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Legislative Document

No. 65

H.P. 52

House of Representatives, January 11, 2017

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.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative LOCKMAN of Amherst.

Cosponsored by Representative ESPLING of New Gloucester, Senator BRAKEY of Androscoggin, Senator CUSHING of Penobscot and

Representatives: AUSTIN of Gray, GINZLER of Bridgton, O'CONNOR of Berwick, SANDERSON of Chelsea, SIROCKI of Scarborough, SUTTON of Warren, VACHON of Scarborough, Senator: VOLK of Cumberland.

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 read:
- 2. Not join a union and not pay union dues. Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities and refrain from paying any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization or to a 3rd party or charity in lieu of payment to a labor organization.
- **Sec. 2. 26 MRSA §979-B, sub-§2,** as enacted by PL 2007, c. 415, §6, is amended to read:
 - 2. Not join a union and not pay union dues. Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities and refrain from paying any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization or to a 3rd party or charity in lieu of payment to a labor organization.
 - **Sec. 3. 26 MRSA §1023, sub-§2,** as enacted by PL 2007, c. 415, §10, is amended to read:
 - 2. Not join a union and not pay union dues. Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities and refrain from paying any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization or to a 3rd party or charity in lieu of payment to a labor organization.
 - **Sec. 4. 26 MRSA §1283, sub-§2,** as enacted by PL 2007, c. 415, §15, is amended to read:
 - 2. Not join a union and not pay union dues. Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities and refrain from paying any dues, fees, assessments or other similar charges,

1 2	however denominated, of any kind or amount to a labor organization or to a 3rd party or 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 8	As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
9 10 11	1. Employer. "Employer" means a person, firm, association, corporation, public employer, public school employer, public college, public university, public institution or public education agency.
12 13 14 15 16	2. Labor organization. "Labor organization" means an organization, agency or employee representation committee or union that exists for the purpose, in whole or in part, of negotiating or bargaining with employers on behalf of employees concerning wages, rates of pay, hours of work, other conditions of employment or other forms of compensation.
17	§3502. Right to refrain
18 19	Notwithstanding any law to the contrary, a person may not be required, as a condition of employment or continuation of employment, to:
20	1. Member. Become or remain a member of a labor organization;
21 22	2. Dues. Pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization; or
23 24 25	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, assessments or other charges required of members of a labor organization.
26	§3503. Agreements in violation
27 28 29	An agreement, understanding or practice, written or oral, implied or expressed, between a labor organization and an employer that violates a provision of this chapter is unlawful, void and of no legal effect.
30	§3504. Penalty
31 32	A person who directly or indirectly violates any provision of this chapter commits a Class D crime.

1	§3505. Injunctive relief
2 3 4	A person injured as a result of another person's violation or threatened violation of a provision of this chapter is entitled to injunctive relief against the person violating of threatening to violate this chapter.
5	§3506. Damages
6 7 8 9	A person injured as a result of a violation or threatened violation of a provision of this chapter may recover all damages, including court costs and reasonable attorney's 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.
10	§3507. Duty to investigate and enforce
11 12 13 14	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.
15	§3508. Jurisdiction
16 17	The Superior Court has jurisdiction to hear and decide prosecutions of all offenses under this chapter.
18	§3509. Exceptions
19	This chapter does not apply to the following:
20 21	1. Federal Railway Labor Act. Employers and employees covered by the federal 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 25	4. Federal preemption or conflict. Federal law when the provisions of this chapter conflict with or are otherwise preempted by that federal law.
26	SUMMARY
27 28 29 30 31 32	This bill prohibits a person, either in the public or private sector, 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.