

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 771

H.P. 551

House of Representatives, March 2, 2017

**An Act To Protect Political Speech and Prevent Climate Change
Policy Profiling**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LOCKMAN of Amherst.
Cosponsored by Senator MASON of Androscoggin and
Representatives: BRADSTREET of Vassalboro, CEBRA of Naples, GUERIN of Glenburn,
SIROCKI of Scarborough, TIMBERLAKE of Turner, TURNER of Burlington,
WADSWORTH of Hiram, Senator: CUSHING of Penobscot.

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

2 **Sec. 1. 5 MRSA c. 337-D** is enacted to read:

3 **CHAPTER 337-D**

4 **PROTECTED SPEECH**

5 **§4751. Legislative findings**

6 The Legislature finds that the courts have accorded political speech the highest level
7 of protection from abridgment.

8 The Legislature, in agreement with the United States Supreme Court, finds no basis
9 for the proposition that, in the context of political speech, the government may impose
10 restrictions on certain disfavored speakers.

11 The Legislature finds that statutory prohibitions on state action concerning political
12 speech are necessary in order to ensure the highest level of protection for political speech.

13 **§4752. Limitations on Attorney General's authority concerning protected political**
14 **speech**

15 **1. Investigations and prosecutions.** Notwithstanding authority provided in Title 5,
16 chapter 9, the Attorney General may not investigate, join an investigation initiated by
17 another state or the Federal Government or prosecute any person based on that person's
18 protected political speech.

19 **2. Use of prosecutorial power.** Notwithstanding authority provided in Title 5,
20 chapter 9, the Attorney General may not use prosecutorial power to favor or disfavor
21 protected political speech.

22 **§4753. Climate change policy preferences**

23 **1. Contracts and grants.** A department or agency of State Government may not
24 discriminate in purchasing goods or services or in awarding grants or contracts based on
25 the climate change policy preferences of the vendor, recipient or contracting party.

26 **2. Employment.** A department or agency of State Government may not discriminate
27 with respect to the hire, tenure, promotion, transfer, compensation, terms, conditions or
28 privileges of employment or any other matter directly or indirectly related to employment
29 or in recruiting for employment or otherwise discriminate against an individual based on
30 the climate change policy preferences of the individual.

31 **SUMMARY**

32 This bill reinforces the recognition that political speech is deserving of the greatest
33 protection from abridgment by the government. The United States Supreme Court in
34 Citizens United v. Federal Election Commission, 558 U.S. 310 (2010), continued the
35 protection of protected political speech, no matter the source or message. This bill

1 provides explicit legislative findings to reinforce the United States Supreme Court
2 decision and to clearly state the need for statutory protections of protected political
3 speech.

4 The bill specifically prohibits the Attorney General from investigating, joining an
5 investigation initiated by another state or the Federal Government or prosecuting any
6 person based on that person's protected political speech. It also prohibits the Attorney
7 General from using the Attorney General's prosecutorial power to favor or disfavor
8 protected political speech.

9 The bill also prohibits the State from favoring or disfavoring any person based on the
10 person's climate change policy preferences with regard to grants, contracts or
11 employment.