

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 947

H. P. 675

House of Representatives, February 16, 1967

Referred to Committee on Labor. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Ross of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Establishing the Public Employees Arbitration Law.

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

Sec. 1. R. S., T. 26 § 980, amended. Section 980 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows:

§ 980. Short title

This chapter shall be known and may be cited as the "~~Fire Fighters~~ **Public Employees Arbitration Law.**"

Sec. 2. R. S., T. 26, § 981, amended. Section 981 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows:

§ 981. Policy

The protection of the public health, safety and welfare demands that the ~~permanent uniformed members of any paid fire department in any municipality~~ **employees of the State or any department or agency thereof, or of any county or any department thereof, or any municipality or subdivision thereof, or any quasi-municipal corporation** not be accorded the right to strike or engage in any work stoppage or slowdown. This necessary prohibition does not ~~how-~~**ever** require the denial to such ~~municipal~~ public employees of other well recognized rights of labor such as the right to organize, to be represented by a labor organization of their choice, and the right to bargain collectively concerning wages, rates of pay and other terms and conditions of employment.

It is declared to be the public policy of this State to accord to the ~~permanent uniformed members of any paid fire department in any municipality employ-~~ees of the State, or any department or agency thereof, of any county or any department thereof, or any municipality or subdivision thereof, or of any quasi-municipal corporation all of the rights of labor other than the right to strike or engage in any work stoppage or slowdown. To provide for the exercise of these rights, a method of arbitration of disputes is established.

The establishment of this method of arbitration shall not ~~however~~ in any way whatever, be deemed to be a recognition by the State of compulsory arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative mode of settling disputes where employees must, as a matter of public policy, be denied the usual right to strike.

Sec. 3. R. S., T. 26, § 982, repealed and replaced. Section 982 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is repealed and the following enacted in place thereof :

§ 982. Definitions

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

1. **Administrators of the public agency.** "Administrators of the public agency" shall mean the official or officials, elected or appointed, who have the authority to direct the affairs of the public agency and have the legal responsibility for compliance with all laws affecting such agency, and have taken an oath of office.

2. **Bargaining unit.** "Bargaining unit" means a unit composed of either all the employees of a public agency or any lesser unit of those who by similarity of duties or similarity of skills required have common interests in the working conditions of that unit.

3. **Public agency.** "Public agency" means the proper officials within the State or any department or agency thereof, of any county or any department thereof, or any municipality or subdivision thereof, or of any quasi-municipal corporation whose duty or duties it is to establish wages, salaries, rates of pay, hours, working conditions and other terms and conditions of employment of public employees, whether they are the Governor, state department administrator, county commissioners, mayor, city manager, town manager, town administrator, city council, town council, director of personnel, personnel board or commission, school board, or by whatever other name the same may be designated, or any combination thereof.

4. **Public employees.** "Public employee" means the employees of a public agency.

Sec. 4. R. S., T. 26, § 983, amended. Section 983 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows :

§ 983. Right to organize and bargain collectively

The ~~fire fighters in any municipality~~ **public employees** shall have the right to bargain collectively with their respective ~~municipalities administrators of a public agency~~ and to be represented by a labor organization **or an organization of their own choosing** in such collective bargaining as to wages, rates of pay, hours, working conditions and all other terms and conditions of employment.

Sec. 5. R. S., T. 26, § 984, amended. Section 984 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows :

§ 984. Recognition of bargaining agent

The Commissioner of Labor and Industry upon signed petition of at least 50% of ~~the fire fighters employed in any municipality~~ **those in a bargaining unit employed by a public agency** that they desire to be represented by an organization shall conduct a secret election to determine whether the organization represents a majority of the ~~fire fighters~~ **members of the bargaining unit**, and upon determination that they do, he shall certify ~~them~~ **the organization** as a bargaining agent. The ~~labor~~ organization certified as representing a bargaining agent shall be recognized by the ~~municipal authorities~~ **public agency** as the sole and exclusive bargaining agent for all of the members of the ~~municipal fire department~~ **bargaining unit** unless and until a decertification election shall be held and the ~~labor~~ organization declared by the Commissioner of Labor and Industry as not representing a majority of the ~~fire fighters in the municipalities~~ **bargaining unit**.

Sec. 6. R. S., T. 26, § 985, amended. Section 985 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows :

§ 985. Obligation to bargain

It shall be the obligation of the ~~municipality, acting through its corporate authorities~~ **administrators of the public agency** 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, provided that no such contract shall exceed the term of one year.

Sec. 7. R. S., T. 26, § 986, amended. Section 986 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965 is amended to read as follows :

§ 986. Unresolved issues submitted to arbitration

In the event that the bargaining agent and the ~~corporate authorities~~ **administrators of a public agency** are unable, within 30 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.

Sec. 8. R. S., T. 26, § 987, amended. Section 987 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows:

§ 987. Arbitration board; composition

Within 5 days from the expiration of the 30-day period referred to in section 986, the bargaining agent and the ~~corporate authorities~~ **administrators of a public agency by mutual agreement shall refer the matter under dispute to the State Board of Arbitration and Conciliation, or** shall each select and name one arbitrator 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 therefor 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 ~~corporate authorities~~ **administrators of the public agency.** 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 arbitration board.

Sec. 9. R. S., T. 26, § 988, amended. Section 988 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows:

§ 988. 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 ~~corporate authorities~~ **administrators of the public agency** 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 arbitrators 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 ~~corporate authorities~~ **administrators of the public agency.** A majority decision of the arbitrators shall not be final and binding upon either the bargaining agent or the ~~corporate authorities~~ **administrators of the public agency.**

Sec. 10. R. S., T. 26, § 989, amended. Section 989 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows:

§ 989. **Factors to be considered by arbitration board**

The arbitrators shall conduct the hearings and render their decision upon the basis of a prompt, peaceful and just settlement of wage or hour **or working condition** disputes between the ~~fire fighters and the municipality by which they are bargaining agent and the administrators of the public agency by whom the bargaining unit is employed.~~ The factors, among others, to be given weight by the arbitrators in arriving at a decision shall include:

1. ~~Building trades and industry. Comparison of wage rates or hourly conditions of employment of the fire department in question with prevailing wage rates or hourly conditions of employment of skilled employees of the building trades and industry in the local operating area involved.~~

2. **Similar employment.** Comparison of wage rates or hourly **or working** conditions of employment of the ~~fire department bargaining unit~~ in question with wage rates or hourly conditions of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.

3. **Units of comparable size.** Comparison of wage rates or hourly conditions of employment of the ~~fire department bargaining unit~~ in question with wage rates or hourly conditions of employment of ~~fire departments in municipalities~~ **public agencies** of comparable size.

4. **Public interest and welfare.** Interest and welfare of the public.

5. **Other trades and professions.** Comparison of peculiarities of employment in regard to other trades or professions, specifically:

- A. Hazards of employment;
- B. Physical qualifications;
- C. Educational qualifications;
- D. Mental qualifications;
- E. Job training and skills.

Sec. 11. R. S., T. 26, § 990, amended. Section 990 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows:

§ 990. **Fees and expenses of arbitration**

Fees and necessary expenses of arbitration shall be borne equally by the bargaining agent and the ~~corporate authorities~~ **public agency**.

Sec. 12. R. S., T. 26, § 991, amended. Section 991 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended to read as follows:

§ 991. **Collective bargaining contract; what constitutes**

Any agreements actually negotiated between the bargaining agent and the ~~corporate authorities~~ **public agency** either before, or within 30 days after arbi-

tration, shall constitute the collective bargaining contract governing ~~fire fighters~~ **the bargaining unit** and said ~~municipality~~ **public agency** for the period stated therein, provided that such period shall not exceed one year. Any collective bargaining ~~agreement contract~~ negotiated under this chapter shall specifically provide that the ~~fire fighters~~ **members of the bargaining unit** who are subject to its terms shall have no right to engage in any work stoppage, slowdown or strike, the consideration for such provision being the right to a resolution of disputed questions.

Sec. 13. R. S., T. 26, § 992, amended. Section 992 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is amended as follows:

§ 992. Request for collective bargaining

Whenever wages, rates of pay or any other matter requiring **an additional** appropriation of money by ~~any municipality~~ **the public agency thereof** 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 ~~corporate authorities~~ **administrators of the public agency** at least 120 days before the last day on which money can be appropriated by the ~~municipality~~ **public agency thereof** to cover the contract period which is the subject of the collective bargaining procedure.