

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1436

H. P. 1100

House of Representatives, March 12, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Flynn of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT to Clarify Procedures under the Municipal Public Employees Labor
Relation Act.**

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

Sec. 1. R. S., T. 26, § 962, sub-§ 2, amended. Subsection 2 of section 962 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as amended by section 13 of chapter 620 of the public laws of 1971, is further amended to read as follows:

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 director~~ by the executive director of the board to be the choice of the majority of the unit as their representative.

Sec. 2. R. S., T. 26, § 962, sub-§ 4-B, additional. Section 962 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as amended, is further amended by adding a new subsection 4-B to read as follows:

4-B. **Executive director.** "Executive director" means the Executive Director of the Public Employees Labor Relations Board.

Sec. 3. R. S., T. 26, § 962, sub-§ 6, ¶ C, amended. Paragraph C of subsection 6 of section 962 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

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

Sec. 4. R. S., T. 26, § 965, sub-§ 3, amended. The last 2 sentences of the 2nd paragraph of subsection 3 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969 and as amended by section 3 of chapter 609 of the public laws of 1971, are further amended to read as follows:

It may request statistical data and reports on its own initiative in addition to the data regularly maintained ~~by the commissioner~~ **by the Bureau of Labor and Industry**. The members of the fact-finding panel shall submit their findings and recommendations **only to the parties only and to the Executive Director of the Public Employees Labor Relations Board**.

Sec. 5. R. S., T. 26, § 965, sub-§ 3, amended. The 3rd paragraph of subsection 3 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

The parties shall have a period of 30 days, after the ~~receipt~~ submission of findings and recommendations from the fact finders, in which to make a good faith effort to resolve their controversy. If the parties have not resolved their controversy by the end of said period, either party **or the Executive Director of the Public Employees Labor Relations Board** may, but not until the end of said period unless the parties otherwise jointly agree, make the fact-finding and recommendations public.

Sec. 6. R. S., T. 26, § 965, sub-§ 4, amended. The first paragraph of subsection 4 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

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

Sec. 7. R. S., T. 26, § 965, sub-§ 5, amended. The first sentence of subsection 5 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

The costs for the services of the mediator, the members of the fact-finding board and of the neutral arbitrator including, if any, per diem expenses, and actual and necessary travel and subsistence expenses and the costs of hiring the premises where any mediation, fact-finding or arbitration proceedings are conducted, will be shared equally by the parties to the ~~arbitration~~ **proceedings**.

Sec. 8. R. S., T. 26, § 966, amended. The first paragraph of section 966 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as amended, is further amended to read as follows:

In the event of a dispute between the public employer and an employee or employees as to the appropriateness of a unit for purposes of collective bargaining or between the public employer and an employee or employees as to whether a supervisory or other position is included in the bargaining unit, the executive director ~~of the board~~ shall make the determination, except that anyone excepted from the definition of public employee under section 962 may not be included in a bargaining unit. In determining whether a supervisory position should be excluded from ~~coverage under this chapter~~ **the proposed bargaining unit**, the executive director ~~of the board~~ 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 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. Nothing in this chapter is intended to require the exclusion of principals, assistant principals, other supervisory employees from school system bargaining units which include teachers and nurses in supervisory positions.

Sec. 9. R. S., T. 26, § 968, sub-§ 1, amended. The last sentence of subsection 1 of section 968 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as repealed and replaced by section 9 of chapter 609 of the public laws of 1971, and as amended, is further amended to read as follows:

The members of the board shall receive necessary expenses ~~on the approval of the director.~~

Sec. 10. R. S., T. 26, § 968, sub-§ 7, amended. The first paragraph of subsection 7 of section 968 of Title 26 of the Revised Statutes, as enacted by section 9 of chapter 609 of the public laws of 1971, and as amended by section 13 of chapter 620 of the public laws of 1971, is further amended to read as follows:

The board 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 bureau.~~ The appropriation for the board and the executive director shall be included in the ~~bureau's budget and authorization for expenditures shall be the responsibility of the director~~ budget of the office of the Governor and authority for expenditures shall be the responsibility of that office.

STATEMENT OF FACT

The purpose of this bill is explained in its title. These changes are further mandated by the establishment of the Department of Manpower Affairs and the elimination of the title "Commissioner of Labor."