

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 634

S.P. 213

In Senate, February 7, 1983

Received by the Secretary of the Senate on February 7, 1983. Referred to the Committee on Labor, and ordered printed pursuant to Joint Rule 14.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Dutremble of York.

STATE OF MAINE

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

**AN ACT to Preserve Negotiated
Contracts Between School Committees
and Various Bargaining Agents.**

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 interests 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 that notification request
4 a hearing with the school committee or governing
5 board. He may request reasons. The hearing shall be
6 private except by mutual consent and except that
7 either or both parties may be represented by counsel.
8 Such ~~The hearing must~~ shall be granted within 30 days
9 of the receipt 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 the pre-
15 ceding sentence, seniority, layoff and recall may be
16 neogtiable items in accordance with the procedure set
17 forth in Title 26, chapter 9-A for teachers and any
18 existing contracts containing any or all of such
19 provisions are validated. In case the superintendent
20 of schools and the school committee or school direc-
21 tors fail to legally elect a teacher, the commis-
22 sioner ~~shall have authority to~~ may appoint a substi-
23 tute teacher who shall serve until such that election
24 is made.

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

28 STATEMENT OF FACT

29 The purpose of this bill is 2-fold: One is to
30 validate any existing negotiated contract between
31 school committees and bargaining agents with respect
32 to seniority and other similar issues. It is
33 intended to remove the effect of a recent court deci-
34 sion which determined that the current statutes gov-
35 erning elimination of teaching positions in public
36 schools do not require that probationary teachers be
37 terminated before continuing contract teachers who
38 have seniority. This bill amends the statutes to
39 provide for the valid negotiation of seniority, lay-
40 off and recall provisions between public employers of
41 teachers and bargaining agents representing teachers.

42 1871012883