

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 829

H.P. 565

House of Representatives, March 3, 2009

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

(EMERGENCY)

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLARK of Millinocket.
Cosponsored by Senator JACKSON of Aroostook and
Representatives: DRISCOLL of Westbrook, GILBERT of Jay, TUTTLE of Sanford,
WHEELER of Kittery.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation clarifies the ability of public school employees to engage
4 in collective bargaining prior to July 1, 2009; and

5 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
6 the meaning of the Constitution of Maine and require the following legislation as
7 immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,

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

10 **Sec. 1. 20-A MRSA §1461-A, sub-§3,** as enacted by PL 2007, c. 668, §5, is
11 amended to read:

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

19 Prior to the operational date of the regional school unit, the board for that regional school
20 unit may participate in the activities authorized and required pursuant to Title 26, chapter
21 9-A only for the negotiation and execution of a successor collective bargaining agreement
22 that will take effect on or after the operational date of the regional school unit. Until the
23 operational date of the regional school unit, each participating school administrative unit
24 retains all other authority, duties and obligations of the public employer of the employees
25 of the school administrative unit pursuant to Title 26, chapter 9-A. Prior to the election of
26 the initial regional school unit board, each school board of a participating school
27 administrative unit retains all authority, duties and obligations of the public employer of
28 the employees of the school administrative unit pursuant to Title 26, chapter 9-A,
29 including the authority, duty and obligation to negotiate and execute successor collective
30 bargaining agreements that take effect on or after the operational date of an approved
31 regional school unit of which the school administrative unit becomes a part.

32 **Sec. 2. 26 MRSA §965, sub-§1,** as amended by PL 1985, c. 46, is further
33 amended to read:

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

37 A. To meet at reasonable times;

38 B. To meet within 10 days after receipt of written notice from the other party
39 requesting a meeting for collective bargaining purposes, provided as long as the
40 parties have not otherwise agreed in a prior written contract;

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

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

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

12 Whenever wages, rates of pay or any other matter requiring appropriation of money by
13 any municipality or county are included as a matter of collective bargaining conducted
14 pursuant to this chapter, it is the obligation of the bargaining agent to serve written notice
15 of request for collective bargaining on the public employer at least 120 days before the
16 conclusion of the current fiscal operating budget, except that this requirement is waived
17 in the event that a bargaining agent of a newly formed bargaining unit is recognized or
18 certified during the period not more than 120 days nor less than 30 days prior to the end
19 of the fiscal period. The 120-day notice requirement is also waived with respect to
20 regional school units formed pursuant to Title 20-A, chapter 103-A, subchapter 2 prior to
21 and during their 1st year of operation.

22 **Emergency clause.** In view of the emergency cited in the preamble, this
23 legislation takes effect when approved.

24 **SUMMARY**

25 This bill prohibits a regional school unit board from participating in labor relations
26 activities prior to the operational date of the regional school unit except for the
27 negotiation and execution of a collective bargaining agreement that takes effect on or
28 after the operational date of the regional school unit. Prior to the operational date, each
29 participating school administrative unit retains the authority and duties specified in the
30 Maine Revised Statutes, Title 26, chapter 9-A. This bill also waives the 120-day notice
31 requirement for submission of fiscal matters by the bargaining unit of a regional school
32 unit prior to and during its 1st year of operation.