

# **126th MAINE LEGISLATURE**

### FIRST REGULAR SESSION-2013

**Legislative Document** 

No. 831

H.P. 582

House of Representatives, March 5, 2013

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

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative LOCKMAN of Amherst. Cosponsored by Senator THOMAS of Somerset and Representatives: CHASE of Wells, DAVIS of Sangerville, GIFFORD of Lincoln, KESCHL of Belgrade, KINNEY of Limington, MALABY of Hancock, SIROCKI of Scarborough, Senator: THIBODEAU of Waldo.

	Be it enacted by the People of the State of Maine as follows:
	Sec. 1. 26 MRSA c. 39 is enacted to read:
	CHAPTER 39
	<b>RIGHT TO REFRAIN FROM JOINING A UNION</b>
	§3301. Definitions
	As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
	<b>1. Employer.</b> "Employer" means all persons, firms, associations, corporations, public employers, public school employers and public colleges, universities, institutions and education agencies.
	<b>2.</b> 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.
	§3302. 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
	<b>3.</b> 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.
	§3303. 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, null and void, and without any legal effect.
	<u>§3304. Penalty</u>
	A person who directly or indirectly violates any provision of this chapter commits a Class D crime.

#### 1 §3305. 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.

#### 5 <u>§3306. Damages</u>

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 3304.

#### 10 §3307. Duty to investigate and enforce

11 <u>The Attorney General shall investigate complaints of a violation or threatened</u> 12 <u>violation of this chapter and shall prosecute any person violating any of its provisions.</u> 13 <u>The Attorney General shall use all means in the command of the Attorney General to</u> 14 <u>ensure effective enforcement of this chapter.</u>

#### 15 §3308. Jurisdiction

16 <u>The Superior Court has jurisdiction to hear and decide prosecutions of all offenses</u>
17 <u>under this chapter.</u>

#### 18 **§3309.** Exceptions

19 <u>This chapter does not apply to the following:</u>

## 20 <u>1. Federal Railway Labor Act.</u> Employers and employees covered by the federal 21 <u>Railway Labor Act;</u>

- 22 **2. Federal employers and employees.** Federal employers and employees:
- 23 **<u>3. Federal enclaves.</u>** Employers and employees on federal enclaves;

24 <u>4. Federal preemption or conflict.</u> When the provisions of this chapter conflict
25 with or are otherwise preempted by federal law; or

26 5. Existing contract. An employment contract entered into before the effective date
27 of this chapter during the term of that contract; however, this chapter applies to a contract
28 entered into, renewed or extended on or after the effective date of this chapter.

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#### 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.