

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2141

H. P. 1944

House of Representatives, January 29, 1976

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

EDWIN H. PERT, Clerk

Presented by Mr. Greenlaw of Stonington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

**AN ACT to Extend Collective Bargaining Rights to the Employees of
Maine Maritime Academy.**

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

Sec. 1. 26 MRSA § 1021, as enacted by PL 1975, c. 603, § 1, is amended to read:

§ 1021. Purpose

It is declared to be the public policy of this State and 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 the University of Maine employees and **Maine Maritime Academy 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.

Sec. 2. 26 MRSA § 1022, sub-§ 1, as enacted by PL 1975, c. 603, § 1, is repealed.

Sec. 3. 26 MRSA § 1022, sub-§§ 1-A and 1-B are enacted to read:

1-A. **Academy.** "Academy" means the **Maine Maritime Academy** and its activities and functions supervised by its board of trustees or their designee. In the furtherance of this chapter, the academy shall be considered as a single employer and employment relations, policies and practices throughout the academy shall be as consistent as practicable. It is the responsibility of the board of trustees of the academy or their designee to negotiate collective bar-

gaining agreements and to administer such agreements. The board of trustees of the academy or their designee is responsible for the employer functions of the academy under this chapter and shall coordinate its collective bargaining activities. For purposes of consistency elsewhere in this chapter, references to the university shall be construed to include and to apply to the Maine Maritime Academy, its board of trustees, and its employees.

1-B. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association, which has as one of its primary purposes the representation of employees in their employment relations with employers and which has been certified by the Executive Director of the Maine Labor Relations Board.

Sec. 4. 26 MRSA § 1022, sub-§§ 2 and 3, as enacted by PL 1975, c. 603, § 1, are amended to read:

2. Board. "Board" means the ~~Public Employees~~ Maine Labor Relations Board as defined in section 968, subsection 1.

3. Board of Trustees. "Board of Trustees" means the Board of Trustees of the University of Maine or the Board of Trustees of the Maine Maritime Academy.

Sec. 5. 26 MRSA § 1022, sub-§ 6, as enacted by PL 1975, c. 603, § 1, is amended to read:

6. Executive Director. "Executive Director" means the Executive Director of the ~~Public Employees~~ Maine Labor Relations Board as defined in section 968, subsection 2.

Sec. 6. 26 MRSA § 1022, sub-§ 11, as enacted by PL 1975, c. 603, § 1, is amended to read:

11. University employee or Academy employee. "University employee" or "Academy employee" means any regular employee of the University of Maine or the Maine Maritime Academy performing services within a campus or unit, except any person:

- A. Appointed to office pursuant to statute;
- B. Appointed by the Board of Trustees as a vice-president, dean, director or member of the chancellor's or superintendent's immediate staff;
- C. Whose duties necessarily imply a confidential relationship with respect to matters subject to collective bargaining as between such person and the university or the academy; or
- D. Employed in his initial 6 months of employment.

Sec. 7. 26 MRSA § 1023, as enacted by PL 1975, c. 603, § 1, is amended to read:

§ 1023. Right of university employees or academy employees to join labor organizations

No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against university employees or academy employees or a

group of university employees or academy employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

Sec. 8. 26 MRSA § 1024, as enacted by PL 1975, c. 603, § 1, is repealed and replaced as follows:

§ 1024. Bargaining units

1. Legislative intent. It is the express legislative intent that, in order to foster meaningful collective bargaining, units must be structured in such a way as to avoid excessive fragmentation whenever possible. In accordance with this policy, bargaining units shall be structured on a university system-wide basis with one unit for each of the following occupational groups:

- A. Faculty;
- B. Professional and administrative staff;
- C. Clerical, office, laboratory and technical;
- D. Service and maintenance;
- E. Supervisory classified; and
- F. Police.

It is intended that Cooperative Extension Service employees be included in appropriate units.

1-A. Academy units. It is the express legislative intent to foster meaningful collective bargaining for employees of the Maine Maritime Academy. Therefore, in accordance with this policy, bargaining units shall be structured with one unit for each of the following occupational groups:

- A. Faculty;
- B. Administrative staff; and
- C. Classified employees.

2. Assignment to bargaining units. In the event of a dispute over the assignment of jobs or positions to a unit, the executive director shall examine the community of interest, including work tasks among other factors, and make an assignment to the appropriate statutory bargaining unit set forth in subsections 1 or 1-A.

3. Additional bargaining units. Notwithstanding subsections 1 or 1-A, the Legislature recognizes that additional or modified university system-wide units or academy units may be appropriate in the future. Therefore, the employer or employee organizations may petition the executive director for the establishment of additional or modified university system-wide units or academy units. The executive director or his designee shall determine the appropriateness of such petitions, taking into consideration the community of in-

terest and the declared legislative intent to avoid fragmentation whenever possible and to insure employees the fullest freedom in exercising the rights guaranteed by this chapter.

Sec. 9. 26 MRSA § 1025, sub-§ 1, as enacted by PL 1975, c. 603, § 1, is amended to read:

1. **Voluntary recognition.** Any employee organization may file a request with the university or academy alleging that a majority of the university employees or academy employees in an appropriate bargaining unit as established in section 1024 wish to be represented for the purpose of collective bargaining between the university or academy and the employees' organization. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support. Such request for recognition shall be granted by the university or academy unless the university or academy desires that an election determine whether the organization represents a majority of the members in the bargaining unit. In the event that the request for recognition is granted by the university or academy, the executive director shall certify the organization so recognized as the bargaining agent.

Sec. 10. 26 MRSA § 1025, sub-§ 2, ¶¶ A and B, as enacted by PL 1975, c. 603, § 1, are amended to read:

A. The executive director of the board, upon signed request of the university or academy alleging that one or more university employees or academy employees or employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of university employees or academy employees, or upon signed petition of at least 30% of a bargaining unit of university employees or academy employees that they desire to be represented by an organization, shall conduct a secret ballot election to determine whether the organization represents a majority of the members of the bargaining unit.

B. The ballot shall contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the university employees or academy employees within the unit, together with a choice for any university employee or academy 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 no one of the 3 or more choices receives a majority vote of the university employees or academy employees voting, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and 2nd largest number of votes. When an organization receives the majority of votes of those voting, the executive director shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the university or by the academy 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 executive director as not representing a majority of the unit.

Sec. 11. 26 MRSA § 1026, sub-§ 1, 1st sentence, as enacted by PL 1975, c. 603, § 1, is amended to read:

It shall be the obligation of the university or the academy and the bargaining agent to bargain collectively.

Sec. 12. 26 MRSA § 1026, sub-§ 2, ¶¶ B and C, as enacted by PL 1975, c. 603, § 1, are amended to read:

B. Mediation procedures, as provided by section 965, subsection 2, shall be followed whenever either party to a controversy requests such services prior to arbitration, or at any time on motion of the ~~Public Employees~~ **Maine Labor Relations Board** or its executive director.

C. The employer, union or employees involved in collective bargaining shall notify the Executive Director of the ~~Public Employees~~ **Maine Labor Relations Board**, in writing at least 30 days prior to the expiration of a contract, or 30 days prior to entering into negotiations for a first contract between the employer and the employees, or whenever a dispute arises between the parties threatening interruption of work, or under both conditions.

Sec. 13. 26 MRSA § 1026, sub-§ 3, ¶¶ A and B, as enacted by PL 1975, c. 603, § 1, are amended to read:

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~~ **Maine 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~~ **Maine 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.

Sec. 14. 26 MRSA § 1026, sub-§ 4, ¶ B, 5th and 6th sentences, as enacted by PL 1975, c. 603, § 1, are amended to read:

The results of all arbitration proceedings, recommendations and awards conducted under this section shall be filed with the ~~Public Employees~~ **Maine 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~~ **Maine Labor Relations Board** not more than 5 days after the arbitration proceeding has terminated.

Sec. 15. 26 MRSA § 1026, sub-§ 4, ¶ C, sub-¶ (1), as enacted by PL 1975, c. 603, § 1, is amended to read:

(1) The interests and welfare of the students and the public and the financial ability of the university or academy to finance the cost items proposed by each party to the impasse;

Sec. 16. 26 MRSA § 1026, sub-§ 4, ¶ C, sub-¶¶ (5), (6) and (7), as enacted by PL 1975, c. 603, § 1, are amended to read:

(5) The need of the university or the academy for qualified employees;

(6) Conditions of employment in similar occupations outside the university or the academy;

(7) The need to maintain appropriate relationships between different occupations in the university or the academy;

Sec. 17. 26 MRSA § 1027, sub-§ 1, 1st ¶, as enacted by PL 1975, c. 603, § 1, is amended to read:

1. **University and academy prohibitions.** The university, its representatives and agents and the academy, its representatives and agents are prohibited from:

Sec. 18. 26 MRSA § 1027, sub-§ 2, 1st ¶, as enacted by PL 1975, c. 603, § 1, is amended to read:

2. **University employee prohibitions and academy employee prohibitions.** University employees, university employee organizations, their agents, members and bargaining agents and academy employees, academy employee organizations, their agents, members and bargaining agents are prohibited from:

Sec. 19. 26 MRSA § 1027, sub-§ 2, ¶¶ A and B, as enacted by PL 1975, c. 603, § 1, are amended to read:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 1023 or the university or the academy in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively with the university or the academy as required by section 1026;

Sec. 20. 26 MRSA § 1027, sub-§ 2, ¶ C, sub-¶ (2), as enacted by PL 1975, c. 603, § 1, is amended to read:

(2) The blacklisting of the university or the academy for the purpose of preventing it from filling employee vacancies.

Sec. 21. 26 MRSA § 1028, sub-§ 2, 1st sentence, as enacted by PL 1975, c. 603, § 1, is amended to read:

Any person aggrieved by any ruling or determination of the executive director under sections 1024 and 1025 may appeal, within 15 days of the announcement of the ruling or determination, to the ~~Public Employee~~ **Maine Labor Relations Board.**

Sec. 22. 26 MRSA § 1029, sub-§ 1, 1st sentence, as enacted by PL 1975, c. 603, § 1, is amended to read:

The board is empowered, as provided, to prevent any person, the university, any university employee, any university employee organizations, **the academy, any academy employee, any academy employee organizations** or any bargaining agent from engaging in any of the prohibited acts enumerated in section 1027.

Sec. 23. 26 MRSA § 1029, sub-§ 2, 1st sentence, as enacted by PL 1975, c. 603, § 1, is amended to read:

The university, any university employee, any university employee organization, **the academy, any academy employee, any academy employee organization** or any bargaining agent which believes that any person, the university, any university employee, any university employee organization, **the academy, any academy employee, any academy employee organization** or any bargaining agent has engaged in or is engaging in any such prohibited practice may file a complaint with the executive director of the board stating the charges in that regard.

Sec. 24. 26 MRSA § 1029, sub-§ 6, as enacted by PL 1975, c. 603, § 1, is amended to read:

6. Simultaneous injunctive relief. Whenever a complaint is filed with the executive director of the board alleging that the university or **the academy** has violated section 1027, subsection 1, paragraph F or alleging that a university employee ~~or~~, university employee organization, **an academy employee, academy employee organization** or bargaining agent has violated section 1027, subsection 2, paragraph C, the party making the complaint may simultaneously seek injunctive relief from the Superior Court in the county in which the prohibited practice is alleged to have occurred pending the final adjudication of the board with respect to such matter.

Sec. 25. 26 MRSA § 1029, sub-§ 7, 1st sentence, as enacted by PL 1975, c. 603, § 1, is amended to read:

Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the ~~Public Employees~~ **Maine** Labor Relations Board by filing a complaint in accordance with Rule 80B of the Maine Rules of Civil Procedure, provided the complaint shall be filed within 15 days of the effective date of the decision.

Sec. 26. 26 MRSA § 1031, 1st sentence, as enacted by PL 1975, c. 603, § 1, is amended to read:

A collective bargaining agreement between the university or **the academy** and a bargaining agent may provide for binding arbitration as the final step of a grievance procedure, but the only grievances which may be taken to such binding arbitration shall be disputes between the parties as to the meaning or application of the specific terms of the collective bargaining agreement.

Sec. 27. 26 MRSA § 1034, sub-§ 2, as enacted by PL 1975, c. 603, § 1, is amended to read:

2. No restriction on eligibility for federal grant-in-aid or assistance programs. Nothing in this chapter or any contract negotiated pursuant to this chapter shall in any way be interpreted or allowed to restrict or impair the eligibility of the university, any of its campuses or units or the academy in obtaining the benefits under any federal grant-in-aid or assistance programs.

Sec. 28. Appropriation. There is appropriated from the General Fund to the Maine Labor Relations Board the sum of \$350 to carry out the purpose of this Act. The breakdown shall be as follows:

1976-77

MAINE LABOR RELATIONS BOARD:

All Other	\$350
-----------	-------

Sec. 29. Effective date. This Act shall become effective on October 1, 1976.

STATEMENT OF FACT

Employees of the Maine Maritime Academy are presently the only employees of a state institution of higher learning not enjoying collective bargaining rights. These rights were extended to the employees of the University of Maine under the University of Maine Labor Relations Act passed by the 107th Legislature as Chapter 12 of Title 26. It is the intent of this Act to accord similar rights to employees of the Maine Maritime Academy and, in according those rights to establish a separate, appropriate set of initial bargaining units to facilitate the extension of such rights to employees of the Maine Maritime Academy.

The effective date of this Act is October 1, 1976, in order to create a 3-month interval in its effective date after the effective date of the University of Maine Labor Relations Act. This 3-month interval is intended to allow for start-up time for employees exercising rights under the University of Maine Labor Relations Act in order that the administration of that Act not be hampered by the simultaneous submission of documents exercising rights for employees of the Maine Maritime Academy. The appropriation contained in the Act is intended to pay for printing and distribution costs involved in the preparation and dissemination of the University of Maine Labor Relations Act, as amended.