

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1232

H.P. 893

House of Representatives, March 14, 2019

**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 and Housing suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative LOCKMAN of Bradley.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: AUSTIN of Gray, BRADSTREET of Vassalboro, DeVEAU of Caribou,
FAULKINGHAM of Winter Harbor, JOHANSEN of Monticello, O'CONNOR of Berwick,
REED of Carmel, STETKIS of Canaan.

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

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

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 §979-B, sub-§2**, as enacted by PL 2007, c. 415, §6, 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 §1023, sub-§2**, as enacted by PL 2007, c. 415, §10, 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 §1283, sub-§2**, as enacted by PL 2007, c. 415, §15, is amended
33 to read:

34 **2. Not join a union and not pay union dues.** Refrain from joining or participating
35 in the activities of organizations for the purposes of representation and collective
36 bargaining, ~~except that an employee may be required to pay to the organization that is the~~
37 ~~bargaining agent for the employee a service fee that represents the employee's pro rata~~
38 ~~share of those expenditures that are germane to the organization's representational~~
39 ~~activities and refrain from paying any dues, fees, assessments or other similar charges,~~

1 however denominated, of any kind or amount to a labor organization or to a 3rd party or
2 charity in lieu of payment to a labor organization.

3 **Sec. 5. 26 MRSA c. 43** is enacted to read:

4 **CHAPTER 43**

5 **RIGHT TO REFRAIN FROM JOINING A UNION**

6 **§3501. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 **1. Employer.** "Employer" means a person, firm, association, corporation, public
10 employer, public school employer, public college, public university, public institution or
11 public education agency.

12 **2. Labor organization.** "Labor organization" means an organization, agency or
13 employee representation committee or union that exists for the purpose, in whole or in
14 part, of negotiating or bargaining with employers on behalf of employees concerning
15 wages, rates of pay, hours of work, other conditions of employment or other forms of
16 compensation.

17 **§3502. Right to refrain**

18 Notwithstanding any law to the contrary, a person may not be required, as a condition
19 of employment or continuation of employment, to:

20 **1. Member.** Become or remain a member of a labor organization;

21 **2. Dues.** Pay any dues, fees, assessments or other similar charges, however
22 denominated, of any kind or amount to a labor organization; or

23 **3. Payment to 3rd party.** Pay to a charity or other 3rd party, in lieu of payments
24 specified in subsection 2, any amount equivalent to or a pro rata portion of dues, fees,
25 assessments or other charges required of members of a labor organization.

26 **§3503. Agreements in violation**

27 An agreement, understanding or practice, written or oral, implied or expressed,
28 between a labor organization and an employer that violates a provision of this chapter is
29 unlawful, void and of no legal effect.

30 **§3504. Penalty**

31 A person who directly or indirectly violates a provision of this chapter commits a
32 Class D crime.

1 **§3505. Injunctive relief**

2 A person injured as a result of another person's violation or threatened violation of a
3 provision of this chapter is entitled to injunctive relief against the person violating or
4 threatening to violate this chapter.

5 **§3506. Damages**

6 A person injured as a result of a violation or threatened violation of a provision of
7 this chapter may recover all damages, including court costs and reasonable attorney's
8 fees, resulting from the violation or threatened violation. A recovery of damages under
9 this section is independent of and in addition to the penalty provided in section 3504.

10 **§3507. Duty to investigate and enforce**

11 The Attorney General shall investigate complaints of a violation or threatened
12 violation of this chapter and shall prosecute any person violating any of its provisions.
13 The Attorney General shall use all means available to ensure effective enforcement of
14 this chapter.

15 **§3508. Jurisdiction**

16 The Superior Court has jurisdiction to hear and decide prosecutions of all offenses
17 under this chapter.

18 **§3509. Exceptions**

19 This chapter does not apply to the following:

20 **1. Federal Railway Labor Act.** Employers and employees covered by the federal
21 Railway Labor Act, 45 United States Code, Chapter 8;

22 **2. Federal employers and employees.** Federal employers and employees;

23 **3. Federal enclaves.** Employers and employees on federal enclaves; or

24 **4. Federal preemption or conflict.** Federal law when the provisions of this chapter
25 conflict with or are otherwise preempted by that federal law.

26 **SUMMARY**

27 This bill prohibits a person, either in the public or private sector, from being required
28 to join a labor organization or pay any labor organization dues or fees as a condition of
29 employment or continuation of employment, notwithstanding any state law to the
30 contrary. A violation is a Class D crime and is also subject to civil damages and
31 injunctive relief. The Attorney General is responsible for enforcement and is required to
32 prosecute all violations.