

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2155

S. P. 708

In Senate, February 22, 1978

The Committee on Education suggested and 2,500 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Trotzky of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Insure Local Control Over Education Policy.

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

Sec. 1. 20 MRSA § 161, sub-§ 5, 4th sentence, as enacted by PL 1975, c. 723, § 2, is repealed as follows:

~~Just cause for dismissal or nonrenewal may be a negotiable item in accordance with the procedure set forth in Title 26, c. 9 A, for teachers who have served beyond the probationary period.~~

Sec. 2. 20 MRSA § 161, sub-§ 5, first ¶, as last amended by PL 1977, c. 580, § 17, is further amended by adding at the end the following new sentences:

A teacher whose continuing contract is not renewed under this subsection may, after the hearing provided herein, seek review by the Superior Court under Rule 80B of the Maine Rules of Civil Procedure. The review shall be confined to a determination of whether the decision of the school committee was arbitrary and capricious.

Sec. 3. 26 MRSA § 965, sub-§ 1, ¶ C, as enacted by PL 1969, c. 424, § 1, is repealed and the following enacted in its place:

C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by this obligation neither party shall be compelled to agree to a proposal or be required to make a concession, provided that public employers of teachers shall meet and consult but not negotiate with respect to educational policies, including the impact of educational policies upon employees and, for the purpose of this paragraph, neither educational policies nor the impact of educational policies shall include wages, hours, working conditions or contract grievance arbitration;

STATEMENT OF FACT

The purpose of this legislation is to assure that educational policy matters will be determined by local school boards in the cities and towns of Maine and not by outside arbitrators or through collective bargaining. Section 3 prevents educational policy decisions from being eroded. It clarifies current confusion by making it clear that, since statutory law prohibits negotiating educational policy matters, the "impact" of education policy decisions is also a matter of local control and is nonnegotiable. This ambiguity has led to confusion and has provided a back-door approach for negotiating something that otherwise is prohibited by law from being negotiated.

Sections 1 and 2 of the bill address the problem of outside arbitrators determining that school boards must negotiate just cause provisions into their contracts even though the statutory language says "may." These sections would also eliminate the current situation where the outside arbitrator substitutes his judgment on employment matters for that of the school board. At the same time, section 2 would add additional protection to teachers on a continuing contract by providing them with the right to appeal school board decisions not to renew the contracts to the Superior Court.