

# MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

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Legislative Document

No. 363

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H.P. 304

House of Representatives, February 1, 1983

On Motion of Representative Beaulieu of Portland referred to the Committee on Labor. Sent up for concurrence and order printed.

EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

Cosponsors: Senator Hayes of Penobscot, Representative Matthews of Caribou and Representative Crowley of Stockton Springs.

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STATE OF MAINE

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

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AN ACT to Provide for the Negotiation of  
Seniority Provisions for Teachers.

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Supreme Judicial Court of Maine, in a decision dated June 7, 1982, determined that the statute governing the elimination of teaching positions in public schools does not require that probationary teachers be terminated before continuing contract teachers; and

Whereas, it is important to protect the interest of teachers with seniority and to remove uncertainties that exist as a result of this decision; and

1           Whereas, the best interests of education in  
2 schools in Maine contemplate that teacher seniority  
3 be an important point of negotiation in teacher con-  
4 tracts; and

5           Whereas, the terms of this Act will protect the  
6 interests of teachers in Maine and contribute to the  
7 betterment of education; and

8           Whereas, in the judgment of the Legislature,  
9 these facts create an emergency within the meaning of  
10 the Constitution of Maine and require the following  
11 legislation as immediately necessary for the preser-  
12 vation of the public peace, health and safety; now,  
13 therefore,

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

16           20 MRSA §161, sub-§5, as amended by PL 1977, c.  
17 580, §§16 and 17, is further amended to read:

18           5. Shall nominate teachers; election to be  
19 approved by committee; probationary period; teachers  
20 may be elected under contract. He shall nominate all  
21 teachers, subject to such regulations governing sal-  
22 aries and the qualifications of teachers as the  
23 school committee or school directors shall make, and  
24 upon the approval of nominations by ~~said~~ the commit-  
25 tee or directors, he may employ teachers so nominated  
26 and approved for such terms as he may deem proper,  
27 subject to the approval of the school committee or  
28 school directors. After a probationary period of not  
29 to exceed 2 years, subsequent contracts of duly cer-  
30 tified teachers shall be for not less than 2 years.  
31 Unless a duly certified teacher receives written  
32 notice to the contrary at least 6 months before the  
33 terminal date of the contract, the contract shall be  
34 extended automatically for one year and similarly in  
35 subsequent years although the right to an extension  
36 for a longer period of time through a new contract is  
37 specifically reserved to the contracting parties.  
38 Just cause for dismissal or nonrenewal may be a nego-  
39 tiable item in accordance with the procedure set  
40 forth in Title 26, ~~e-~~ chapter 9-A, for teachers who  
41 have served beyond the probationary period. After a  
42 probationary period of 2 years, any teacher, who

1 receives notice in accordance with this section that  
2 his contract is not going to be renewed, may during  
3 the 15 days following ~~such~~ notification request a  
4 hearing with the school committee or governing board.  
5 He may request reasons. The hearing shall be private  
6 except by mutual consent and except that either or  
7 both parties may be represented by counsel. ~~Such~~ The  
8 hearing must be granted within 30 days of the receipt  
9 of the teacher's request.

10 The right to terminate a contract, after due notice  
11 of 90 days, is reserved to the school committee or  
12 school directors when changes in local conditions  
13 warrant the elimination of the teaching position for  
14 which the contract was made. Notwithstanding this  
15 subsection, seniority, layoff and recall may be nego-  
16 tiable items in accordance with the procedure set  
17 forth in Title 26, chapter 9-A, for teachers. In case  
18 the superintendent of schools and the school commit-  
19 tee or school directors fail to legally elect a  
20 teacher, the commissioner shall have authority to  
21 appoint a substitute teacher who shall serve until  
22 ~~such~~ that election is made.

23 **Emergency clause.** In view of the emergency cited  
24 in the preamble, this Act shall take effect when  
25 approved.

26 STATEMENT OF FACT

27 The purpose of this bill is to provide for the  
28 negotiation of seniority, layoff and recall provi-  
29 sions between public employers of teachers and bar-  
30 gaining agents representing teachers. It is intended  
31 to remove the effect of the Law Court decision in the  
32 matter of Paradis vs. School Administrative District  
33 No.33, which determined that the current statutes  
34 governing elimination of teaching positions in public  
35 schools do not require that probationary teachers be  
36 terminated before continuing contract teachers.

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