

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1502

H. P. 1009

House of Representatives, March 8, 1967

Referred to Committee on Labor. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Scribner of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Establishing the University Employees Arbitration Law.

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

R. S., T. 26, c. 10-A, additional. Title 26 of the Revised Statutes is amended by adding a new chapter 10-A, to read as follows:

CHAPTER 10-A

UNIVERSITY EMPLOYEES ARBITRATION LAW

§ 994. Short title

This chapter shall be known and may be cited as the "University Employees Arbitration Law."

§ 994. Policy

The public interest demands that the permanent employees of any university not be accorded the right to strike or engage in any work stoppage or slowdown. This necessary prohibition does not require the denial to such university employees of other well recognized rights of labor such as the right to organize, to be represented by a labor organization of their choice, and the right to bargain collectively concerning wages, rates of pay and other terms and conditions of employment.

It is declared to be the public policy of this State to accord to the permanent employees of any university or any branch thereof in any municipality all of the rights of labor other than the right to strike, or engage in any work stoppage or slowdown. To provide for the exercise of these rights, a method of arbitration of disputes is established.

The establishment of this method of arbitration shall not in any way whatever be deemed to be a recognition by the State of compulsory arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative mode of settling disputes where employees must, as a matter of public policy, be denied the usual right to strike.

§ 995. Definitions

As used in this chapter the following terms shall, unless the context requires a different interpretation, have the following meanings:

1. Corporate authorities. "Corporate authorities" means the proper officials within any university whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions and other terms and conditions of employment of university employees, whether they are the board of trustees, president, director, overseer, superintendent or by whatever other name the same may be designated, or any combination thereof.

2. University. "University" means an institution of higher education chartered by the State and receiving in excess of 30% of the funds required for operating expenditures from the State.

3. University department. "University department" means an administrative unit organized on a functional basis and comprised primarily of employees possessing similar skills or performing related duties.

4. University employee. "University employee" means the permanent employees of any university or branch thereof in any municipality within the State excluding students and academic personnel.

§ 996. Right to organize and bargain collectively

The university employees of any university or branch thereof shall have the right to bargain collectively with their corporate authorities and to be represented by a labor organization in such collective bargaining as to wages, rates of pay, hours, working conditions and all other terms and conditions of employment notwithstanding any provision of the university's charter to the contrary.

§ 997. Recognition of bargaining agent

The Commissioner of Labor and Industry upon signed petition of at least 50% of the university employees employed in one or more university departments at one or more locations within the State that they desire to be represented by an organization shall conduct a secret election to determine whether the organization represents a majority of all the university employees and upon determination that they do, he shall certify them as a bargaining agent. The labor organization certified as representing a bargaining agent shall be recognized by the university authorities as the sole and exclusive bargaining agent for all of the employees unless and until a decertification election shall be held and the labor organization declared by the Commissioner of Labor and Industry as not representing a majority of the university employees.

§ 998. Obligation to bargain

It shall be the obligation of the university, acting through its corporate authorities, to meet and confer in good faith with the representative or representatives of the bargaining agent within 10 days after receipt of written notice from said bargaining agent of the request for a meeting for collective bargaining purposes. This obligation shall include the duty to cause any agreement resulting from negotiations to be reduced to a written contract, provided that no such contract shall exceed the term of one year.

§ 999. Unresolved issues submitted to arbitration

In the event that the bargaining agent and the corporate authorities are unable, within 30 days from and including the date of their first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to arbitration.

§ 1000. Arbitration board; composition

Within 5 days from the expiration of the 30-day period referred to in section 999, the bargaining agent and the corporate authorities shall each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The 2 arbitrators so selected and named shall, within 10 days from and after the expiration of the 5-day period, agree upon and select and name a 3rd arbitrator. If on the expiration of the period allowed therefor, the arbitrators are unable to agree upon the selection of a 3rd arbitrator, the American Arbitration Association shall select him upon request in writing from either the bargaining agent or the corporate authorities. The 3rd arbitrator, whether selected as a result of agreement between the 2 arbitrators previously selected or selected by the American Arbitration Association, shall act as chairman of the arbitration board.

§ 1000-A. Hearings

The arbitration board shall, acting through its chairman, call a hearing to be held within 10 days after the date of the appointment of the chairman, and shall, acting through its chairman, give at least 7 days' notice in writing to each of the other 2 arbitrators, the bargaining agent and the corporate authorities of the time and place of such hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues presented to them for determination.

The hearing conducted by the arbitrators shall be concluded within 20 days of the time of commencement, and within 10 days after the conclusion of the hearings, the arbitrators shall make written findings and a written opinion upon the issues presented, a copy of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or other designated representative and the corporate authorities. A majority decision of the arbitrators shall not be final and binding upon either the bargaining agent or the corporate authorities.

§ 1000-B. Factors to be considered by arbitration board

The arbitrators shall conduct the hearings and render their decision upon the basis of a prompt, peaceful and just settlement of wage or hour disputes between the university employees and the university or branch thereof by which they are employed. The factors, among others, to be given weight by the arbitrators in arriving at a decision shall include:

1. Similar employment. Comparison of wage rates or hourly conditions of employment of the university department in question with wage rates or hourly conditions of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved;
2. University of comparable size. Comparison of wage rates or hourly conditions of employment of the university or branch thereof in question with wage rates or hourly conditions of employment of universities in other locations of comparable size for the same or similar work of its employees;
3. Public interest and welfare. Interest and welfare of the public;
4. Other trades and professions. Comparison of peculiarities of employment in regard to other trades or professions, specifically:
 - A. Hazards of employment;
 - B. Physical qualifications;
 - C. Educational qualifications;
 - D. Mental qualifications;
 - E. Job training and skills.

§ 1000-C. Fees and expenses of arbitration

Fees and necessary expenses of arbitration shall be borne equally by the bargaining agent and the corporate authorities.

§ 1000-D. Collective bargaining contract; what constitutes

Any agreements actually negotiated between the bargaining agent and the corporate authorities either before, or within 30 days after arbitration, shall constitute the collective bargaining contract governing university employees and said university for the period stated therein, provided that such period shall not exceed one year. Any collective bargaining agreement negotiated under this chapter shall specifically provide that the university employees who are subject to its terms shall have no right to engage in any work stoppage, slowdown or strike, the consideration for such provision being the right to a resolution of disputed questions.

§ 1000-E. Request for collective bargaining

Whenever wages, rates of pay or any other matter requiring expenditure of money by any university are included as matter of collective bargaining conducted under this chapter, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the corporate authorities at least 120 days before the last day on which departments of the university can file their budget requests to cover the contract period which is the subject of the collective bargaining procedure.