STATE OF MAINE

LEGISLATIVE RESEARCH COMMITTEE

REPORT ON

COLLECTIVE BARGAINING BY MUNICIPALITIES

to

SECOND SPECIAL SESSION

of the

ONE HUNDRED AND THIRD LEGISLATURE

JANUARY, 1968

Legislative Research Committee
Publication 103-18

LEGISLATIVE RESEARCH COMMITTEE

Senator Horace A. Hildreth, Jr., Chairman
Representative Samuel A. Hinds, Vice Chairman

From the Senate:

Sam A. R. Albair, Caribou
Armand Duquett, Biddeford
Harvey Johnson, Oakland
Kenneth P. MacLeod, Brewer
Carlton D. Reed, Jr., Woolwich
J. Hollis Wyman, Milbridge

From the House:

Ethel B. Baker, Orrington
David B. Benson, Southwest Harbor
Albert E. Cote, Lewiston
William E. Dennett, Kittery
Louis Jalbert, Lewiston
Emilien A. Levesque, Madawaska
Harrison L. Richardson, Cumberland Center
Raymond M. Rideout, Jr., Manchester
Rodney E. Ross, Jr., Bath

Ex Officio:

Joseph B. Campbell, Augusta
President of the Senate
David J. Kennedy, Milbridge
Speaker of the House

Office of Legislative Research:

Samuel H. Slosberg, Gardiner, Director
David S. Silsby, Augusta, Assistant Director

Office of Legislative Finance:

Frederick W. Kneeland, Augusta, Finance Officer
William H. Garside, Augusta, Assistant Finance Officer

SUBCOMMITTEE ON

COLLECTIVE BARGAINING BY MUNICIPALITIES

CHAIRMAN - Samuel A. Hinds

VICE CHAIRMAN - Kenneth P. MacLeod

Ethel B. Baker

Armand Duquette

Rodney E. Ross, Jr.

Horace A. Hildreth, Jr., Ex Officio

ORDERED, the House concurring, that the Legislative Research Committee be, and hereby is, directed to study the subject matter of the Bill: "An Act Concerning Collective Bargaining by Municipalities," Legislative Document No. 1073, introduced at the regular session of the 103rd Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further

ORDERED, that the Committee report its findings and recommendations to the 104th Legislature.

LETTER OF TRANSMITTAL

January, 1968

To the Members of the Second Special Session of the 103rd Legislature:

I have the honor to transmit herewith a report on Collective Bargaining by Municipalities.

This report, marked as Committee Publication 103-18, deals primarily with a proposed Act establishing a municipal public employees law and contains the findings and recommendations of the Legislative Research Committee as developed by the Committee under the scrutiny of representatives from the State Department of Labor and Industry, The Maine Municipal Association, The Maine Teachers Association and The American Federation of State, County and Municipal Employees, AFL - CIO.

The Committee sincerely hopes that the information contained herein will prove of benefit to the members of the Legislature and the people of the State of Maine.

Respectfully submitted,

HORACE A. HILDRETH, JR., Chairman
Legislative Research Committee

CONTENTS

By the foregoing order of the 103rd Legislature, the Legislative Research Committee was directed to make a study of collective bargaining by municipalities. Mindful of the responsibilities surrounding this task, the committee, by invitation availed itself of the expertise of interested associations and individuals in a sequence of open hearings held at Augusta on August 16, 1967, September 21, 1967, October 18, 1967, November 9, 1967, December 14, 1967, December 21, 1967 and January 2, 1968.

As a result of this activity and its own deliberations, the committee has taken particular notice of the ferment caused by demands of public employees for collective bargaining which has been going on for some years throughout this country and Canada. Attention was focused on the problem of the right of public employees to have some voice over their working conditions in 1955 when the American Bar Association Committee on Labor Relations Governmental Employees made its Second Report and stated in that report, "A government which imposes upon private employers certain obligations in dealing with their employees may not in good faith refuse to deal with its own public servants on a reasonably similar basis, modified, of course, to meet the exigencies of public service."

Demands of public employees for recognition and for the right to bargain collectively was given an added impetus by Executive Order 10988 signed by the late President Kennedy on January 17, 1962. This Executive Order created procedures for union recognition and for a degree of collective bargaining. Since that time, 16[1] states have enacted legislation extending, in greater or lesser measure, to State and/or local government employees the right of organization and collective bargaining.

The State laws relating to the public employment relationship, range from the simple statement in the 1955 New Hampshire statute which authorizes, but does not require, towns to "recognize unions of employees and make and enter into collective bargaining contracts with such unions" to the sophisticated up-dated little Wagner (Taft-Hartley) type acts for public employees in Wisconsin, Massachusetts, Michigan, Rhode Island and Connecticut. Delaware provides collective bargaining for their municipal employees at the option of local governments. The statutes in Maine and Wyoming are applicable only to uniformed municipal firefighters and provide for arbitration as a medium for the resolution of disputes over the terms of the contract.

(1) Connecticut, Delaware, Florida, Georgia, Hawaii, Massachusetts, Michigan, Minnesota, Missouri, New York, Ohio, Oregon, Pennsylvania, Texas, Virginia, Wisconsin.

The Michigan law is a little Wagner Act for all public employees other than those in the state classified civil service. Wisconsin, Massachusetts, and Connecticut have Wagner Act type statutes covering municipal employees.

Canada, in 1967, adopted a sophisticated law covering Federal employment. It is notable that there is a wide variation throughout the 16 state laws, not only as to coverage, but also in the provisions for unfair labor practices and resolutions of impasses in the writing of the contracts.

The following cover all public employees, municipal and state: California, Delaware, Florida, Michigan, New York, Washington and Wisconsin.

Connecticut and Massachusetts cover only municipal employees.

Oregon covers only state employees and Rhode Island covers only state employees and police.

All states except California, which is silent on the subject, prohibit the right to strike. The enforcement of the provisions vary from state to state as does the listing, if any, of unfair labor practices.

To sum up, there is no uniform pattern of such laws except that with one exception they prohibit the right to strike. It is being generally accepted that some effective form of bilateral and representational labor relations is inevitable, proper and desirable in public employment in this country.

Maine is reflecting the same ferment that is being exhibited in other states and in the Federal Government. The Firefighters' Arbitration law which should be properly labeled "Labor Relations Law" was adopted in 1965 and bills giving the same right to police departments were introduced in the 1967 session. Many communities have voluntarily recognized various organizations as bargaining agents and have either entered into agreements or are negotiating them at the present time; and of the 301 (as of October 17th) School Boards, 16 have negotiated contracts and 40 as of December 5th are in the process of developing such contracts.

There is a fairly consistent pattern in the teachers' contracts because a model agreement was worked out in 1966 by the Maine Teachers' Association, representatives of the State School Boards' Association and the Maine School Superintendents' Association. There is, however, no such model agreement covering police, public works and other municipal employees.

If this situation continues without a law spelling out the State policy, it will result in a chaotic condition within the State. The time, therefore, has come for the Legislature to adopt legislation spelling out state-wide policies and procedures. It should be noted that public employees presently have the right to join organizations of their own choosing. (Maine Revised Statutes, Title 26, Section 911) "Workers shall have full freedom of association, self organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection, free from interference, restraint or coercion by their employers or other persons, . . ."

In 1965 firefighters were given the right to bargain collectively for the terms and conditions of employment. It is the committee's firm belief that rights given to one group of municipal employees should be given to all. The committee, therefore, recommends the adoption of the proposed bill. (Page 5)

In the interest of economy, the suggested bill would amend the labor laws rather than set up a new agency and new body of law. The bill is not a copy of any other state law, but the committee has profited by the advice of other states as to their experience and has attempted to forestall the knotty problems that the other states have encountered. Based on the philosophy that strikes in the public sector should be prohibited as being against the public interest and concerned with sound public employment relations, reasonable and fair procedures -- with the independent third party determination if necessary -- must be established for settling new contract disputes.

The bill covers only municipal employees and provides the same rights for professionals as for the others. It places an obligation on the municipalities to bargain in good faith with the bargaining agent upon request of such agent. It allows for local determination of bargaining unit but in case of dispute it provides an orderly procedure for the determination of bargaining unit; for the determination of a bargaining agent, and for unresolved issues to be submitted to arbitration. It prohibits the right to strike and in lieu, therefore, provides for arbitration of unresolved issues in the contract.

It further provides alternate procedures for arbitration: Unresolved issues may be submitted by the parties concerned to the State Board of Arbitration and Conciliation; or to private arbitration. If they prefer private arbitration, the procedures to be followed are set up in the bill.

It further provides that no question concerning representation may be raised within one year of certification or attempted certification. It, also, protects the right of the individual from being discharged or discriminated against because he has signed a petition, complaint, or given any information or testimony. It also protects him from threat or coercion from any fellow employee.

It provides that the bargaining agent must represent all public employees within the unit without regard to membership in the organization certified as bargaining agent provided that any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the specific bargaining agent, with certain protections also being granted the bargaining agent.

It is believed that the bill is adequate, timely and necessary. We urge its adoption.

At this time, the committee does not advocate including state and county employees in the same bill and have confined our recommendations to municipal employees because (1) it is on the municipal level that the demands are the most urgent; (2) the experience gained from this coverage will be helpful in determining the type of law needed for the protection of state and county employees.

This doubtless will not be the last word on public employees labor relations, but it is a reasonable and logical beginning.

AN ACT Establishing the Municipal Public Employees Labor Relations Law.

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

Sec. 1. R. S., T. 26, c. 9-A, additional. Title 26 of the Revised Statutes is amended by adding a new chapter 9-A, to read as follows:

CHAPTER 9-A

MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the demand of public employees for recognition and for the right to bargain collectively has resulted in many municipalities voluntarily bargaining with various units of their employees, and there is a growing demand for such recognition; and

Whereas, the State of Maine has recognized the right of one segment, namely the Fire Fighters, to bargain collectively and imposed upon the municipalities the responsibility to bargain in good faith with the Fire Fighters; and

Whereas, the principle of recognition of the workers' right to bargain for the terms and conditions of their employment is an established principle; and

Whereas, the rights granted to one group of employees should be equally applied to all other employees; and

Whereas, there is no orderly or uniform system established, or a possibility thereof until the Spring of 1969, if then; and

Whereas, a multitude of different systems are anticipated from further delay which will result in confusion as one community refuses while a neighboring community assents to collective bargaining, and such a situation would cause undue conflict, inequities and labor strife; and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 26, c. 9-A, additional. Title 26 of the Revised Statutes is amended by adding a new chapter 9-A, to read as follows:

CHAPTER 9-A

MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW

§ 961. Purpose

It is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment. It is declared to be the public policy of this State to accord to the employees of any municipality all the rights of labor other than the right to strike or engage in any work stoppage or slowdown, whether or not the employees are under a collective bargaining contract.

§962. Definitions

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

1. Appeals board. "Appeals board" means the Public Employees Labor Relations Appeals Board.

2. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association which has as its primary purpose the representation of employees in their employment relations with employers, and which has been determined by the public employer or the commissioner to be the choice of the majority of the unit as their representative.

3. Board. "Board" means the Board of Arbitration and Conciliation.

4. Collective bargaining. "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

5. Commissioner. "Commissioner" means the Commissioner of Labor and Industry.

6. Department. "Department" means the Department of Labor and Industry.

7. Employment relations. "Employment relations" includes but is not limited to matters concerning wages, salaries, hours, vacations, sick leave, holiday pay and grievance procedures.

8. Professional employee. The term "professional employee" means any employee engaged in work:

A. Predominatly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

B. Involving the consistent exercise of discretion and judgment in its performance;

C. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given time period;

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes.

9. Public employee. "Public employee" means any employee of a public employer except any person:

A. Elected by popular vote, or

B. Appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or

C. Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or

D. Elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or

E. Holding a supervisory position defined and determined under section 966.

10. Public employer. "Public employer" means any officer, board, commission, council, or other persons or body acting on behalf of any municipality or town or any subdivision thereof.

§ 963. Right of public employees to join labor organizations

1. Right to join. Public employees shall have the right to join or not to join, to form and participate in the activities of organizations of their own choosing for the purpose of representation and collective bargaining with their public employer on matters concerning employment relations.

2. Interference. No public employer, or other person, shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against public employees or a group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter.

§ 964. Prohibited acts of employers and employee organizations

1. Employer prohibitions. Municipal employers or their representatives or agents are prohibited from:

A. Interfering, restraining or coercing employees in the exercise of the rights guaranteed in section 963;

B. Dominating or interfering with the formation, existence or administration or administration of any employee organization;

C. Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit petition or complaint or given any information or testimony under this chapter;

D. Refusing to bargain collectively in good faith with an employee organization which has been designated in accordance with this chapter as the exclusive representative of employees in an appropriate unit;

E. Refusing to discuss grievances with the representatives of an employee organization designated as the exclusive representative in an appropriate unit in accordance with this chapter.

2. Employee prohibitions. Employee organizations or their agents are prohibited from:

A. Restraining or coercing employees in the exercise of the rights guaranteed in section 963, and a municipal employer in the selection of his representative for purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively in good faith with a municipal employer;

C. Engaging in a work stoppage or slowdown or strike.

§ 965. Obligation to bargain

It shall be the obligation of the administrators or the designated agent of the public employer 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 bargain in good faith and to cause any agreement resulting from negotiations to be reduced to a written contract. The length of such contract shall be subject to negotiation but shall not exceed three years.

Whenever wages, rates of pay or any other matter requiring appropriation of money by any municipality 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 public employer at least 120 days before the conclusion of the current fiscal operating budget.

§ 966. Bargaining unit; how determined

In the event of a dispute between the municipal employer and an employee or employees as to whether a supervisory or other position is included in the bargaining unit the commissioner shall make the final determination. In determining whether a supervisory position should be excluded from coverage under this chapter the commissioner shall consider, among other criteria, if the principal functions of the position are characterized by performing such management control duties as scheduling, assigning, overseeing and reviewing the work of subordinate employees, or performing such duties as are distinct and dissimilar from those performed by the employees supervised, or exercising judgment in adjusting grievances, applying other established personnel policies and procedures and in enforcing the provisions of a collective bargaining agreement or establishing or participating in the establishment of performance standards for subordinate employees and taking corrective measures to implement those standards.

The commissioner shall decide in each case whether, in order to insure to employees the fullest freedom in exercising the rights guaranteed by this chapter, and in order to insure a clear and identifiable community of interest among employees concerned, the unit appropriate for purposes of collective bargaining shall be the municipal

employer unit or any other unit thereof and shall each be in separate units and no unit shall include both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit.

§ 967. Determination of bargaining agent

The commission upon signed request of the employer or upon signed petition of at least 30% of a bargaining unit employed in any municipality that they desire to be represented by an organization shall conduct a secret election to determine whether the organization represents a majority of the members in the bargaining unit.

The ballot shall contain the name of such bargaining representative and that of any other bargaining representative showing written proof of at least 10% representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the 3 or more choices receives a majority vote of the public employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and second-largest number of votes. When an organization receives the majority of votes of the unit, the commissioner shall certify them as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the municipal authorities as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot shall be held and the bargaining agent declared by the commissioner as not representing a majority of the unit.

Whenever the employer requests in writing or 30% of employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question shall be the same as for representation as bargaining agent hereinbefore set forth.

No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement.

The bargaining agent certified by the commissioner as the exclusive bargaining agent shall be required to represent all the public employees within the unit without

regard to membership in the organization certified as bargaining agent, provided that any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the exclusive bargaining agent, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of such grievance.

All bargaining units officially recognized by municipalities prior to the enactment of this statute shall be recognized as certified units unless such were established without secret elections and all contracts with such bargaining units shall be effective for the duration of the contract.

§ 968. Right of Appeal

Whenever the parties are aggrieved by any ruling or determination of the commissioner, they may appeal within 15 days after the announcement of the ruling or determination to the Public Employees Labor Relations Appeals Board hereinafter established.

1. Public Employees Labor Relations Appeals Board. The Public Employees Labor Relations Appeals Board shall consist of 3 members to be appointed by the Governor, with the advice and consent of the Council, to serve at the will and pleasure of the Governor. The Governor, in making his appointments, shall name one from lists of 3 recommended by the bargaining agents and one from a list of 3 recommended by the Maine Municipal Association and one representative of the public who shall be the chairman. The term of each member shall be for a period of 4 years. The members of the appeals board shall serve without compensation but shall recive necessary travel expenses. The commissioner shall designate a member of the Department of Labor and Industry to be the permanent secretary to the appeals board who shall maintain a record of all proceedings of the appeals board.

The appeals board shall from time to time make such rules of procedure as it deems necessary for the orderly conduct of its business, and shall annually, on or before the first day of July make a report to the Governor and Council which shall be incorporated in and printed with the biennial report of the department. The appropriation for the appeals board shall be included in the department's budget and authorization for expenditures shall be the responsibility of the commissioner.

The appeals board shall sit at the call of the chairman to hear and decide appeals arising from determinations of the commissioner.

The aggrieved party or the commissioner shall have the right to appeal to the courts from any decision of the appeals board.

The appeals board shall also have the authority to recommend to the Legislature changes or additions to the provisions of this chapter or of related enactments of law.

2. Summoning witnesses; production of books and records. The appeals board may summon as witnesses any operative or any person who keeps records of wages earned in the department of business in which the controversy exists and may require the production of books which contain the record of wages paid. Summonses may be signed and oaths administered by any member of the appeals board. Witnesses summoned by the appeals board shall be allowed the same fees as are paid to witnesses in the Superior Court. These fees together with all necessary expenses of the appeals board shall be paid by the Treasurer of State on warrants drawn by the State Controller.

3. Hearings. The appeals board shall, upon receipt of an appeal by the chairman and at the call of the chairman, hold, within 10 days, a hearing on the appeal. The chairman shall give at least 7 days' notice in writing of the time and place of hearing to each of the other two members, the aggrieved parties, the bargaining agent and the public employer.

The hearings 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 appeals board may be received in evidence. The chairman shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the presentation of books, records and other evidence relative or pertinent to the issues presented to them for determination.

The hearings conducted by the appeals board shall be concluded within 20 days of the time of commencement and within 10 days after the conclusion of the hearings the board shall make written findings and a written statement upon the appeal presented, a copy of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or other designated representative and the public employer.

§ 969. Mediation and Fact Finding.

Mediation and fact finding procedures shall be followed whenever the parties agree

to use such services. Mediators or fact finders shall be selected by the parties or they may call upon the Board of Arbitration and Conciliation for such services.

§ 970. Unresolved issues submitted to arbitration

In the event that the bargaining agent and the public employer are unable, within 60 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.

§ 971. Arbitration board; composition

Within 5 days from the expiration of the 60-day period referred to in section 970, the bargaining agent and the public employer shall refer the unresolved issues to the board for decision, or shall set up an ad hoc arbitration board in the following manner. The bargaining agent and the public employer shall each select and name one abritrator 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 hereinbefore mentioned, agree upon and select and name a 3rd arbitrator. If on the expiration of the period allowed therefore 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 public employer. 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 ad hoc arbitration board.

§ 972. Fees and expenses of arbitration.

Fees and necessary expenses of the ad hoc arbitration board shall be borne equally by the bargaining agent and the public employer.

§ 973. Arbitration 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 public employer 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 arbitrator 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 public employer.

A majority decision of the arbitrators shall be final and binding.

§ 974. Municipal personnel board or civil service authority

Nothing herein shall diminish the authority and power of any municipal civil service commission or personnel board or its agents established by statute, charter or special act to conduct and grade merit examinations and to rate candidates in the order of their relative excellence from which appointments or promotions may be made to positions in the competitive division of the classified service of the municipal employer served by such a civil service commission or personnel board. The conduct and the grading of merit examinations, the rating of candidates and the establishment of lists from such examinations and the appointments from such lists shall not be subject to collective bargaining.

Sec. 2. R. S., T. 26, C. 10, repealed. Chapter 10 (§§ 980 - 992) of Title 26 of the Revised Statutes, as enacted by chapter 396 of the Public Laws of 1965, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.