasonable attorney's 32 fees, resulting from the violation or threatened violation. A recovery of damages under

this section is independent of and in addition to the penalty provided in section 3504.

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1	§3507. Duty to investigate and enforce
2 3 4 5	The Attorney General shall investigate complaints of a violation or threatened violation of this chapter and shall prosecute any person violating any of its provisions. The Attorney General shall use all means available to ensure effective enforcement of this chapter.
6	§3508. Jurisdiction
7 8	The Superior Court has jurisdiction to hear and decide prosecutions of all offenses under this chapter.
9	§3509. Exceptions
10	This chapter does not apply to the following:
11 12	1. Federal Railway Labor Act. Employers and employees covered by the federal Railway Labor Act, 45 United States Code, Chapter 8;
13	2. Federal employers and employees. Federal employers and employees:
14	3. Federal enclaves. Employers and employees on federal enclaves;
15 16	4. Federal preemption or conflict. Federal law when the provisions of this chapter conflict with or are otherwise preempted by that federal law; or
17 18	5. Existing contract. An employment contract entered into before the effective date of this chapter during the term of that contract.
19	§3510. Application
20 21	This chapter applies to a contract entered into, renewed or extended on or after the effective date of this chapter.
22	SUMMARY
23 24 25 26 27 28 29 30	This bill prohibits a person, including a public employee, an employee of the University of Maine System, the Maine Maritime Academy or the Maine Community College System and an employee of the judicial branch, from being required to join a labor organization or pay any labor organization dues or fees as a condition of employment or continuation of employment, notwithstanding any state law to the contrary. A violation is a Class D crime and is also subject to civil damages and injunctive relief. The Attorney General is responsible for enforcement and is required to prosecute all violations.