

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 491

6
7 H.P. 408

House of Representatives, February 1, 1983

8 Received by the Clerk of the House on February 1, 1983. Referred to the
9 Committee on Labor, and ordered printed pursuant to Joint Rule 14.

EDWIN H. PERT, Clerk

10 Presented by Representative Tuttle of Sanford.

Cosponsors: Senator Clark of Cumberland, Senator Dutremble of York
and Representative Michael of Auburn.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Amend the State Employees
18 Labor Relations Act.
19

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

22 Sec. 1. 26 MRSA §979-A, sub-§6, ¶K is enacted to
23 read:

24 K. Who is a temporary employee, seasonal
25 employee or substitute employee. For purposes of
26 this paragraph, "temporary employee, seasonal
27 employee or substitute employee" means any
28 employee who is employed in a job or position
29 that does not have a job expectancy in excess of
30 6 months.

31 Sec. 2. 26 MRSA §979-A, sub-§7 is enacted to
32 read:

1 7. Employee organization. "Employee organiza-
2 tion" means any lawful association, labor organiza-
3 tion, federation or council having as a primary pur-
4 pose the improvement of wages, hours and other condi-
5 tions of employment among employees of public employ-
6 ers covered by this chapter.

7 Sec. 3. 26 MRSA §979-C, sub-§2-A is enacted to
8 read:

9 2-A. Negotiation of union security. Nothing in
10 this chapter may be interpreted to prohibit the nego-
11 tiation of union security, except closed shop.

12 Sec. 4. 26 MRSA §979-D, sub-§1, ¶¶C and D, as
13 enacted by PL 1973, c. 774, are amended to read:

14 C. To execute in writing any agreements arrived
15 at, the term terms, including the effective date
16 of those terms, of any such agreement to be sub-
17 ject to negotiation, but shall not exceed 2
18 years; and

19 D. To participate in good faith in the media-
20 tion; ~~fact finding~~ and arbitration procedures re-
21 quired by this section; and

22 Sec. 5. 26 MRSA §979-D, sub-§3, as amended by PL
23 1975, c. 564, §§33 and 34, is repealed.

24 Sec. 6. 26 MRSA §979-D, sub-§4, ¶A, as enacted
25 by PL 1973, c. 774, is repealed.

26 Sec. 7. 26 MRSA §979-D, sub-§4, ¶¶B and D, as
27 enacted by PL 1973, c. 774, are amended to read:

28 B. If the parties have not resolved their con-
29 troversy by the end of ~~said 45-day period~~, the
30 mediation process either party may petition the
31 board to initiate compulsory final and binding
32 arbitration of the negotiations impasse. On
33 receipt of the petition, the executive director
34 of the board shall investigate to determine if an
35 impasse has been reached. If he so determines, he
36 shall issue an order requiring arbitration and
37 requesting the parties to select one or more
38 arbitrators. If the parties within 10 days after

1 the issuance of the order have not selected an
2 arbitrator or a Board of Arbitration, the board
3 shall then order each party to select one arbi-
4 trator, and, if these 2 arbitrators cannot in 5
5 days select a 3rd neutral arbitrator, the board
6 shall submit a list from which the parties may
7 alternately strike names until a single name is
8 left, who shall be appointed by the board as
9 arbitrator.

10 D. With respect to controversies over salaries,
11 pensions and insurance, the arbitrator will
12 recommend terms of settlement and may make find-
13 ings of fact. Such recommendations and findings
14 shall be advisory and shall not be binding upon
15 the parties. The determination by the arbitrator
16 on all other issues shall be final and binding on
17 the parties, except cost items that are rejected
18 by the Legislature pursuant to subsection 1,
19 paragraph E, subparagraph (3).

20 Sec. 8. 26 MRSA §979-D, sub-§5, as amended by PL
21 1979, c. 501, §3, is further amended to read:

22 5. Costs. The costs for the services of the
23 mediator, ~~the members of the fact-finding board~~ and
24 of the neutral arbitrator or arbitrators including,
25 if any, per diem expenses, and actual and necessary
26 travel and subsistence expenses and the costs of hir-
27 ing the premises where any mediation, ~~fact-finding~~ or
28 arbitration proceedings are conducted, will be shared
29 equally by the parties to the proceedings. All other
30 costs will be assumed by the party incurring them.
31 The services of the members of the State's Panel of
32 Mediators, to a maximum of 3 mediation days per case,
33 and of the Maine Board of Arbitration and Concilia-
34 tion are available to the parties without cost.

35 Sec. 9. 26 MRSA §979-F, sub-§3 is enacted to
36 read:

37 3. Qualification of employee organization. No
38 employee organization may be eligible to petition for
39 exclusive recognition or to participate in a recogni-
40 tion election under this section, unless it has been
41 in existence for at least 12 months. For purposes of
42 this subsection, an employee organization has been
43 "in existence" when it:

1 A. Has an already defined organizational struc-
2 ture;

3 B. Has a constitution adopted by a majority vote
4 of the membership directly or in a representative
5 convention; and

6 C. Can demonstrate the financial ability to ful-
7 fill its obligations as a bargaining agent, as
8 defined in section 979-A, subsection 1. A bona
9 fide dues structure constitutes financial ability
10 under this paragraph.

11 STATEMENT OF FACT

12 This bill amends the State Employees Labor Rela-
13 tions Act in several ways.

14 Section 1 establishes a definition for "temporary
15 employee."

16 Section 2 establishes a definition of "employee
17 organization."

18 Section 3 enacts a new subsection permitting the
19 negotiation of union security agreements.

20 Section 4 clarifies 2 of the elements included in
21 the definition of "collective bargaining."

22 Section 5 repeals the subsection that included
23 fact-finding as part of the collective bargaining
24 process.

25 Section 6 repeals the time period in which par-
26 ties have to make good faith efforts to resolve their
27 controversy.

28 Section 7 clarifies language in the subsection
29 dealing with arbitration. It also makes an
30 arbitrator's findings on all matters, except cost
31 items, binding on all parties. Under current law,
32 most of the arbitrator's findings were advisory only.

33 Section 8 removes references to the fact-finding
34 board. Reference is unnecessary in light of section
35 5 which eliminates fact-finding.

1 Section 9 establishes a procedure for the quali-
2 fication of an employee organization to participate
3 in an election to determine a bargaining agent for
4 collective bargaining.

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