



MAINE AFL-CIO

A Union of Unions Standing for Maine Workers

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Testimony of Maine AFL-CIO Legislative & Political Director, Adam Goode, in Support of L.D. 775 "An Act To Include within the Definitions of "Public Employee" and "Judicial Employee" Those Who Have Been Employed for Less Than 6 Months"

Senator Hickman, Representative Sylvester and members of Labor & Housing Committee, my name is Adam Goode. I'm the Legislative and Political Director of the Maine AFL-CIO. We represent 40,000 working people in the state of Maine. We work to improve the lives and working conditions of our members and all working people. We testify in support LD 775.

Under current law, public sector workers that fall under the Municipal Employees Labor Relations Law, the State Employees Labor Relations Act and the Judicial Employees Labor Relations Act and have been employed for less than six months are excluded from the definition of "public employee". LD 775 includes these workers as public employees.

This is important because the current law prevents employees who are in their first six months of employment from receiving benefits or protections, including the right to file a Prohibited Practice Charge, to vote on choosing a bargaining agent or decertification, and the right to union representation.

What this means is that an employee in their first six months of work who is terminated shortly after raising concerns about gender, age or racial discrimination can have their employer refuse to acknowledge the grievance filed by the union on behalf of the employee. Why should the fact that an employee is new provide a loophole that allows employers to cover up discriminatory behavior?

We want to be very clear that we are not talking about a bargained probationary period. This can be confusing, as an employee's initial probationary period can overlap with the six-month window addressed in this bill. Issues related to just cause, which non-probationary employees are protected by, are not related to the six-month window. A newly hired teacher may be under a collectively bargained three- or two-year probationary period, but this six-month provision is not related in any way to that probationary period. A good way to understand this is that you can be in the bargaining unit, voting on a bargaining agent or decertification, during your probationary period. In the six-month window, the employee is not even in the bargaining unit.

This six-month exception is not in the University of Maine System Labor Relations Act, the National Labor Relations Act or in private sector contracts. Employees in those workplaces have the same rights, responsibilities and union representation as their co-workers and are likely in a probationary period. The Maine Human Rights Act and the Maine Whistleblower Protection Act also do not have similar provisions.

The lack of representation resulting from the current law has consequences for workers. While new hires in the six-month time frame enjoy the same benefits as their co-workers, employers can deny such benefits by arguing that the union representing the employee is not allowed to enforce the contract. In practice, there is no two-tier system where an employee in their fifth month of employment works under different terms and conditions than their coworker in a seventh month of employment. Despite the practice, the lack of protection resulting from the exclusion of workers in the first six months of employment means an employer could deny a benefit, like parental leave and argue that the employee's union cannot enforce the contract through a grievance process. This leaves the employee with one option – hiring outside counsel to bring an expensive human rights complaint.

Passing this bill gives excluded public sector employees the same representation as the rest of their coworkers. This committee and the 129th Legislature passed legislation giving bargaining agents the right to meet with new hires in their first 40 days of employment, including access to information about those members. Despite having the opportunity to hear information about the bargaining unit, these new hires are not members of the unit when this information is shared. Removing this six-month exclusion will provide greater clarity to this practice.

We urge you to vote out to pass on LD 775