

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1041

H.P. 771

House of Representatives, February 28, 2019

**An Act Regarding Collective Bargaining for Public Employees
under the Municipal Public Employees Labor Relations Laws**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative COLLINGS of Portland.
Cosponsored by Senator BELLOWS of Kennebec and
Representatives: DUNPHY of Old Town, HICKMAN of Winthrop, MARTIN of Eagle Lake,
PERRY of Calais, SYLVESTER of Portland, Senators: President JACKSON of Aroostook,
LIBBY of Androscoggin, VITELLI of Sagadahoc.

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

2 **Sec. 1. 26 MRSA §964, sub-§2, ¶¶A and B,** as enacted by PL 1969, c. 424, §1,
3 are amended to read:

4 A. Interfering with, restraining or coercing employees in the exercise of the rights
5 guaranteed in section 963 or a public employer in the selection of ~~his~~ the public
6 employer's representative for purposes of collective bargaining or the adjustment of
7 grievances; and

8 B. Refusing to bargain collectively with a public employer as required by section
9 965;

10 **Sec. 2. 26 MRSA §964, sub-§2, ¶C,** as enacted by PL 1969, c. 424, §1, is
11 repealed.

12 **Sec. 3. 26 MRSA §965, sub-§1, ¶A,** as enacted by PL 1969, c. 424, §1, is
13 amended to read:

14 A. To meet at reasonable times and to have present at each meeting at least one
15 individual with authority to reach a tentative agreement subject only to ratification by
16 members of the bargaining unit and approval of salaries, pensions and insurance
17 bargaining subjects by the appropriating body;

18 **Sec. 4. 26 MRSA §965, sub-§4,** as amended by PL 1975, c. 564, §18, is further
19 amended to read:

20 **4. Arbitration.** In addition to the 30-day period referred to in subsection 3, the
21 parties ~~shall~~ have 15 more days, making a total period of 45 days from the submission of
22 findings and recommendations, in which to make a good faith effort to resolve their
23 controversy.

24 If the parties have not resolved ~~their~~ a controversy by the end of said 45-day period, they
25 may jointly agree to an arbitration procedure ~~which that~~ will result in a binding
26 determination of their controversy. Such determinations ~~will be~~ are subject to review by
27 the Superior Court in the manner specified by section 972.

28 If they do not jointly agree to such an arbitration procedure within 10 days after the end
29 of said 45-day period, then either party may, by written notice to the other, request that
30 their differences be submitted to a board of 3 arbitrators. The bargaining agent and the
31 public employer shall within 5 days of such request each select and name one arbitrator
32 and shall immediately thereafter notify each other in writing of the name and address of
33 the person so selected. The 2 arbitrators so selected and named shall, within 10 days from
34 such request, agree upon and select and name a neutral arbitrator. If either party ~~shall~~
35 does not select its arbitrator or if the 2 arbitrators ~~shall~~ fail to agree upon, select and name
36 a neutral arbitrator within said 10 days, either party may request the American Arbitration
37 Association to utilize its procedures for the selection of the neutral arbitrator. As soon as
38 possible after receipt of such request, the neutral arbitrator ~~will~~ must be selected in
39 accordance with rules and procedures prescribed by the American Arbitration Association
40 for making such selection. The neutral arbitrator so selected ~~will~~ may not, without the

1 consent of both parties, be the same person who was selected as mediator pursuant to
2 subsection 2 nor any member of the fact-finding board selected pursuant to subsection 3.
3 As soon as possible after the selection of the neutral arbitrator, the 3 arbitrators or, if
4 either party ~~shall~~ has not have selected its arbitrator, the 2 arbitrators, as the case may be,
5 shall meet with the parties or their representatives, or both, forthwith, either jointly or
6 separately, and make inquiries and investigations, hold hearings, or take such other steps
7 as they ~~deem~~ consider appropriate. If the neutral arbitrator is selected by utilizing the
8 procedures of the American Arbitration Association, the arbitration proceedings ~~will~~ must
9 be conducted in accordance with the rules and procedures of the American Arbitration
10 Association. The hearing ~~shall~~ must be informal, and the rules of evidence prevailing in
11 judicial proceedings ~~shall~~ are not be binding. ~~Any and all~~ All documentary evidence and
12 other data ~~deemed~~ considered relevant by the arbitrators may be received in evidence.
13 The arbitrators ~~shall~~ have the power to administer oaths and to require by subpoena the
14 attendance and testimony of witnesses, and the production of books, records and other
15 evidence relative or pertinent to the issues represented to them for determination.

16 If the controversy is not resolved by the parties themselves, the arbitrators shall proceed
17 as follows: With respect to a controversy over any subjects of bargaining, including a
18 controversy over salaries, pensions and insurance, the arbitrators ~~will recommend terms~~
19 ~~of settlement and may make findings of fact; such recommendations and findings will be~~
20 ~~advisory only and will be made~~ shall make a determination with respect to the subject of
21 bargaining, if reasonably possible, within 30 days after the selection of the neutral
22 arbitrator; the arbitrators ~~may in their discretion, make such recommendations and~~
23 ~~findings public, and or~~ either party may make such recommendations and findings the
24 determination public if agreement is not reached with respect to such findings and
25 recommendations within 10 days after their receipt from the arbitrators; with respect to a
26 controversy over subjects other than salaries, pensions and insurance, the arbitrators shall
27 make determinations with respect thereto if reasonably possible within 30 days after the
28 selection of the neutral arbitrator; such determinations may be made public by the
29 arbitrators or either party; and if the determination is made by a majority of the
30 arbitrators, ~~such determinations will be~~ the determination is binding on both parties and
31 the parties ~~will~~ shall enter an agreement or take whatever other action ~~that~~ may be
32 appropriate to carry out and effectuate ~~such binding determinations~~ the determination;
33 and ~~such determinations will be~~ the determination is subject to review by the Superior
34 Court ~~in the manner specified by~~ pursuant to section 972. The results of all arbitration
35 proceedings, ~~recommendations~~ and awards conducted under this section ~~shall~~ must be
36 filed with the Maine Labor Relations Board at the offices of its executive director
37 simultaneously with the submission of the ~~recommendations~~ determination and award to
38 the parties. ~~In the event~~ If the parties settle their dispute during the arbitration proceeding,
39 the arbitrator or the ~~chairman~~ chair of the arbitration panel ~~will~~ shall submit a report of
40 ~~his~~ the arbitrator's or the chair's activities to the Executive Director of the Maine Labor
41 Relations Board not more than 5 days after the arbitration proceeding has terminated.

42 **Sec. 5. 26 MRSA §968, sub-§5, ¶E**, as enacted by PL 1971, c. 609, §9, is
43 amended to read:

44 E. Whenever a complaint is filed with the executive director of the board, alleging
45 that a public employer has violated section 964, subsection 1, paragraph F ~~or alleging~~
46 ~~that a public employee or public employee organization or bargaining agent has~~

