

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 127

S. P. 73

In Senate, January 23, 1979

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

Presented by Senator Farley of York.

Coponsor: Senator Sutton of Oxford.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Amend the Procedure of the State Board of Arbitration and Conciliation.

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

Sec. 1. 26 MRSA § 911, 4th sentence, is amended to read:

Vacancies occurring during a term shall be filled for the unexpired term **and appointments shall be made within 60 days of the vacancy. If any vacancy remains unfilled for more than 60 days, the chairman or, in his absence, the alternate chairman may make a temporary appointment who shall serve only until the vacancy is filled by the Governor.**

Sec. 2. 26 MRSA § 911, 5th sentence, as amended by PL 1975, c. 564, § 2, is further amended to read:

Members of the board shall each receive \$50 a day for their services for the time actually employed in the discharge of their official duties, **provided that when a single member is sitting in lieu of the board or a panel thereof, as provided in section 912, he shall receive \$100 per day.**

Sec. 3. 26 MRSA § 911, 7th sentence, as enacted by PL 1975, c. 564, § 2, is amended to read:

Authorization for services rendered and expenditures incurred by the Board of Arbitration and Conciliation shall be the responsibility of the Executive Director of the Maine Labor Relations Board who shall, annually, on or before the first day of July, make a report of the activities of the Board of Arbitration and Conciliation to the Governor and Council.

Sec. 3-A. 26 MRSA § 911, as last amended by PL 1975, c. 771, § 279, is further amended by adding at the end a new paragraph to read:

An employer shall not retaliate against any employee who shall have petitioned or sought the assistance of the board pursuant to this subchapter or for having provided information or testimony hereunder.

Sec. 4. 26 MRSA § 912, 2nd sentence, is repealed and the following enacted in its place:

It shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the matter before it.

Sec. 5. 26 MRSA § 912, is amended by adding at the end a new paragraph to read:

A neutral member of the board may sit in lieu of the full board whenever it appears to the chairman or to the executive director that expedition of the proceedings requires it.

Sec. 6. 26 MRSA § 913 is amended to read:

§ 913. Witnesses

~~The board may summon as witness any operative or any person who keeps records of wages earned in the department of business in which the controversy exists and may require the production of books which contain the record of wages paid~~

Summonses may be signed and oaths administered by any member of the board. Witnesses summoned by the board shall be allowed the same fees as are paid to witnesses in the Superior Court. These fees together with all necessary expenses of the board shall be paid by the Treasurer of State on warrants drawn by the State Controller.

Fees and charges incurred in summoning witnesses at the request of a party shall be borne by the party making the request.

Sec. 7. 26 MRSA § 916, last ¶, as amended by PL 1975, c. 564, § 4, is further amended to read:

The board shall hear all interested persons who come before it, advise the respective parties what ought to be done by either or both to adjust such controversy, and shall ~~when the case is finally settled~~ make a written report to the Governor and the Executive Director of the Maine Labor Relations Board.

The Governor or executive director may make the report public if, after 15 days from the date of its receipt, the parties have not resolved the controversy and the public interest would be served by publication. In addition, either may refer the report and recommendations of the board to the Attorney General or other department for appropriate action when it appears that any of the laws of this State may have been violated.

Sec. 8. 26 MRSA § 917, as amended by PL 1975, c. 564, § 5, is repealed and the following enacted in its place:

§ 917. Application for inquiry; notice of hearing

In cases of controversy, where conciliation, mediation or arbitration is refused by one of the parties or the board has deemed that those processes have been or will be ineffective, either party may request the board to make inquiry. The application for inquiry may be signed by the employer or by a substantial number of the employees in the department, section or division of the business in which the controversy exists or by their agent or representative or by both parties, and, if signed by an agent or representative claiming to represent the employees, the board shall satisfy itself that he is duly authorized to do so.

Upon receipt of the application for inquiry, the chairman, or in his absence or disability the alternate chairman, through the auspices of the Maine Labor Relations Board, shall give notice of the time and place of hearing, and may, at the board's discretion, give public notice by publishing in at least one newspaper the time and place of the hearing.

The board shall, upon the request of the Governor or the mayor of a city or the selectman of a town, investigate and report upon any controversy if, in its opinion, it threatens to affect the public welfare.

The board, after inquiry, may make and publish a report in the matter, including its findings of fact and recommendations for settling the controversy.

Sec. 9. 26 MRSA § 919, 2nd sentence, is amended to read:

The ~~contract of~~ **submittal** to arbitration shall be signed by the responsible parties and witnessed by the board.

Sec. 10. 26 MRSA § 919, 3rd sentence, as amended by PL 1975, c. 564, § 7, is further amended to read:

When the matter is submitted to arbitration by the board, said board shall investigate the matters in controversy, shall hear all interested persons who come before it, and make a written decision thereof which shall be ~~recorded~~ **published** by the chairman of the board.

Sec. 11. 26 MRSA § 919, as amended by PL 1975, c. 564, § 7, is further amended by adding at the end a new sentence to read:

This section and section 920 shall apply only in cases of arbitration arising under this subchapter unless the parties to a noncovered controversy otherwise specifically agree.

Sec. 12. 26 MRSA § 920, last ¶, is amended to read:

Whenever the parties to a dispute have submitted their case to either private mediators or arbitrators, or to a state or federal mediator, the board shall not take jurisdiction until requested to do so by the parties involved, **except as provided in section 917.**

Sec. 13. 26 MRSA § 922 is amended to read:

§ 922. Proceedings confidential

Any information disclosed by either party to a dispute to the board or any of its members in carrying out this subchapter shall be confidential, except as provided in ~~section~~ **sections 916 and 917.**

STATEMENT OF FACT

The purpose of this bill is to amend the procedure of the State Board of Arbitration and Conciliation.