

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 703

S. P. 223

In Senate, March 2, 1977

Referred to the Committee on Labor. Sent down for concurrence and 2,000 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Providing Binding Arbitration for Certain Public Employees.

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

Sec. 1. 26 MRSA § 962, sub-§ 8 is enacted to read:

8. Critical local services. "Critical local services" means:

- A. Municipal fire departments;
- B. Municipal police departments;
- C. Municipal ambulance and rescue services; and
- D. Municipal hospitals.

Sec. 2. 26 MRSA § 964, sub-§ 2, ¶ C, as enacted by PL 1969, c. 424, § 1, is repealed and the following enacted in its place:

C. Engaging in the blacklisting of any public employer for the purpose of preventing it from filling employee vacancies;

Sec. 3. 26 MRSA § 964, sub-§ 2, ¶ D is enacted to read:

D. Engaging in a work stoppage, slowdown or strike, but only if the employees involved are engaged in critical local services.

Sec. 4. 26 MRSA § 965, sub-§ 4-A is enacted to read:

4-A. Binding arbitration. It is the public policy of this State that in critical local services it is necessary for the high morale of such employees and the efficient operations of such services to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes arising from

the negotiation of collective bargaining agreements. To that end, the provisions of this subsection providing for binding arbitration shall be liberally construed.

In the instance of a controversy between a public employer and a bargaining agent representing employees in a critical local service which is not resolved as provided by subsections 1, 2 and 3, either party may request arbitration as provided by subsection 4 and the determination of the arbitration shall be binding on all subjects, including salaries, pensions and insurance.

A. In making a determination under subsection 4, the arbitrators, acting through the neutral arbitrator who shall serve as chairman, shall request that written statements be submitted by each party specifying the last best offer of each party concerning each item on which a controversy exists. The arbitrators shall select either written statement in its entirety, or may select in its entirety the factfinding recommendations issued pursuant to subsection 3. The selection must be made by a majority of the arbitrators and shall then be deemed to constitute the collective bargaining agreement between the parties.

B. The factors, among others, to be considered by the arbitrators in arriving at their determination shall include:

- (1) Stipulations of the parties;
- (2) The lawful authority of the employer;
- (3) The financial ability of the employer to meet costs;
- (4) The interests and welfare of the public;
- (5) The hazards of employment;
- (6) The physical, education and mental qualifications, and job training and skills involved in the employment;
- (7) The comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public and private employment in comparable communities;
- (8) The average consumer prices for goods and services, commonly known as the cost of living;
- (9) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received;
- (10) Any changes in any of the foregoing circumstances during the pendency of the arbitration proceedings;
- (11) Any other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of

wages, hours and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration or otherwise between the parties, in the public service or in private employment; and

(12) Past collective bargaining contracts between the parties, including the bargaining that led up to such contracts.

The parties may continue to negotiate all offers until an agreement is reached or until a determination is announced by the arbitrators. In the event that the parties resolve each of the issues in dispute and agree to be bound accordingly, the parties may, at any time prior to the final determination by the arbitrators, request that the arbitration proceedings be terminated, and the arbitrators, acting through the chairman, shall terminate the proceedings.

The final determination of the arbitrators shall be deemed to take effect immediately upon the signing and dating of the determination by a majority of the arbitrators.

The commencement of a new fiscal year for the employer, prior to the final determination by the arbitrators, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitrators or of their determination. Any determination of the arbitrators may be retroactive to the expiration date of the last contract between the parties.

Sec. 5. 26 MRSA § 970, as enacted by PL 1969, c. 424, § 1, is amended by adding at the end the following new sentence:

Nothing in this section shall be interpreted to restrict the scope of binding arbitration authority provided by section 965, subsection 4-A.

Sec. 6. 26 MRSA § 979-A, sub-§ 7 is enacted to read:

7. Critical state services. "Critical state services" means:

- A. Direct care at state correctional institutions;
- B. Direct care at state mental institutions; and
- C. Maine State Police.

Sec. 7. 26 MRSA § 979-C, sub-§ 2, ¶ C, as enacted by PL 1973, c. 774, is repealed and the following enacted in its place:

C. Engaging in the blacklisting of any public employer for the purpose of preventing it from filling employee vacancies; and

Sec. 8. 26 MRSA § 979-C, sub-§ 2, ¶ D is enacted to read:

D. Engaging in a work stoppage, slowdown or strike, but only if the employees involved are engaged in critical state services.

Sec. 9. 26 MRSA § 979-D, sub-§ 4-A is enacted to read:

4-A. Binding arbitration. It is the public policy of this State that in critical state services it is necessary for the high morale of such employees and the efficient operations of such services to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes arising from

the negotiation of collective bargaining agreements. To that end the provisions of this subsection providing for binding arbitration shall be liberally construed.

In the instance of a controversy between a public employer and a bargaining agent representing employees in a critical state service which is not resolved as provided by subsections 1, 2 or 3, either party may request arbitration as provided by subsection 4, and the determination of the arbitration shall be binding on all subjects, including salaries, pensions, and insurance.

A. In making a determination under subsection 4, the arbitrators, acting through the neutral arbitrator who shall serve as chairman, shall request that written statements be submitted by each party specifying the last best offer of each party concerning each item on which a controversy exists. The arbitrators shall select either written statement in its entirety, or may select in its entirety the factfinding recommendations issued pursuant to subsection 3. The selection must be made by a majority of the arbitrators and shall then be deemed to constitute the collective bargaining agreement between the parties.

B. The factors, among others, to be considered by the arbitrators in arriving at their determination shall include those factors specified in subsection 4, paragraph C.

The parties may continue to negotiate all offers until an agreement is reached or until a determination is announced by the arbitrators. In the event that the parties resolve each of the issues in dispute and agree to be bound accordingly, the parties may, at any time prior to the final determination by the arbitrators, request that the arbitration proceedings be terminated, and the arbitrators, acting through the chairman, shall terminate the proceedings.

The final determination of the arbitrators shall be deemed to take effect immediately upon the signing and dating of the determination by a majority of the arbitrators.

The commencement of a new fiscal year for the employer, prior to the final determination by the arbitrators, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitrators or of their determination. Any determination of the arbitrators may be retroactive to the expiration date of the last contract between the parties.

Sec. 10. 26 MRSA § 979-K, as enacted by PL 1973, c. 774, is amended by adding at the end the following new sentence:

Nothing in this section shall be interpreted to restrict the scope of binding arbitration authority provided by section 979-D, subsection 4-A.

Sec. 11. 26 MRSA § 1027, sub-§ 2, ¶ C, sub-¶ (1), as enacted by PL 1975, c. 603, § 1, is repealed.

STATEMENT OF FACT

The purpose of this bill is to provide binding arbitration to resolve labor disputes involving employees in critical public services.