

# MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 187, L.D. 610)

2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE  
5

6 Legislative Document

No. 1319

7  
8 S.P. 440

In Senate, March 25, 1983

9 Reported by Senator Dutremble of York from the Committee on Labor  
10 and printed under Joint Rule 2.

11 JOY J. O'BRIEN, Secretary of the Senate

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-THREE  
17

18 AN ACT to Revise the University of Maine  
19 Arbitration Procedures.  
20

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

23 Sec. 1. 26 MRS §1026, sub-§4, ¶A, as amended by  
24 PL 1975, c. 717, §7, is further amended to read:

25 A. At any time after participating in the proce-  
26 dures set forth in subsections 2 and 3, either  
27 party, or the parties jointly, may petition the  
28 board to initiate arbitration procedures. On  
29 receipt of the petition, the executive director  
30 shall within a reasonable time determine if an  
31 impasse has been reached; the determination shall  
32 be made administratively, with or without hear-  
33 ing, and shall not be subject to appeal. If he so  
34 determines, he shall issue an order requiring  
35 arbitration and requesting the parties to select

1 one or more arbitrators. If the parties, within  
2 10 days after the issuance of the order, have not  
3 selected an arbitrator or a Board of Arbitration,  
4 the executive director shall then order each  
5 party to select one arbitrator and the 2 arbitra-  
6 tors so selected shall select a 3rd neutral arbitra-  
7 tor. If the 2 arbitrators cannot in 5 days  
8 select a 3rd neutral arbitrator, the executive  
9 director shall submit identical lists to the parties  
10 of 5 or more qualified arbitrators of recognized  
11 experience and competence. Each party  
12 shall have 7 days from the submission of the list  
13 to delete any names objected to, number the  
14 remaining names indicating the order of prefer-  
15 ence and return the list to the executive direc-  
16 tor. In the event a party does not return the  
17 list within the time specified, all parties named  
18 therein shall be deemed acceptable. From the  
19 arbitrators who have been approved by both parties  
20 and pursuant to the order of mutual preference,  
21 the executive director shall appoint a neutral  
22 arbitrator. If the parties fail to agree upon  
23 any arbitrators named, or if for any other  
24 reason the appointment cannot be made from the  
25 initial list, the executive director shall then  
26 submit a 2nd list of 5 or more additional qualified  
27 arbitrators of recognized experience and  
28 competence from which they shall alternately  
29 strike names until a single name is left, strike  
30 names with the determination as to which party  
31 shall strike first being determined by a random  
32 technique administered through the Executive  
33 Director of the Maine Labor Relations Board.  
34 Thereafter, the parties shall alternately strike  
35 names from the list of names submitted, provided  
36 that, when the list is reduced to 4 names, the  
37 2nd from the last party to strike shall be enti-  
38 tled to strike 2 names simultaneously, after  
39 which the last party to strike shall so strike  
40 one name from the then 2 remaining names, such  
41 that the then remaining name shall identify the  
42 person who shall then be appointed by the execu-  
43 tive director as the neutral arbitrator.

44 Nothing in this subsection shall may be construed  
45 as preventing the parties, as an alternative to  
46 procedures in the preceding paragraph, from

1 jointly agreeing to elect arbitration from either  
2 the Federal Mediation and Conciliation Service or  
3 the American Arbitration Association, under the  
4 procedures, rules and regulations of that associ-  
5 ation, provided that these procedures, rules and  
6 regulations are not inconsistent with subsections  
7 B and C below.

8 Sec. 2. 26 MRSA §1026, sub-§4, ¶B, as amended by  
9 PL 1975, c. 671, §14, is further amended to read:

10 B. If the controversy is not resolved by the  
11 parties themselves, the arbitrators shall proceed  
12 as follows: With respect to a controversy over  
13 salaries, pensions and insurance, the arbitrators  
14 will recommend terms of settlement and may make  
15 findings of fact; such recommendations and find-  
16 ings will be advisory only and will be made, if  
17 reasonably possible, within 60 days after the se-  
18 lection of the neutral arbitrator. The arbitra-  
19 tors may in their discretion make such recom-  
20 mendations and findings public, and either party  
21 may make such recommendations and findings public  
22 if agreement is not reached with respect to such  
23 findings and recommendations within 10 days after  
24 their receipt from the arbitrators. With respect  
25 to a controversy over subjects other than sal-  
26 aries, pensions and insurance, the arbitrators  
27 shall make determinations with respect thereto if  
28 reasonably possible within 60 days after the se-  
29 lection of the neutral arbitrator. Such determi-  
30 nations may be made public by the arbitrators or  
31 either party and if made by a majority of the  
32 arbitrators, such determinations will be binding  
33 on both parties and the parties will enter an  
34 agreement or take whatever other action that may  
35 be appropriate to carry out and effectuate such  
36 binding determinations, and such determinations  
37 will be subject to review by the Superior Court  
38 in the manner specified by section 972 1033. The  
39 results of all arbitration proceedings, recom-  
40 mendations and awards conducted under this  
41 section shall be filed with the Maine Labor Rela-  
42 tions Board at the offices of its executive  
43 director simultaneously with the submission of  
44 the recommendations and award to the parties. In  
45 the event the parties settle their dispute during

1 the arbitration proceeding, the arbitrator or the  
2 chairman of the arbitration panel will submit a  
3 report of his activities to the Executive Direc-  
4 tor of the Maine Labor Relations Board not more  
5 than 5 days after the arbitration proceeding has  
6 terminated.

7 STATEMENT OF FACT

8 The purpose of this new draft is to prevent the  
9 possibility of administrative delay in making a  
10 determination of impasse when application is made to  
11 the Maine Labor Relations Board to initiate arbitra-  
12 tion procedures and to clarify the procedures by  
13 which the arbitrators are selected when a list of 5,  
14 or other odd number, of arbitrators is supplied to  
15 the parties.

16 This new draft also rectifies an error in Title  
17 26, section 1026, subsection 4, paragraph B, by re-  
18 placing the reference to section 972 with section  
19 1033 in the court review provision. Section 1033 is  
20 the appropriate provision for review of interest  
21 arbitration awards under the University of Maine  
22 Labor Relations Act.

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