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An Act To Prohibit Mandatory Membership in a Union or Payment of Agency Fees as a Condition of Employment

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

Sec. 1. 26 MRSA c. 43 is enacted to read:

CHAPTER 43

RIGHT TO REFRAIN FROM JOINING A UNION

§ 3501. Definitions

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

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

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.

§ 3502. Right to refrain

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

- 1. Member.** Become or remain a member of a labor organization;
- 2. Dues.** Pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization; or
- 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.

§ 3503. Agreements in violation

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 without any legal effect.

§ 3504. Penalty

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

§ 3505. Injunctive relief

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

§ 3506. Damages

A person injured as a result of a violation or threatened violation of the provisions 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.

§ 3507. 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.

§ 3508. Jurisdiction

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

§ 3509. 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;

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

5. Existing contract. An employment contract entered into before the effective date of this chapter during the term of that contract.

§ 3510. Application

This chapter applies to a contract entered into, renewed or extended on or after the effective date of this chapter.

SUMMARY

This bill prohibits a person 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.