

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
107TH LEGISLATURE

COMMITTEE AMENDMENT "A" to S. P. 243, L.D. 827, Bill, "AN ACT Extending Collective Bargaining Rights to University of Maine Employees."

Amend said Bill in that part designated "§1022." by striking out all of subsection 5 and inserting in place thereof the following:

'5. Cost items. "Cost items" means the provisions of a collective bargaining agreement which require specific funding.'

Further amend said Bill by striking out all of subsection 10 of that part designated "§1022." and inserting in place thereof the following:

'10. University. "University" means all campuses or units of the university, represented by the board of trustees or its designee. In the furtherance of this chapter, the university shall be considered as a single employer and employment relations, policies and practices throughout the university shall be as consistent as practicable. It is the responsibility of the board of trustees or its designee to negotiate collective bargaining agreements and to administer such agreements. The board of trustees or its designee is responsible for the employer functions of the university under this chapter and shall coordinate its collective bargaining activities with campuses or units on matters of university concern. The Governor may designate a representative who may attend all negotiations.'

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Further amend said Bill by striking out all of paragraph E of subsection 1 of that part designated "§1026."

Further amend said Bill by striking out in the beginning of paragraph F of subsection 1 of that part designated "§1026." the following: "F." and inserting in place thereof: 'E.'

Further amend said Bill by striking out all of paragraph D of subsection 2 of that part designated "§1026." and inserting in place thereof the following:

'D. Nothing in this section shall be construed as preventing the parties, as an alternative to mediation under section 965, from jointly agreeing to elect mediation from either the Federal Mediation and Conciliation Service or the American Arbitration Association, in accordance with the procedures, rules and regulations of those organizations.

E. Any information disclosed by either party to a dispute a mediator or to a mediation to / panel or any of its members in the performance of this subsection shall be privileged.'

Further amend said Bill by striking out all of subsections 3, 4 and 5 of that part designated "§1026." and inserting in place thereof the following:

3. Fact-finding

A. If the parties, either with or without the services of a mediator, are unable to effect a settlement of their controversy, they may jointly agree either to call upon the Public Employees Labor Relations Board to arrange for fact-finding services and recommendations to be provided by the Maine Board of Arbitration and Conciliation, or to pursue some other mutually acceptable fact-finding procedure, including use of the Federal Mediation and Conciliation Service or the American Arbitration Association according to their respective procedures, rules and regulations

B. If the parties do not jointly agree to call upon the Public Employees Labor Relations Board or to pursue some other procedure, either party to the controversy may request the executive director to assign a fact-finding panel. If so requested, the executive director shall appoint a fact-finding panel, ordinarily of 3 members, in accordance with rules and procedures prescribed by the board for making such appointments.

C. The fact-finding proceedings shall be as provided by section 965, subsection 3.

4. Arbitration.

A. At any time after the initiation of mediation procedures pursuant to subsection 2, either party, or the parties jointly, may petition the board to initiate arbitration procedures. On receipt of the petition, the executive director shall within a reasonable time determine if an impasse has been reached. If he so determines, he shall issue an order requiring arbitration and requesting the parties to select one or more arbitrators. If the parties, within 10 days after the issuance of the order, have not selected an arbitrator or a Board of Arbitration, the executive director shall then order each party to select one arbitrator and the (two) arbitrators so selected shall

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select a third neutral arbitrator. If the two arbitrat cannot in 5 days select a third neutral arbitrator, the executive director shall submit identical lists to the parties of five or more qualified arbitrators of recognized experience and competence. Each party shall have 7 days from the submission of the list to delete any names objected to, number the remaining names indicating the order of preference and return the list to the executive director. In the event a party does not return the list within the time specified, all parties named therein shall be deemed acceptable. From the arbitrators who have been approved by both parties and pursuant to the order of mutual preference, the executive director shall appoint a neutral arbitrator. If the parties fail to agree upon any arbitrators named, or if for any other reason the appointment cannot be made from the initial list, the executive director shall then submit a second list of five or more additional qualified arbitrators of recognized experience and competence from which they shall alternately strike names until a single name is left, who shall then be appointed by the executive director as the neutral arbitrator.

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← Nothing in this subsection shall be construed as preventing the parties, as an alternative to procedures in the preceding paragraph, from jointly agreeing to elect arbitration from either the Federal Mediation and Conciliation Service or the American Arbitration Association, under the procedures, rules and regulations of that association, provided that these procedures, rules and regulations are not inconsistent with subsections B and C below.

← B. If the controversy is not resolved by the parties themselves, the arbitrators shall proceed as follows: With respect to a controversy over salaries, pensions and insurance, the arbitrators will recommend terms of settlement and may make findings of fact; such recommendations and findings will be advisory only and will be made, if reasonably possible, within 60 days after the selection of the neutral arbitrator.

← → The arbitrators may in their discretion make such recommendations and findings public, and either party may make such recommendations and findings public if agreement is not reached with respect to such findings and recommendations within 10 days after their receipt from the arbitrators, with respect to a controversy over subjects other than salaries, pensions and insurance, the arbitrators shall make determinations with respect thereto if reasonably possible within 60 days after the selection of the neutral arbitrator.

→ such determinations may be made public by the arbitrators or either party and if made by a majority of the arbitrators, such determinations will be binding on both parties and the parties will enter an agreement or take whatever other action that may be appropriate to carry out and effectuate such binding determinations,

and such determinations will be subject to review by the Superior Court in the manner specified by section 972. The results of all arbitration proceedings, recommendations and awards conducted under this section shall be filed with the Public Employees Labor Relations Board at the offices of its executive director simultaneously with the submission of the recommendations and award to the parties. In the event the parties settle their dispute during the arbitration proceeding, the arbitrator or the chairman of the arbitration panel will submit a report of his activities to the Executive Director of the Public Employees Labor Relations Board not more than 5 days after the arbitration proceeding has terminated.

C. In reaching a decision under this section, the arbitra-  
tors shall consider the following factors:

(1)

✓ The interests and welfare of the students and the  
public and the financial ability of the university  
to finance the cost items proposed by each party to  
the impasse;

(2)

✓ Comparison of the wages, hours and working conditions  
of the employees involved in the arbitration proceeding  
with the wages, hours and working conditions of other  
employees performing similar services in public and  
private employment competing in the same labor market;

(3)

✓ The over-all compensation presently received by the  
employees, including direct salary and wage compensa-  
tion, vacation, holidays, life and health insurance,  
retirement and all other benefits received;

(4)

✓ Such other factors not confined to the foregoing,  
which are normally and traditionally taken into con-  
sideration in the resolution of disputes involving  
similar subjects of collective bargaining in public  
higher education;

(5)

✓ The need of the university for qualified employees;

(6)

✓ Conditions of employment in similar occupations out-  
side the university;

(7)

✓ The need to maintain appropriate relationships between  
different occupations in the university;

(8)

✓ The need to establish fair and reasonable conditions  
in relation to job qualifications and responsibilities.

5. Costs. The costs for the first 3 days of services of the panel of mediators shall be paid by the board. The following costs shall be shared equally by the parties to the proceedings: All costs for the panel of mediators not required to be paid by the board; the costs of the neutral arbitrator, including per diem expenses and actual and necessary travel and subsistence expenses; the costs of the Federal Mediation and Conciliation Service or the American Arbitration Association; and the costs of hiring the premises where any arbitration proceedings are conducted. All other costs shall be assumed by the party incurring them. The services of the Maine Board of Arbitration and Conciliation shall be available to the parties without costs.

Statement of Fact

The purposes of this ~~Amendment~~ are:

1. To preserve the Board of Trustees' present autonomy from the Legislature and the Executive Branch; to the extent possible within the context of free, open and effective collective bargaining, to preserve the present roles of the Board of Trustees, the Legislature and the Executive Branch; and to continue to provide to the Trustees the authority to direct the institutions for which they have responsibility;
2. To permit the parties to agree to mediation by the Federal Mediation and Conciliation Service or the American Arbitration Association, according to the procedures, rules and regulations of the respective mediator selected;
3. To permit fact-finding for controversy settlement;
4. To remove from the LD the right to strike;
5. To provide arbitration similar to that available to municipal employees, with the additional right of the parties to jointly agree to arbitration by the Federal Mediation and Conciliation Service or the American Arbitration Association.

Reported by the Majority of the Committee on Labor.

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