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Legislative Document

No. 97

H.P. 63

House of Representatives, January 13, 2021

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

Received by the Clerk of the House on January 11, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT
Clerk

Presented by Representative FAULKINGHAM of Winter Harbor.
Cosponsored by Senator STEWART of Aroostook and
Representatives: ANDREWS of Paris, CONNOR of Lewiston, GRIGNON of Athens, LIBBY
of Auburn, LYFORD of Eddington, SAMPSON of Alfred.

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 share~~
8 ~~of those expenditures that are germane to the organization's representational activities~~ and
9 refrain from paying any dues, fees, assessments or other similar charges, however
10 denominated, of any kind or amount to a labor organization or to a 3rd party or charity in
11 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 share~~
18 ~~of those expenditures that are germane to the organization's representational activities~~ and
19 refrain from paying any dues, fees, assessments or other similar charges, however
20 denominated, of any kind or amount to a labor organization or to a 3rd party or charity in
21 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 share~~
28 ~~of those expenditures that are germane to the organization's representational activities~~ and
29 refrain from paying any dues, fees, assessments or other similar charges, however
30 denominated, of any kind or amount to a labor organization or to a 3rd party or charity in
31 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 share~~
38 ~~of those expenditures that are germane to the organization's representational activities~~ and
39 refrain from paying any dues, fees, assessments or other similar charges, however
40 denominated, of any kind or amount to a labor organization or to a 3rd party or charity in
41 lieu of payment to a labor organization.

42 **Sec. 5. 26 MRSA c. 47** is enacted to read:

1 CHAPTER 47

2 RIGHT TO REFRAIN FROM JOINING A UNION

3 §3701. Definitions

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

6 1. Employer. "Employer" means a person, firm, association, corporation, public
7 employer, public school employer, public college, public university, public institution or
8 public education agency.

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

14 §3702. Right to refrain

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

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

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

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

23 §3703. Agreements in violation

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

27 §3704. Penalty

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

30 §3705. Injunctive relief

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

34 §3706. Damages

35 A person injured as a result of a violation or threatened violation of a provision of this
36 chapter may recover all damages, including court costs and reasonable attorney's fees,
37 resulting from the violation or threatened violation. A recovery of damages under this
38 section is independent of and in addition to the penalty provided in section 3704.

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§3707. Duty to investigate and enforce

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.

§3708. Jurisdiction

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

§3709. Exceptions

This chapter does not apply to the following:

- 1. Federal Railway Labor Act.** Employers and employees covered by the federal Railway Labor Act, 45 United States Code, Chapter 8;
- 2. Federal employers and employees.** Federal employers and employees;
- 3. Federal enclaves.** Employers and employees on federal enclaves; or
- 4. Federal preemption or conflict.** Federal law when the provisions of this chapter conflict with or are otherwise preempted by that federal law.

SUMMARY

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.