

## **TESTIMONY**

In support of

### **LD 1711: An Act to Enhance Enforcement of Employment Laws**

Andrew Mason, General Counsel, Maine Education Association

Before the Joint Standing Committee on Labor and Housing

**May 21st, 2021**

Senator Hickman, Representative Sylvester and other esteemed members of the Labor and Housing Committee,

My name is Andrew Mason and I am here on behalf of the Maine Education Association to testify in support of LD 1711, An Act to Enhance Enforcement of Employment Laws. The MEA represents 24,000 educators in our great state, including thousands of teachers, ed tech IIs and ed tech IIIs, and nearly 5,000 retired educators.

This committee has heard testimony on various bills that attempt to give employees more power to enforce their rights in the workplace. Oftentimes you have heard that current law is inadequate in not providing strict enough enforcement or that enforcement is limited to relying upon a state agency to take action. Employers often characterize employees attempting to enforce technical or procedural violations as a nuisance. I would argue that having laws that protect employees are worthless whenever enforcement is either lacking or not provided for and that employees who report violations of the law, no matter how technical or procedural, are deserving of encouragement and protection.

This bill provides a pathway to employees who want to report certain violations of the Maine Human Rights Act concerning employment discrimination as well as other violations found in Title 26 – Employment Practices. It balances the concern of employers who might fear being subject to increased litigation by requiring an employee to pay a filing fee with the Notice filed with the Attorney General’s office (or responsible state official); which will necessarily limit filings to those where an employee feels aggrieved enough to pay a fee. The bill then gives the AG’s office 180 days to investigate the notice/complaint and file a private action. If it does not complete its investigation within 180 days or chooses not to file a private action, the individual who filed the notice can commence a private action in which the AG’s office has a right to intervene. The incentive to pursue a meritorious private action comes from the allowance of reasonable attorney fees to a prevailing party. This incentive is also what will serve to weed out what could be deemed frivolous filings in that attorneys will only pursue such actions that are likely to prevail.

Finally, the bill gives oversight of settlements and awards to the AG's office or the judge in an enforcement action, to ensure that the dismissal or settlement is adequate, fair, reasonable, and in the public interest. The bill utilizes the penalties and fees that are already in statute and where there is none, provides for a penalty of \$250 per aggrieved employee, per every 2-week period during which the violation occurred. Finally, the employee is protected against retaliation by allowing suit for retaliation which would expand the damages available to the standard damage awards in civil suits, which include compensatory and punitive damages, costs, and attorney fees.

It should not be a controversial position for the Legislature to reaffirm the importance of employers following the laws of Maine. Many low-wage hourly workers depend upon and rely upon employers to do the right thing and follow the law. It is also not a controversial statement to say that some supervisors, managers, or employers also try to skirt the various employment laws, sometimes merely because they think they can as a display of power or control. This bill proposes strengthening Maine's existing employment law and enforcement provisions by increasing the ability of the state to provide oversight and enforcement of the wage laws and, where necessary or warranted, allow an employee to take matters into their own hands to pursue a private action to enforce their rights.

Thank you for your time and I am happy to answer any questions.