

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 709
6

7 H.P. 558

House of Representatives, February 10, 1983

8 On Motion of Representative Brannigan of Portland referred to the
9 Committee on Labor. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Tuttle of Sanford.
Cosponsor: Senator Hayes of Penobscot.
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 University
18 of Maine Labor Relations Act.
19

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

22 Sec. 1. 26 MRSA §1022, sub-§1-D is enacted to
23 read:

24 1-D. Employee organization. "Employee organiza-
25 tion" means any lawful association, labor organiza-
26 tion, federation or council having as a primary pur-
27 pose the improvement of wages, hours and other condi-
28 tions of employment among employees of public employ-
29 ers covered by this chapter.

30 Sec. 2. 26 MRSA §1025, sub-§2, ¶E is enacted to
31 read:

1 E. No employee organization may be eligible to
2 petition for exclusive recognition or to partici-
3 partate in a recognition election under this section
4 unless it has been in existence for at least 12
5 months. For purposes of this paragraph, an
6 employee organization has been "in existence"
7 when it:

8 (1) Has an already defined organizational
9 structure;

10 (2) Has a constitution adopted by a major-
11 ity vote of the membership directly or in a
12 representative convention; and

13 (3) Can demonstrate the financial ability
14 to fulfill its obligations as bargaining
15 agent, as defined in section 1022, subsec-
16 tion 1-B. A bona fide dues structure con-
17 stitutes financial ability under this para-
18 graph.

19 Sec. 3. 26 MRSA §1026, sub-§1, ¶D, as enacted by
20 PL 1975, c. 603, §1, is amended to read:

21 D. To execute in writing any agreements arrived
22 at, the term and the effective date of those
23 terms of any such agreement to be subject to
24 negotiation, but not to exceed 2 years; and

25 Sec. 4. 26 MRSA §1026, sub-§3, as amended by PL
26 1975, c. 671, §13, is repealed.

27 Sec. 5. 26 MRSA §1026, sub-§4, ¶A, as amended by
28 PL 1975, c. 717, §7, is further amended to read:

29 A. At any time after participating in the proce-
30 dures set forth in ~~subsections~~ subsection 2 and
31 3, either party, or the parties jointly, may
32 petition the board to initiate arbitration proce-
33 dures. On receipt of the petition, the executive
34 director shall within a reasonable time determine
35 if an impasse has been reached. If he so deter-
36 mines, he shall issue an order requiring arbitra-
37 tion and requesting the parties to select one or
38 more arbitrators. If the parties, within 10 days
39 after the issuance of the order, have not se-

1 lected an arbitrator or a Board of Arbitration,
2 the executive director shall then order each
3 party to select one arbitrator and the 2 arbitra-
4 tors so selected shall select a 3rd neutral arbi-
5 trator. If the 2 arbitrators cannot in 5 days
6 select a 3rd neutral arbitrator, the executive
7 director shall submit identical lists to the par-
8 ties of 5 or more qualified arbitrators of recog-
9 nized experience and competence. Each party
10 shall have 7 days from the submission of the list
11 to delete any names objected to, number the
12 remaining names indicating the order of prefer-
13 ence and return the list to the executive direc-
14 tor. In the event a party does not return the
15 list within the time specified, all parties named
16 therein shall be deemed acceptable. From the
17 arbitrators who have been approved by both par-
18 ties and pursuant to the order of mutual prefer-
19 ence, the executive director shall appoint a neu-
20 tral arbitrator. If the parties fail to agree
21 upon any arbitrators named, or if for any other
22 reason the appointment cannot be made from the
23 initial list, the executive director shall then
24 submit a 2nd list of 5 or more additional quali-
25 fied arbitrators of recognized experience and
26 competence from which they shall alternately
27 strike names until a single name is left, who
28 shall then be appointed by the executive director
29 as the neutral arbitrator.

30 Nothing in this subsection ~~shall~~ may be construed
31 as preventing the parties, as an alternative to
32 procedures in the preceding paragraph, from
33 jointly agreeing to elect arbitration from either
34 the Federal Mediation and Conciliation Service or
35 the American Arbitration Association, under the
36 procedures, rules and regulations of that associ-
37 ation, provided that these procedures, rules and
38 regulations are not inconsistent with ~~subsections~~
39 paragraphs B and C below.

40 **Sec. 6. 26 MRSA §1026, sub-§4, ¶B, as amended by**
41 **PL 1975, c. 671, §14, is further amended to read:**

42 **B. If the controversy is not resolved by the**
43 **parties themselves, the arbitrators shall proceed**
44 **as follows: ~~With respect to a controversy over~~**

1 salaries, pensions and insurance, the arbitrators
2 will recommend terms of settlement and may make
3 findings of fact, such recommendations and find-
4 ings will be advisory only and will be made, if
5 reasonably possible, within 60 days after the se-
6 lection of the neutral arbitrator. The arbitra-
7 tors may in their discretion make such recom-
8 mendations and findings public, and either party
9 may make such recommendations and findings public
10 if agreement is not reached with respect to such
11 findings and recommendations within 10 days after
12 their receipt from the arbitrators. With respect
13 to a controversy over all subjects other than
14 salaries, pensions and insurance, the arbitrators
15 shall make determinations with respect thereto if
16 reasonably possible within 60 days after the se-
17 lection of the neutral arbitrator. Such The
18 determinations may be made public by the arbitra-
19 tors or either party and if made by a majority of
20 the arbitrators, such the determinations will be
21 binding on both parties and the parties will
22 enter an agreement or take whatever other action
23 that may be appropriate to carry out and effectuate
24 such the binding determinations, and such the
25 determinations will be subject to review by the
26 Superior Court in the manner specified by section
27 972. The results of all arbitration proceedings,
28 recommendations and awards conducted under this
29 section shall be filed with the Maine Labor Rela-
30 tions Board at the offices of its executive
31 director simultaneously with the submission of
32 the recommendations and award to the parties. In
33 the event the parties settle their dispute during
34 the arbitration proceeding, the arbitrator or the
35 chairman of the arbitration panel will submit a
36 report of his activities to the Executive Direc-
37 tor of the Maine Labor Relations Board not more
38 than 5 days after the arbitration proceeding has
39 terminated.

40 Sec. 7. 26 MRSA §1026, sub-§5, as amended by PL
41 1979, c. 501, §4, is further amended to read:

42 5. Costs. The costs for the first 3 days of ser-
43 vices of the panel of mediators shall be paid by the
44 board. The following costs shall be shared equally by
45 the parties to the proceedings: All costs for the

1 panel of mediators not required to be paid by the
2 board; ~~the costs of the fact-finding board including,~~
3 ~~if any, per diem expenses and actual and necessary~~
4 ~~travel and subsistence expenses~~ and the costs of the
5 neutral arbitrator or arbitrators, including, if any,
6 per diem expenses and actual and necessary travel and
7 subsistence expenses; the costs of the Federal Media-
8 tion and Conciliation Service or the American Arbi-
9 tration Association; and the costs of hiring the
10 premises where any ~~fact-finding or~~ arbitration pro-
11 ceedings are conducted. All other costs shall be
12 assumed by the party incurring them. The services of
13 the Maine Board of Arbitration and Conciliation shall
14 be available to the parties without costs.

15

STATEMENT OF FACT

16 This bill amends the University of Maine Labor
17 Relations Act in several ways.

18 Section 1 establishes a definition for "employee
19 organization."

20 Section 2 establishes a procedure for the quali-
21 fication of an employee organization to participate
22 in an election to determine a bargaining agent for
23 collective bargaining.

24 Section 3 clarifies the definition of collective
25 bargaining.

26 Section 4 repeals the subsection that included
27 fact-finding as part of the collective bargaining
28 process.

29 Sections 5 and 6 amend existing law to require
30 arbitrators to make determinations as to all issues
31 subject to controversy within 60 days of the selec-
32 tion of a neutral arbitrator.

33 Section 7 eliminates language in the subsection
34 dealing with costs of mediation that dealt with fact-

1 finding costs. This language is unnecessary in light
2 of section 4.

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