

MAINE STATE LEGISLATURE

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JML
R. G/S.

L.D. 900

Date: 3/5/20

Majority

(Filing No. H-725)

LABOR AND HOUSING

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 664, L.D. 900, Bill, "An Act To Expand the Rights of Public Employees under the Maine Labor Laws"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 26 MRSA §964-B is enacted to read:

§964-B. Authorized strikes

1. Authorization to engage in a strike. A public employee, except for an employee whose duties include protecting public safety; a public employee organization; an agent of a public employee or public employee organization; a member of a public employee organization; or a bargaining agent of a public employee or public employee organization may engage in a strike and a public employee organization may authorize a strike of the members of the organization pursuant to the following procedures:

A. The membership of a public employee organization or unit of a public employee organization that is affected by the issue for which the strike is called must conduct a vote of a majority of members;

B. Upon an affirmative vote in paragraph A, the public employee organization or unit of the public employee organization shall deliver to the public employer of the employees voting to strike in paragraph A or the employer's agent a notice of the intent to strike and state the date upon which the strike will begin and the date upon which the strike will end; and

C. The public employee organization or unit of the public employee organization sending notice of a strike or public employer receiving notice of a strike under paragraph B may call for emergency bargaining within 3 days prior to the date upon which the strike is intended to start.

For the purposes of this subsection, "employee whose duties include protecting public safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection 5; a municipal firefighter as defined in Title 30-A, section 3151, subsection 2; an emergency dispatcher; emergency medical, response or rescue personnel; and a

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1 corrections officer as defined in Title 25, section 2801-A, subsection 2 who provides
2 direct care to inmates and detainees committed to the care of a sheriff in a jail as defined
3 in Title 17-A, section 2, subsection 15-A.

4 **2. Prohibited employer conduct.** A public employer may not permanently replace
5 a public employee who engages in a strike in accordance with subsection 1 because that
6 employee engaged in a strike.

7 Nothing in this section prohibits a public employer, during a strike authorized in
8 accordance with subsection 1, from requiring that the minimum necessary number of
9 public employees reports to work in order to ensure that the public health, safety and
10 welfare are protected during any event or occasional combination of circumstances that
11 calls for immediate action or remedy. A public employee required to work during a strike
12 may file a grievance.'

13 Amend the bill in section 3 in subsection 2 in the 2nd line (page 2, line 4 in L.D.) by
14 striking out the following: "979-T" and inserting the following: '979-V'

15 Amend the bill by striking out all of section 4 and inserting the following:

16 '**Sec. 4. 26 MRSA §979-V** is enacted to read:

17 **§979-V. Authorized strikes**

18 **1. Authorization to engage in a strike.** A state or legislative employee, except for
19 an employee whose duties include protecting public safety; a state or legislative employee
20 organization; an agent of a state or legislative employee or state or legislative employee
21 organization; a member of a state or legislative employee organization; or a bargaining
22 agent of a state or legislative employee or state or legislative employee organization may
23 engage in a strike and a state or legislative employee organization may authorize a strike
24 of the members of the organization pursuant to the following procedures:

25 A. The membership of a state or legislative employee organization or unit of a state
26 or legislative employee organization that is affected by the issue for which the strike
27 is called must conduct a vote of a majority of members;

28 B. Upon an affirmative vote in paragraph A, the state or legislative employee
29 organization or unit of the state or legislative employee organization shall deliver to
30 the state or legislative employer of the employees voting to strike in paragraph A or
31 the employer's agent a notice of the intent to strike and state the date upon which the
32 strike will begin and the date upon which the strike will end; and

33 C. The state or legislative employee organization or unit of the state or legislative
34 employee organization sending notice of a strike or state or legislative employer
35 receiving notice of a strike under paragraph B may call for emergency bargaining
36 within 3 days prior to the date upon which the strike is intended to start.

37 For the purposes of this subsection, "employee whose duties include protecting public
38 safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection
39 5; a firefighter; a military firefighter; an emergency dispatcher; emergency medical,
40 response or rescue personnel; a corrections officer as defined in Title 25, section 2801-A,
41 subsection 2 who provides direct care to prisoners, detainees and juveniles committed to
42 the care of the Commissioner of Corrections; and an employee of the Department of

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1 Health and Human Services who provides direct care to persons committed to the custody
2 of the Commissioner of Health and Human Services at a state mental health institute as
3 defined in Title 34-B, section 3801, subsection 9 and to persons voluntarily receiving
4 services at a state mental health institute as defined in Title 34-B, section 3801,
5 subsection 9.

6 **2. Prohibited employer conduct.** A state or legislative employer may not
7 permanently replace a state or legislative employee who engages in a strike in accordance
8 with subsection 1 because that employee engaged in a strike.

9 Nothing in this section prohibits a state or legislative employer, during a strike
10 authorized in accordance with subsection 1, from requiring that the minimum necessary
11 number of state or legislative employees reports to work in order to ensure that the public
12 health, safety and welfare are protected during any event or occasional combination of
13 circumstances that calls for immediate action or remedy. A state or legislative employee
14 required to work during a strike may file a grievance.'

15 Amend the bill by striking out all of section 6 and inserting the following:

16 'Sec. 6. 26 MRSA §1027-A is enacted to read:

17 **§1027-A. Authorized strikes**

18 **1. Authorization to engage in a strike.** A university, academy or community
19 college employee, except for an employee whose duties include protecting public safety;
20 a university, academy or community college employee organization; an agent of a
21 university, academy or community college employee or a university, academy or
22 community college employee organization; a member of a university, academy or
23 community college employee organization; or a bargaining agent of a university,
24 academy or community college employee or university, academy or community college
25 employee organization may engage in a strike and a university, academy or community
26 college employee organization may authorize a strike of the members of the organization
27 pursuant to the following procedures:

28 **A.** The membership of a university, academy or community college employee
29 organization or unit of a university, academy or community college employee
30 organization that is affected by the issue for which the strike is called must conduct a
31 vote of a majority of members;

32 **B.** Upon an affirmative vote in paragraph A, the university, academy or community
33 college employee organization or unit of the university, academy or community
34 college employee organization shall deliver to the university, academy or community
35 college employer of the employees voting to strike in paragraph A or the employer's
36 agent a notice of the intent to strike and state the date upon which the strike will
37 begin and the date upon which the strike will end; and

38 **C.** The university, academy or community college employee organization or unit of
39 the university, academy or community college employee organization sending notice
40 of a strike or university, academy or community college employer receiving notice of
41 a strike under paragraph B may call for emergency bargaining within 3 days prior to
42 the date upon which the strike is intended to start.

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1 For the purposes of this subsection, "employee whose duties include protecting public
2 safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection
3 5.

4 **2. Prohibited employer conduct.** A university, academy or community college
5 employer may not permanently replace a university, academy or community college
6 employee who engages in a strike in accordance with subsection 1 because that employee
7 engaged in a strike.

8 Nothing in this section prohibits a university, academy or community college
9 employer, during a strike authorized in accordance with subsection 1, from requiring that
10 the minimum necessary number of university, academy or community college employees
11 reports to work in order to ensure that the public health, safety and welfare are protected
12 during any event or occasional combination of circumstances that calls for immediate
13 action or remedy. A university, academy or community college employee required to
14 work during a strike may file a grievance.'

15 Amend the bill by striking out all of section 8 and inserting the following:

16 'Sec. 8. 26 MRSA §1284-B is enacted to read:

17 **§1284-B. Authorized strikes**

18 **1. Authorization to engage in a strike.** A judicial employee, except for an
19 employee whose duties include protecting public safety or an employee whose duties
20 ensure an individual's procedural due process rights are not denied; a judicial employee
21 organization; an agent of a judicial employee or judicial employee organization; a
22 member of a judicial employee organization; or a bargaining agent of a judicial employee
23 or judicial employee organization may engage in a strike and a judicial employee
24 organization may authorize a strike of the members of the organization pursuant to the
25 following procedures:

26 A. The membership of a judicial employee organization or unit of a judicial
27 employee organization that is affected by the issue for which the strike is called must
28 conduct a vote of a majority of members;

29 B. Upon an affirmative vote in paragraph A, the judicial employee organization or
30 unit of the judicial employee organization shall deliver to the judicial employer of the
31 employees voting to strike in paragraph A or the employer's agent a notice of the
32 intent to strike and state the date upon which the strike will begin and the date upon
33 which the strike will end; and

34 C. The judicial employee organization or unit of the judicial employee organization
35 sending notice of a strike or judicial employer receiving notice of a strike under
36 paragraph B may call for emergency bargaining within 3 days prior to the date upon
37 which the strike is intended to start.

38 For the purposes of this subsection, "employee whose duties include protecting public
39 safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection
40 5.

41 For the purposes of this subsection, "employee whose duties ensure an individual's
42 procedural due process rights are not denied" includes a judicial employee who carries

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1 out the basic functions that are necessary for a court to operate to allow an individual
2 access to the justice system.

3 **2. Prohibited employer conduct. A judicial employer may not permanently replace**
4 **a judicial employee who engages in a strike in accordance with subsection 1 because that**
5 **employee engaged in a strike.**

6 Nothing in this section prohibits a judicial employer, during a strike authorized in
7 accordance with subsection 1, from requiring that the minimum necessary number of
8 judicial employees reports to work in order to ensure that the public health, safety and
9 welfare are protected during any event or occasional combination of circumstances that
10 calls for immediate action or remedy. A judicial employee required to work during a
11 strike may file a grievance.'

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
13 section number to read consecutively.

14 **SUMMARY**

15 This amendment clarifies which employees' duties include protecting public safety
16 and are therefore prohibited from striking. It prohibits a public employer from
17 permanently replacing an employee because that employee engaged in a strike. It
18 clarifies that under certain circumstances an employer may require an employee to report
19 to work during a strike, but allows the employee to file a grievance if the employee is
20 required to work during a strike. It also specifies that judicial employees whose duties
21 ensure an individual's procedural due process rights are not denied are prohibited from
22 striking.

23 **FISCAL NOTE REQUIRED**

24 (See attached)



Approved: 02/20/20 *MAC*

129th MAINE LEGISLATURE

LD 900

LR 689(03)

An Act To Expand the Rights of Public Employees under the Maine Labor Laws

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Labor and Housing

Fiscal Note Required: Yes

A (H-725)

Fiscal Note

Potential current biennium cost increase - All Funds

Potential current biennium cost increase - Higher educational institutions

Potential current biennium cost increase - Municipalities and counties

Fiscal Detail and Notes

With the exception of employees whose duties include protecting public safety, this bill allows certain public employees to strike. This may result in increased bargaining and other direct and indirect costs to state and local governments. Further, unless replacement workers are available to continue the operations of the local school administrative units (SAU's) and the higher educational institutions, classes may be cancelled in the event of a strike. Depending on the length of the strike, the higher educational institutions may need to suspend operations for a semester and refund tuition, room and board and other fees as well as return federal financial aid. The impact of the bill will depend on the number and duration of strikes over time and cannot be determined at this time.