

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

Date: 4/15/19

(Filing No. H-113)

LABOR

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 565, L.D. 829, Bill, "An Act To Clarify the Right of Public School Employees To Engage in Collective Bargaining"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

Sec. 1. 20-A MRSA §1461, sub-§8 is enacted to read:

8. Retention of duties pending referendum. Until the approval of a proposed school administrative reorganization plan at a referendum under subsection 5, each participating school administrative unit retains all authority, duties and obligations of the public employer of the employees of the school administrative unit pursuant to Title 26, chapter 9-A, including but not limited to the authority and duty to negotiate a successor collective bargaining agreement that will take effect on or after the operational date of the proposed regional school unit.

Sec. 2. 20-A MRSA §1461-A, sub-§3, as enacted by PL 2007, c. 668, §5, is amended to read:

**3. Authorization.** The regional school unit board is authorized to take all other actions provided under state law to prepare the regional school unit to become operational on July 1st for the first operational year, including the authority to open and maintain accounts, to incur expenses to be allocated among the regional school unit's member school administrative units in accordance with the reorganization plan for the regional school unit and to file applications for school construction projects and revolving renovation fund loans and other available funding.

Prior to the operational date of the regional school unit, the regional school unit board shall take measures necessary to prepare to meet its obligations as a public employer on and after the operational date pursuant to Title 26, chapter 9-A, including but not limited to negotiating a successor collective bargaining agreement that will take effect on or after the operational date. Until the operational date of the regional school unit, each participating school administrative unit retains all other authority, duties and obligations

COMMITTEE AMENDMENT

1 of the public employer of the employees of the school administrative unit pursuant to  
2 Title 26, chapter 9-A.

3 **Sec. 3. 20-A MRSA §1464, sub-§2, ¶E,** as enacted by PL 2007, c. 240, Pt.  
4 XXXX, §13, is amended to read:

5 E. When all bargaining units that will be merged into a regional school unit-wide  
6 bargaining unit are represented by separate local affiliates of the same state labor  
7 organization, the units must be merged as of the operational date established pursuant  
8 to section 1463, subsection 1. The identity of the single affiliate that will be  
9 designated the bargaining agent for the merged unit must be selected by the existing  
10 bargaining agents and the state labor organization. Upon completion of the merger  
11 and designation of the bargaining agent and notification by the state labor  
12 organization to the regional school unit, the regional school unit shall recognize the  
13 designated bargaining agent as the representative of employees in the merged unit. If  
14 necessary, the parties will then execute a written amendment to any collective  
15 bargaining agreement then in effect to change the name of the bargaining agent to  
16 reflect the merger.

17 Prior to the operational date of the regional school unit, the single affiliate that is  
18 designated as the bargaining agent for the merged unit shall take measures necessary  
19 to prepare to meet its obligations as the bargaining agent on and after the operational  
20 date pursuant to Title 26, chapter 9-A, including, but not limited to, the authority and  
21 duty to negotiate a successor collective bargaining agreement that will take effect on  
22 or after the operational date. Until the operational date of the regional school unit,  
23 each existing bargaining agent retains all other authority, duties and obligations of the  
24 bargaining agent of the employees of the school administrative unit pursuant to Title  
25 26, chapter 9-A.

26 **Sec. 4. 20-A MRSA §1464, sub-§2, ¶H,** as amended by PL 2007, c. 566, §3, is  
27 further amended to read:

28 H. When bargaining units with different bargaining agents must be merged into a  
29 single regional school unit-wide bargaining unit pursuant to this section, the  
30 bargaining agent of the merged bargaining unit must be selected in accordance with  
31 Title 26, section 967 except as modified in this section.

32 (1) A petition for an election to determine the bargaining agent must be filed  
33 with the Maine Labor Relations Board by any of the current bargaining agents or  
34 the regional school unit.

35 (2) The petition must be filed not more than 90 days prior to August 31, 2012.

36 (3) The election ballot may contain only the names of the bargaining agents of  
37 bargaining units that will be merged into the regional school unit-wide bargaining  
38 unit and the choice of "no representative," but no other choices. No showing of  
39 interest is required from any such bargaining agent other than its current status as  
40 representative.

41 (4) The obligation to bargain with existing bargaining agents continues from the  
42 operational date established pursuant to section 1463, subsection 1 until the  
43 determination of the bargaining agent of the regional school unit-wide bargaining

unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond August 31, 2012.

(5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the regional school unit-wide bargaining unit filed pursuant to this section.

(6) The bargaining units must be merged into a regional school unit-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor Relations Board or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

(7) Until August 31, 2012, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the regional school unit. If necessary, each bargaining agent and the regional school unit must negotiate an interim collective bargaining agreement to expire on August 31, 2012.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into a regional school unit-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph, the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph E must be followed if applicable.

**Sec. 5. 26 MRSA §965, sub-§1**, as amended by PL 1985, c. 46, is further amended to read:

**1. Negotiations.** It shall be ~~is~~ the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purposes of this chapter, their mutual obligation:

A. To meet at reasonable times;

B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, ~~provided as long as~~ the parties have not otherwise agreed in a prior written contract. This obligation is suspended during the period between a referendum approving a new regional school unit and the operational date of the regional school unit, as long as the parties meet at reasonable times during that period;

C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party shall ~~may~~ be compelled to agree to a proposal or be required to make a concession and except that public employers of teachers shall meet and consult but not negotiate with respect to educational policies; for the purpose of this paragraph, educational policies shall ~~may~~ not include wages, hours, working conditions or contract grievance arbitration;

Page 4

1 D. To execute in writing any agreements arrived at, the term of any such agreement  
2 to be subject to negotiation but shall may not exceed 3 years; and

3 E. To participate in good faith in the mediation, fact-finding and arbitration  
4 procedures required by this section.

5 Whenever wages, rates of pay or any other matter requiring appropriation of money by  
6 any municipality or county are included as a matter of collective bargaining conducted  
7 pursuant to this chapter, it is the obligation of the bargaining agent to serve written notice  
8 of request for collective bargaining on the public employer at least 120 days before the  
9 conclusion of the current fiscal operating budget, except that this requirement is waived  
10 in the event that a bargaining agent of a newly formed bargaining unit is recognized or  
11 certified during the period not more than 120 days nor less than 30 days prior to the end  
12 of the fiscal period. The 120-day notice requirement is also waived with respect to  
13 regional school units formed pursuant to Title 20-A, chapter 103-A, subchapter 2 prior to  
14 their first year of operation.'

15 **SUMMARY**

16 This amendment clarifies collective bargaining rights and duties of public employers  
17 and bargaining agents in connection with the formation of regional school units as  
18 specified in the Maine Revised Statutes, Title 26, chapter 9-A. Until approval of a  
19 proposed school administrative reorganization plan at referendum, each participating  
20 school administrative unit retains all authority, duties and obligations of the public  
21 employer of the employees of the school administrative unit, including the authority and  
22 duty to negotiate a successor collective bargaining agreement that will take effect on or  
23 after the operational date of the proposed regional school unit. Prior to the operational  
24 date of the regional school unit, the elected board for that regional school unit has the  
25 duty to take measures necessary to prepare to meet its obligations as a public employer,  
26 including the authority and duty to negotiate a successor collective bargaining agreement  
27 that will take effect on or after the operational date of the regional school unit. It clarifies  
28 who will act as bargaining agent prior to the operational date of the regional school unit.  
29 The obligation to meet within 10 days after receipt of written notice is suspended during  
30 the period between referendum approval and the operational date of the regional school  
31 unit. It also waives the 120-day notice requirement for submission of fiscal matters by  
32 the bargaining unit of a regional school unit prior to its first year of operation.

**FISCAL NOTE REQUIRED**

(See attached)



# 124th MAINE LEGISLATURE

LD 829

LR 1481(02)

**An Act To Clarify the Right of Public School Employees To Engage in Collective Bargaining**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**  
**Committee: Labor**  
**Fiscal Note Required: Yes**

---

## Fiscal Note

No State fiscal impact

### Fiscal Detail and Notes

This legislation will not increase the total state and local costs of K-12 public education or the State's share of that cost.