

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 922

H. P. 777

House of Representatives, February 19, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Lewis of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Make Voluntary Any Public Employee Labor Organizations in the State.

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

Sec. 1. 26 MRSA § 962, sub-§ 2, as last amended by PL 1973, c. 458, § 1, is further amended to read:

2. **Bargaining agent.** "Bargaining agent" means any lawful organization, association or individual representative of such organization or association which has as its primary purpose the representation of employees in their employment relations with employers ~~and which has been determined by the public employer or by the executive director of the board to be the choice of the majority of the unit as their representative.~~

Sec. 2. 26 MRSA § 966, sub-§ 3, as enacted by PL 1975, c. 697, § 2, is amended to read:

3. **Unit clarification.** ~~Where there is a certified or currently recognized bargaining representative and where~~ Where the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant modification in the composition of that bargaining unit, any public employer or any recognized ~~or certified~~ bargaining agent may file a petition for a unit clarification provided that the parties are unable to agree on appropriate modifications ~~and there is no question concerning representation.~~

Sec. 3. 26 MRSA § 967, as last amended by PL 1979, c. 199, is repealed.

Sec. 4. 26 MRSA § 968, sub-§ 4, first ¶, as amended by PL 1975, c. 564, § 25 and c. 697, § 3, is further amended to read:

Any party aggrieved by any ruling or determination of the executive director, or his designee, under ~~sections section 966 and 967~~ may appeal, within 15 days of the announcement of the ruling or determination, ~~except that in the instance of objections to the conduct of an election or challenged ballots, the time period shall be 5 working days to the Maine Labor Relations Board.~~

Sec. 5. 26 MRSA § 979-A, sub-§ 1, as enacted by PL 1973, c. 774, is amended to read:

1. **Bargaining agent.** "Bargaining agent" means any lawful organization, association or individual representative of such organization or association which has as its primary purpose the representation of employees in their employment relations with employers ~~and which has been determined by the public employer as defined in subsection 5 or by the executive director of the board to be the choice of the majority of the unit as their representative.~~

Sec. 6. 26 MRSA § 979-E, sub-§ 3, as enacted by PL 1975, c. 697, § 9, is amended to read:

3. **Unit clarification.** ~~Where there is a certified or currently recognized bargaining representative and where~~ Where the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant modification in the composition of that bargaining unit, any public employer or any recognized ~~or certified~~ bargaining agent may file a petition for a unit clarification, provided that the parties are unable to agree on appropriate modifications ~~and there is no question concerning representation.~~

Sec. 7. 26 MRSA § 979-F, as amended by PL 1975, c. 612, §§ 2&3, is repealed.

Sec. 8. 26 MRSA § 979-G, sub-§ 2, first sentence, as amended by PL 1975, c. 697, § 10, is further amended to read:

Any person aggrieved by any ruling or determination of the executive director under ~~sections section 979-E and 979-F~~ may appeal, within 15 days of the announcement of the ruling or determination, ~~except that in the instance of objections to the conduct of an election or challenged ballots the time period shall be 5 working days to the Maine Labor Relations Board.~~

Sec. 9. 26 MRSA § 1022, sub-§ 1-B, as enacted by PL 1975, c. 671, § 3, is amended to read:

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. 10. 26 MRSA § 1024-A, sub-§ 7, as enacted by PL 1979, c. 541, Pt. B, § 31, is amended to read:

7. Unit clarification. ~~Where there is a certified or currently recognized bargaining representative and where~~ Where the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant modification in the composition of that bargaining unit, any public employer or any recognized ~~or certified~~ bargaining agent may file a petition for a unit clarification, provided that the parties are unable to agree on appropriate modifications ~~and there is no question concerning representation.~~

Sec. 11. 26 MRSA § 1025, as last amended by PL 1977, c. 581, §§ 8, 9, is repealed.

Sec. 12. 26 MRSA § 1027, sub-§ 3, as enacted by PL 1975, c. 603, § 1, is repealed.

Sec. 13. 26 MRSA § 1028, sub-§ 2, first sentence, as repealed and replaced by PL 1975, c. 770, § 115, is amended to read:

Any person aggrieved by any ruling or determination of the executive director under ~~sections section 1024 and 1025~~ may appeal, within 15 days of the announcement of the ruling or determination, ~~except that in the instance of objections to the conduct of an election or challenged ballots the time period shall be 5 working days~~ to the Maine Labor Relations Board.

Sec. 14. 26 MRSA c. 12-A is enacted to read:

CHAPTER 12-A

REPRESENTATION OF PUBLIC SECTOR LABOR CONTRACTS

§ 1039. Policy of state

It is the public policy of this State that any contract or agreement entered into between the State, or any subdivision whatsoever thereof, including, but not limited to, any county, city, town, municipality or independent district of any kind, and any labor organization, under the terms of which contract or agreement the labor organization is empowered, or purports to be empowered, to represent any public employee who is not a voluntary member of the labor organization, is unlawful and is hereby declared to be null and void.

Sec. 15. Application. This Act does not affect the validity of any lawful contract or agreement in existence on the date this Act becomes effective, but does not apply to any extension or renewal of such contract or agreement.

STATEMENT OF FACT

The purpose of this bill is to reform Maine's labor law so that each public sector union would represent, and represent only, those public employees who voluntarily are members of that union.

Under this bill, each public sector worker covered by state law would be free to choose whether or not to be represented by one or any union.

Also, this bill eliminates any suggested burden upon public sector unions to represent and bargain for nonmembers.