

MAINE STATE LEGISLATURE

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N I N E T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1359

H. P. 1192

House of Representatives, March 12, 1953

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Miss Cormier of Rumford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Relating to Undesirable Political Activities.

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

Sec. 1. R. S., c. 8, § § 10 - 23, additional. Chapter 8 of the revised statutes is hereby amended by adding thereto 14 new sections, to be numbered 10 to 23, inclusive, to read as follows:

'Undesirable Political Activities

Sec. 10. Intimidation and coercion of voters in elections. It shall be unlawful for any person to intimidate, threaten or coerce, or to attempt to intimidate, threaten or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for any national, state, county or municipal office at any election held therefor in this state.

Sec. 11. Administrative employees of the state; use of official authority to influence elections. It shall be unlawful for any person employed in any administrative position by the state or any agency or department thereof to use his official authority for the purpose of interfering with, or affecting, the election or the nomination of any candidate for any national, state, county or municipal office.

Sec. 12. Political activity; promise of employment, compensation or other benefit. It shall be unlawful for any person, directly or indirectly, to promise any employment, position, work, compensation or other benefit, provided for or made possible in whole or in part by any act of the legislature, to any person as consideration, favor or reward for any political activity or for the support of or opposition to any candidate or any political party in any election.

Sec. 13. Deprivation of employment, compensation or other benefit. It shall be unlawful for any person to deprive, attempt to deprive or threaten to deprive, by any means, any person of any employment, position, work, compensation or other benefit provided for or made possible by any funds appropriated by any act of the legislature on account of race, color, creed or any political activity, support of or opposition to any candidate or any political party in any election.

Sec. 14. Assessments; contributions; solicitation from benefit recipients. It shall be unlawful for any person to solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political purpose whatever from any person known by him to be entitled to or receiving compensation, employment or other benefit provided for or made possible by any funds appropriated by any act of the legislature.

Sec. 15. List of benefit recipients; furnishing. It shall be unlawful for any person for political purposes to furnish or to disclose, or to aid or assist in furnishing or disclosing, any list or names of persons receiving compensation, employment or benefits provided for or made possible by any act of the legislature appropriating, or authorizing the appropriation of, funds therefor to a political candidate, committee, campaign manager or to any person for delivery to a political candidate, committee or campaign manager, and it shall be unlawful for any person to receive any such list or names for political purposes.

Sec. 16. Penalties. Any person who violates any of the provisions of section 10 to 15, inclusive, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Sec. 17. Financial aid to candidates.

I. Contributions. It is declared to be a pernicious political activity, and it shall hereafter be unlawful, for any person, directly or indirectly, to make contributions in an aggregate amount in excess of \$5,000 during any calendar year, in connection with any campaign for nomination or

election, to or or behalf of any candidate for an elective national, state, county or municipal office, or to or on behalf of any committee or other organization engaged in furthering, advancing or advocating the nomination or election of any candidate for any such office or the success of any political party.

II. Definitions. For the purposes of this section the term "contributions" includes a gift, subscription, loan, advance or deposit of money, or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution; and the term "person" includes an individual, partnership, committee, association, corporation and any other organization or group of persons.

III. Penalties. Any person who engages in a pernicious political activity in violation of any provision of this section shall, upon conviction thereof, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months. In all cases of violations of this section by a partnership, committee, association, corporation or other organization or group of persons, the officers, directors or managing heads thereof who knowingly and wilfully participate in such violation shall be subject to punishment as herein provided.

IV. Existing laws unaffected. Nothing in this section shall be construed to permit the making of any contribution which is prohibited by any provision of law in force on the date this section takes effect.

Sec. 18. Executive employees; use of official authority; political activity; penalties. It shall be unlawful for any person employed in the executive branch of the state government, or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No officer or employee in the executive branch of state government, or any agency or department thereof, shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of this section the term "officer" or "employee" shall not be construed to include:

I. the governor,

II. persons whose compensation is paid from the appropriation for the office of the governor nor

III. members of the governor's council.

Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any act of the legislature for such position or office shall be used to pay the compensation of such person.

Sec. 19. State employees; membership in political parties; penalties. It shall be unlawful for any person employed in any capacity by any agency of the state government, whose compensation, or any part thereof, is paid from funds authorized or appropriated by any act of the legislature, to have membership in any political party or organization which advocated the overthrow of our constitutional form of government in the United States.

Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any act of the legislature for such position or office shall be used to pay the compensation of such person.

Sec. 20. Political activities review board; appointment; terms; employees; compensation. A political activities review board, hereinafter in sections 20 to 23, inclusive, called the "board," is hereby established and shall consist of an executive secretary, who shall be the state director of personnel, and 4 other members, hereinafter called the "appointive members", who shall be appointed by the governor, with the advice and consent of the council, for terms of 4 years. The governor shall designate one of the appointive members to be chairman of the board, and not more than 2 of the appointive members shall belong to the same political party. No appointive member shall hold any other office in the federal, state or any county government. Any vacancy occurring in said board shall be filled by appointment for the unexpired portion of the term in which such vacancy occurs.

Subject to the provisions of the personnel law, the board shall appoint such employees as it shall deem necessary to carry out its duties.

The members of the board shall each be allowed the sum of \$20 per day and actual expenses when in the performance of their official business.

Sec. 21. Rules and regulations. The board may make all necessary rules and regulations to carry out the duties assigned to it under the provisions of sections 10 to 23, inclusive.

Sec. 22. Powers of political activities review board. The board shall inquire into any violations of sections 10 to 15, inclusive, and 17 to 19, inclusive; and shall report all violations thereof to the attorney-general. Up-

on the request of the board, the attorney-general, or the county attorney of the appropriate county, shall aid in any investigation hearing, or trial had under the provisions of said sections, and shall institute and prosecute all necessary actions or proceedings for the enforcement of the provisions of said sections. The board may employ counsel in any proceeding, investigation or trial.

Sec. 23. Removal of state employees violating provisions of §§ 18 and 19. Upon receipt of any complaint charging a violation of sections 18 or 19, or upon the receipt of any other information which seems to the board to warrant an investigation of a possible violation under said sections, the board shall fix a time and place for a hearing, and shall send by registered mail to the employee charged with the violation and to the state department or agency employing such employee a notice, setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing, which shall be not earlier than 10 days after the mailing of such notice, either the employee or the state department or agency, or both, may appear with counsel and be heard. After such hearing, the board shall determine whether any violation of such sections has occurred and whether such violation, if any, warrants the removal of the employee by whom it was committed from his office or employment, and shall notify by registered mail such employee and the appropriate state department or agency of such determination. Such determination shall become final upon the expiration of 30 days after the mailing of notice of such determination; and the state department or agency concerned shall thereupon remove such employee from his office or employment, and he shall not thereafter be employed by any state department or agency for a period of at least 2 years after such removal.

Any party aggrieved by any determination or order of the board under the provisions of the 1st paragraph of this section may, within 30 days after the mailing of notice of such determination or order, institute proceedings for the review thereof by filing a written petition in the superior court; but the commencement of such proceedings shall not operate as a stay of such determination or order unless it is specifically so ordered by the court and such employee is suspended from his office or employment during the pendency of such proceedings. A copy of such petition shall be served forthwith upon the board; and thereupon the board shall certify and file in the court a transcript of the record upon which the determination or the order complained of was made. The review by the court shall be on the record entire, including all of the evidence taken on the hearing, and shall extend to questions of fact and questions of law. If application is

made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce such evidence in the hearing before the board, the court may direct such additional evidence to be taken before the board in such manner and upon such terms and conditions as to the court may seem proper. The board may modify its findings of fact or its determination or order by reason of the additional evidence so taken and shall file with the court such modified findings, determination or order, and any such modified findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the board's determination or order, or its modified determination or order, if the court determines that the same is in accordance with law. If the court determines that any such determination or order, or modified determination or order, is not in accordance with law, the court shall remand the proceedings to the board with directions either to make such determination or order as the court shall determine to be in accordance with law or to take such further proceedings as, in the opinion of the court, the law requires.

The board shall have power to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter pending under this section before the board. Any member of the board may sign subpoenas, and members of the board and its examiners when authorized by the board may administer oaths and affirmations, examine witnesses and receive evidence. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the state at any designated place of hearing. In case of disobedience to a subpoena, the board may invoke the aid of any justice of the superior court, in term time or vacation, in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of such justices may, in case of contumacy or refusal to obey a subpoena issued by any person, issue an order requiring such person to appear before the board, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The board may order testimony to be taken by deposition in any proceeding or investigation, which as a result of this section, is pending before the board at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the board and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and

to produce documentary evidence before the board hereinbefore provided. No person shall be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the board in obedience to a subpoena issued by it; provided that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.'

Sec. 2. Appropriation. There is hereby appropriated from the general fund, for the purpose of carrying out the provisions of this act, the sum of \$35,000. Such appropriation shall not lapse but shall remain a continuing carrying account.