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Laura A. Fortman
COMMISSIONER

To: Senator Craig Hickman, Chair
Representative Mike Sylvester, Chair
Members of the Joint Standing Committee on Labor and Housing

From: Michael Roland, Director, Bureau of Labor Standards, Maine Department of Labor

Date: Friday, May 20, 2021

Re: L.D. 1711, An Act To Enhance Enforcement of Employment Laws

The Department would like to provide the following letter regarding L.D. 1711, An Act To Enhance Enforcement of Employment Laws.

LD 1711 would create a private enforcement mechanism for employment laws by allowing a private attorney, representing a whistleblower, to act on behalf of the state. The Department would first have the opportunity to decide whether or not to take enforcement actions in the matter itself.

With regard to the bill's intent to bolster enforcement of employment law by unconventional means, the Department recognizes the need to strengthen its ability to effectively implement existing wage and hour statutes. As we have stated in other contexts, we are concerned that many thousands of Maine workers are not receiving the pay, benefits and protections to which they are entitled by law. It is for this very reason that in the administration's current supplemental budget several additional positions have been requested within the Wage and Hour Division of the Bureau of Labor Standards. The requested three additional Inspector positions and one Fraud Investigator will not only help us more quickly resolve incoming complaints, but will also allow the Division to focus on strategic enforcement efforts targeted at industries and occupations with known high violations, recognized vulnerable populations and increasingly fissured sectors of today's economy.

We also believe that limitations on the availability of required legal support from the Department's sole Assistant Attorney General currently hampers our ability to secure unpaid wages for Maine workers and when necessary to pursue penalties in order to promote compliance with employment law. An additional Assistant Attorney General will help us aggressively pursue the most egregious violations and hold the truly bad actors accountable. Altogether, we are confident that obtaining these additional resources for the Department and the Attorney General's Office are the most effective means to more responsively identify, correct and prevent violations, and will ultimately benefit workers and employers alike.

In closing, we note that the current proposal is at least in part designed specifically to enable workers to obtain justice despite the increasing reliance by employers on forced arbitration and confidentiality agreements. The Department remains willing to engage in conversations about how best to ensure that employment law is effectively enforced in Maine and to consider creative solutions. However, we believe that augmenting conventional enforcement methods by adding dedicated enforcement staff is the best approach at this time. For these reasons, the Department respectfully opposes this legislation.

Thank you very much for the consideration of my letter. I will be happy to join you for the work session on this bill and answer any questions you may have.

The Maine Department of Labor is committed to serving Maine workers and businesses by helping employers recruit and train a talented workforce, providing workers with skills needed to compete in our economy, assisting individuals when jobs are lost, aiding people with disabilities reach career goals, ensuring safe and fair workplaces for people on the job and providing research and analysis of employment data to support job growth.

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