

# MAINE STATE LEGISLATURE

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(EMERGENCY)

SECOND REGULAR SESSION

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ONE HUNDRED AND ELEVENTH LEGISLATURE

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Legislative Document

No. 2175

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H.P. 1649

House of Representatives, March 2, 1984

Reported by Representative Hobbins for the Advisory Committee on  
Judicial Employees Collective Bargaining pursuant to Public Law 1983,  
chapter 412, sub-section 2. Printed under Joint Rule 18.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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

---

AN ACT to Create the Judicial Employees  
Labor Relations Act.

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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, employees of the judicial branch of government perform a vital function in this State; and

Whereas, employees of the Judicial Department are among the few remaining public employees who have not been granted collective bargaining rights; and

Whereas, it is the desire of both the Legislature and the Judicial Department that these employees receive full collective bargaining rights; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of

1 the Constitution of Maine and require the following  
2 legislation as immediately necessary for the preser-  
3 vation of the public peace, health and safety; now,  
4 therefore,

5 Be it enacted by the People of the State of Maine as  
6 follows:

7 26 MRSA c. 14 is enacted to read:

8 CHAPTER 14

9 JUDICIAL EMPLOYEES LABOR RELATIONS ACT

10 §1281. Purpose

11 It is declared to be the public policy of this  
12 State and it is the purpose of this chapter to pro-  
13 motivate improvement of the relationship between the Ju-  
14 dicial Department of the State and its employees by  
15 cooperating with the Supreme Judicial Court in recog-  
16 nizing the right of judicial employees to join labor  
17 organizations of their own choosing and to be repre-  
18 sented by those organizations in collective bargain-  
19 ing for terms and conditions of employment.

20 §1282. Definitions

21 As used in this chapter, unless the context oth-  
22 erwise indicates, the following terms have the fol-  
23 lowing meanings.

24 1. Bargaining agent. "Bargaining agent" means  
25 any lawful organization, association or individual  
26 representative of such an organization or association  
27 which has as its primary purpose the representation  
28 of employees in their employment relations with em-  
29 ployers, and which has been determined by the public  
30 employer, as defined in subsection 6, or by the exec-  
31 utive director of the board to be the choice of the  
32 majority of the unit as their representative.

33 2. Board. "Board" means the Maine Labor Rela-  
34 tions Board, as defined in section 968.

35 3. Cost items. "Cost items" means the provi-  
36 sions of a collective bargaining agreement which re-  
37 quire an appropriation by the Legislature.

1           4. Executive director. "Executive director"  
2 means the Executive Director of the Maine Labor Rela-  
3 tions Board, as defined in section 968, subsection 2.

4           5. Judicial employee. "Judicial employee" means  
5 any employee of the Judicial Department, except any  
6 person:

7           A. Who is appointed by the Governor;

8           B. Who serves as the State Court Administrator;

9           C. Whose duties necessarily imply a confidential  
10 relationship to the Judicial Department's bar-  
11 gaining representative with respect to matters  
12 subject to collective bargaining;

13           D. Who is a department or division head;

14           E. Who is appointed to serve as a law clerk to a  
15 judge or a justice;

16           F. Who is a temporary, seasonal or on-call em-  
17 ployee, including interns; or

18           G. Who has been employed for less than 6 months.

19           6. Public employer. "Public employer" means the  
20 Judicial Department of the State. It is the respon-  
21 sibility of the Judicial Department to negotiate col-  
22 lective bargaining agreements and to administer those  
23 agreements. It is the responsibility of the Legisla-  
24 ture to act upon those portions of tentative agree-  
25 ments negotiated by the Judicial Department which re-  
26 quire legislative action. To coordinate the employer  
27 position in the negotiation of agreements, the Legis-  
28 lative Council or its designee shall maintain close  
29 liaison with the bargaining representative of the Ju-  
30 dicial Department relative to negotiating cost items  
31 in any proposed agreement. The Supreme Judicial  
32 Court may designate a bargaining representative for  
33 the Judicial Department who may:

34           A. Develop and execute employee relations poli-  
35 cies, objectives and strategies consistent with  
36 the overall objectives and constitutional and  
37 statutory duties of the Judicial Department;

1 B. Conduct negotiations with certified and rec-  
2 ognized bargaining agents;

3 C. Administer and interpret collective bargain-  
4 ing agreements, and coordinate and direct Judi-  
5 cial Department activities as necessary to pro-  
6  mote consistent policies and practices;

7 D. Represent the Judicial Department in all bar-  
8 gaining unit determinations, elections, prohib-  
9 ited practice complaints and any other proceed-  
10 ings growing out of employee relations and col-  
11 lective bargaining activities;

12 E. Coordinate the compilation of all data and  
13 information needed for the development and evalu-  
14 ation of employee relations programs and in the  
15 conduct of negotiations;

16 F. Coordinate the Judicial Department's re-  
17 sources as needed to represent the department in  
18 negotiations, mediation, fact finding, arbitra-  
19 tion, mediation-arbitration and other proceed-  
20 ings; and

21 G. Provide staff advice on employee relations to  
22 the courts, judges and supervisory personnel, in-  
23 cluding providing for necessary supervisory and  
24 managerial training.

25 All state departments and agencies shall provide such  
26 assistance, services and information as required by  
27 the Judicial Department and shall take such adminis-  
28 trative or other action as may be necessary to imple-  
29 ment and administer the provisions of any binding  
30 agreement between the Judicial Department and employ-  
31 ee organizations entered into under law.

32 §1283. Right of judicial employees to join labor or-  
33 ganizations

34 No one may directly or indirectly interfere with,  
35 intimidate, restrain, coerce or discriminate against  
36 judicial employees or a group of judicial employees  
37 in the free exercise of their rights voluntarily to  
38 join, form and participate in the activities of orga-  
39 nizations of their own choosing for the purposes of

1 representation and collective bargaining, or in the  
2 free exercise of any other right under this chapter.

3 §1284. Prohibited acts of the public employer, judi-  
4 cial employers and judicial employee organi-  
5 zations

6 1. Public employer prohibitions. The public em-  
7 ployer, its representatives and agents are prohibited  
8 from:

9 A. Interfering with, restraining or coercing em-  
10 ployees in the exercise of the rights guaranteed  
11 in section 1283;

12 B. Encouraging or discouraging membership in any  
13 employee organization by discrimination in regard  
14 to hire or tenure of employment or any term or  
15 condition of employment;

16 C. Dominating or interfering with the formation,  
17 existence or administration of any employee orga-  
18 nization;

19 D. Discharging or otherwise discriminating  
20 against an employee because he has signed or  
21 filed any affidavit, petition or complaint or  
22 given any information or testimony under this  
23 chapter;

24 E. Refusing to bargain collectively with the  
25 bargaining agent of its employees, as required by  
26 section 1285; or

27 F. Blacklisting any employee organization or its  
28 members for the purpose of denying them employ-  
29 ment.

30 2. Judicial employee prohibitions. Judicial em-  
31 ployees, judicial employee organizations, their  
32 agents, members and bargaining agents are prohibited  
33 from:

34 A. Interfering with, restraining or coercing em-  
35 ployees in the exercise of the rights guaranteed  
36 in section 1283 or the public employer in the se-  
37 lection of its representative for purposes of

1 collective bargaining or the adjustment of griev-  
2 ances;

3 B. Refusing to bargain collectively with the  
4 public employer, as required by section 1285;

5 C. Engaging in:

6 (1) A work stoppage;

7 (2) A slowdown;

8 (3) A strike; or

9 (4) The blacklisting of the public employer  
10 for the purpose of preventing it from fill-  
11 ing employee vacancies.

12 3. Violations. Violations of this section shall  
13 be processed by the board in the manner provided in  
14 section 1289.

15 §1285. Obligation to bargain; methods of resolving  
16 disputes

17 1. Negotiations. On and after the effective  
18 date of this chapter, it shall be the obligation of  
19 the public employer and the bargaining agent to bar-  
20 gain collectively. "Collective bargaining" means,  
21 for the purpose of this chapter, their mutual obliga-  
22 tion:

23 A. To meet at reasonable times;

24 B. To meet within 10 days after receipt of writ-  
25 ten notice from the other party requesting a  
26 meeting for collective bargaining purposes, pro-  
27 vided that the parties have not otherwise agreed  
28 in a prior written contract;

29 C. To execute in writing any agreements arrived  
30 at, the term of any such agreement to be subject  
31 to negotiation shall not exceed 2 years; and

32 D. To participate in good faith in the media-  
33 tion, fact finding, arbitration and  
34 mediation-arbitration procedures required by this  
35 section;

1           E. To confer and negotiate in good faith with  
2           respect to wages, hours, working conditions and  
3           contract grievance arbitration, except that by  
4           such obligation neither party may be compelled to  
5           agree to a proposal or be required to make a con-  
6           cession. All matters relating to the relation-  
7           ship between the employer and employees shall be  
8           the subject of collective bargaining, except  
9           those matters which are prescribed or controlled  
10           by law. Such matters appropriate for collective  
11           bargaining, to the extent they are not prescribed  
12           or controlled by law, include, but are not lim-  
13           ited to:

14                   (1) Wage and salary schedules to the extent  
15                   they are inconsistent with rates prevailing  
16                   in commerce and industry for comparable work  
17                   within the State;

18                   (2) Work schedules relating to assigned  
19                   hours and days of the week;

20                   (3) Use of vacation or sick leave, or both;

21                   (4) General working conditions;

22                   (5) Overtime practices; and

23                   (6) Rules for personnel administration, ex-  
24                   cept for rules relating to applicants for  
25                   employment and employees in an initial pro-  
26                   bationary status, including any extensions  
27                   thereof, provided that the rules are not  
28                   discriminatory by reason of an applicant's  
29                   race, color, creed, sex or national origin.

30           Cost items shall be included in the Judicial De-  
31           partment's next operating budget in accordance  
32           with Title 4, section 24. If the Legislature re-  
33           jects any of the cost items submitted to it, all  
34           cost items submitted shall be returned to the  
35           parties for further bargaining.

36           2. Mediation.

37           A. It is the declared policy of the State to  
38           provide full and adequate facilities for the set-



1 tlement of disputes between the employer and em-  
2 ployees or their representatives and other dis-  
3 putes subject to settlement through mediation.

4 B. Mediation procedures, as provided by section  
5 965, subsection 2, shall be followed whenever ei-  
6 ther party to a controversy requests such ser-  
7 vices prior to arbitration, or at any time on  
8 motion of the Maine Labor Relations Board or its  
9 executive director.

10 C. The employer, union or employees involved in  
11 collective bargaining shall notify the Executive  
12 Director of the Maine Labor Relations Board, in  
13 writing, at least 30 days prior to the expiration  
14 of a contract, or 30 days prior to entering into  
15 negotiations for a first contract between the em-  
16 ployer and the employees, or whenever a dispute  
17 arises between the parties threatening interrup-  
18 tion of work, or under both conditions.

19 D. Any information disclosed by either party to  
20 a dispute to the panel or any of its members in  
21 the performance of this subsection shall be priv-  
22 ileged.

23 3. Fact-finding.

24 A. If the parties, either with or without the  
25 services of a mediator, are unable to effect a  
26 settlement of their controversy, they may agree  
27 either to call upon the Maine Labor Relations  
28 Board for fact-finding services with recommenda-  
29 tions or to pursue some other mutually acceptable  
30 fact-finding procedure, including use of the Fed-  
31 eral Mediation and Conciliation Service or the  
32 American Arbitration Association according to  
33 their respective procedures and rules.

34 B. If so requested, the executive director shall  
35 appoint a fact-finding panel, ordinarily of 3  
36 members, in accordance with rules and procedures  
37 prescribed by the board for making the appoint-  
38 ment. Any person who has actively participated  
39 as the mediator in the immediate proceedings for  
40 which fact-finding has been called shall not sit  
41 on that fact-finding panel. The panel shall hear

1 the contending parties to the controversy. It  
2 may request statistical data and reports on its  
3 own initiative in addition to the data regularly  
4 maintained by the Bureau of Labor Standards, and  
5 may administer oaths and to require by subpoena  
6 the attendance and testimony of witnesses, the  
7 production of books, records and other evidence  
8 relative or pertinent to the issues presented to  
9 them. The members of the fact-finding panel  
10 shall submit their findings and recommendations  
11 only to the parties and to the Executive Director  
12 of the Maine Labor Relations Board.

13 C. The parties shall have a period of 30 days,  
14 after the submission of findings and recommenda-  
15 tions from the fact finders, in which to make a  
16 good faith effort to resolve their controversy.  
17 If the parties have not resolved their controver-  
18 sy by the end of the period, either party or the  
19 executive director may, but not until the end of  
20 the period unless the parties otherwise agree,  
21 make the fact-finding and recommendations public.

22 4. Arbitration.

23 A. The parties may agree to an arbitration pro-  
24 cedure which will result in a binding determina-  
25 tion of their controversy.

26 B. If the parties do not agree to the arbitra-  
27 tion procedure of paragraph A, either party may  
28 petition the board to initiate arbitration which  
29 shall be binding, except as to salaries, pensions  
30 and insurance. On receipt of the petition, the  
31 executive director of the board shall investigate  
32 to determine if an impasse has been reached. If  
33 he so determines, he shall issue an order requir-  
34 ing arbitration and requesting the parties to se-  
35 lect one or more arbitrators. If the parties,  
36 within 10 days after the issuance of the order,  
37 have not selected an arbitrator or an arbitration  
38 panel, the board shall then order each party to  
39 select one arbitrator and, if these 2 arbitrators  
40 cannot in 5 days select a 3rd neutral arbitrator,  
41 the board shall submit a list from which the par-  
42 ties may alternately strike names until a single  
43 name is left, who shall be appointed by the board

1 as arbitrator. In reaching a decision under this  
2 paragraph, the arbitrator shall consider the fol-  
3 lowing factors:

4 (1) The interests and welfare of the public  
5 and the financial ability of State Govern-  
6 ment to finance the cost items proposed by  
7 each party to the impasse;

8 (2) Comparison of the wages, hours and  
9 working conditions of the employees involved  
10 in the arbitration proceeding with the  
11 wages, hours and working conditions of other  
12 employees performing similar services in the  
13 executive and legislative branches of gov-  
14 ernment and in public and private employment  
15 in other jurisdictions competing in the same  
16 labor market;

17 (3) The overall compensation presently re-  
18 ceived by the employees, including direct  
19 wage compensation, vacation, holidays and  
20 excused time, insurance and pensions, medi-  
21 cal and hospitalization benefits, the conti-  
22 nuity and stability of employment, and all  
23 other benefits received;

24 (4) Such other factors not confined to the  
25 foregoing, which are normally and  
26 traditionally taken into consideration in  
27 the determination of wages, hours and work-  
28 ing conditions through voluntary collective  
29 bargaining, mediation, fact-finding, arbi-  
30 tration or otherwise between the parties, in  
31 the public service or in private employment,  
32 including the average Consumer Price Index;

33 (5) The need of the Judicial Department for  
34 qualified employees;

35 (6) Conditions of employment in similar oc-  
36 cupations outside State Government;

37 (7) The need to maintain appropriate rela-  
38 tionships between different occupations in  
39 the Judicial Department; and

1                   (8) The need to establish fair and reason-  
2                   able conditions in relation to job qualifi-  
3                   cations and responsibilities.

4                   With respect to controversies over salaries, pensions  
5                   and insurance, the arbitrator shall recommend terms  
6                   of settlement and may make findings of fact. The  
7                   recommendations and findings shall be advisory and  
8                   shall not be binding upon the parties. The determi-  
9                   nation by the arbitrator on all other issues shall be  
10                   final and binding on the parties.

11                   Any hearing shall be informal and the rules of evi-  
12                   dence for judicial proceedings shall not be binding.  
13                   Any documentary evidence and other information deemed  
14                   relevant by the arbitrator may be received in evi-  
15                   dence. The arbitrator may administer oaths and re-  
16                   quire by subpoena attendance and testimony of wit-  
17                   nesses and production of books and records and other  
18                   evidence relating to the issues presented.

19                   The arbitrator shall have a period of 30 days from  
20                   the termination of the hearing in which to submit his  
21                   report to the parties and to the board, unless that  
22                   time limitation is extended by the executive direc-  
23                   tor.

24                   5. Mediation-arbitration

25                   A. The parties may agree to a mediation-arbitra-  
26                   tion procedure. The parties may agree in advance  
27                   that all issues will be subject to binding arbi-  
28                   tration. Otherwise, arbitration shall be bind-  
29                   ing, except as to salaries, pensions and insur-  
30                   ance.

31                   B. The parties may jointly select a mediator-  
32                   arbitrator. If they are unable to agree, either  
33                   party may request the Executive Director of the  
34                   Maine Labor Relations Board to select a  
35                   mediator-arbitrator from a panel of mediators or  
36                   from the State Board of Arbitration and Concilia-  
37                   tion. The executive director may not select a  
38                   person who has served as a mediator at an earlier  
39                   stage of the same proceedings.

1           C. The mediator-arbitrator shall encourage the  
2 parties to reach a voluntary settlement of their  
3 dispute, but may, after a reasonable period of  
4 mediation as he may determine, initiate an arbi-  
5 tration proceeding by notifying the parties of  
6 his intention to serve as a single arbitrator.

7           D. Any hearing shall be informal and the rules  
8 of evidence for judicial proceedings shall not be  
9 binding. Any documentary evidence and other in-  
10 formation deemed relevant by the  
11 mediator-arbitrator may be received in evidence.  
12 The mediator-arbitrator shall have the power to  
13 administer oaths and to require by subpoena at-  
14 tendance and testimony of witnesses and produc-  
15 tion of books and records and other evidence re-  
16 lating to the issues presented.

17           E. In reaching a decision, the mediator-arbi-  
18 trator shall consider the factors specified in  
19 section 1285, subsection 4. With respect to con-  
20 troversies over salaries, pensions and insurance,  
21 the mediator-arbitrator shall recommend terms of  
22 settlement and may make findings of fact unless  
23 the parties have agreed in advance to binding arbi-  
24 tration of all issues. Such recommendations  
25 and findings shall be advisory and shall not be  
26 binding on the parties. The determination of the  
27 mediator-arbitrator on all other issues shall be  
28 final and binding on the parties.

29           F. The mediator-arbitrator shall have a period  
30 of 30 days from the termination of the hearing in  
31 which to submit his report to the parties and to  
32 the board, unless the period is extended by the  
33 executive director.

34           6. Reports of arbitration. The results of all  
35 arbitration and mediation-arbitration proceedings,  
36 recommendations and awards conducted under this sec-  
37 tion shall be filed with the Maine Labor Relations  
38 Board at the offices of its executive director simul-  
39 taneously with the submissions of the recommendations  
40 and award to the parties. In the event the parties  
41 settle their dispute during the arbitration or  
42 mediation-arbitration proceeding, the arbitrator, the  
43 chairman of the arbitration panel or the

1 mediator-arbitrator shall submit a report of his ac-  
2 tivities to the Executive Director of the Maine Labor  
3 Relations Board not more than 5 days after the pro-  
4 ceeding has terminated.

5 7. Costs. The costs for the services of the me-  
6 diator, the members of the fact-finding board, the  
7 neutral arbitrator and the mediator-arbitrator, in-  
8 cluding, if any, per diem expenses, and actual and  
9 necessary travel and subsistence expenses and the  
10 costs of hiring the premises where any mediation,  
11 fact-finding, arbitration or mediation-arbitration  
12 proceedings are conducted, shall be shared equally by  
13 the parties to the proceedings. All other costs  
14 shall be assumed by the party incurring them. The  
15 services of the members of the State of Maine's Panel  
16 of Mediators, to a maximum of 3 mediation days per  
17 case, and of the State Board of Arbitration and Con-  
18 ciliation are available to the parties without cost.

19 8. Arbitration administration. The cost of ser-  
20 vices rendered and expenses incurred by the State  
21 Board of Arbitration and Conciliation, as defined in  
22 section 911, shall be paid by the State from an ap-  
23 propriation for the State Board of Arbitration and  
24 Conciliation, which shall be included in the budget  
25 of the Maine Labor Relations Board. Authorization  
26 for services rendered and expenditures incurred by  
27 members of the State Board of Arbitration and Con-  
28 ciliation shall be the responsibility of the executive  
29 director.

30 §1286. Bargaining unit; how determined

31 1. Unit determination. In the event of a dis-  
32 pute between the public employer and an employee or  
33 employees over the appropriateness of a unit for pur-  
34 poses of collective bargaining or between the public  
35 employer and an employee or employees over whether a  
36 supervisory or other position is included in the bar-  
37 gaining unit, the executive director or his designee  
38 shall make the determination, except that anyone ex-  
39 cepted from the definition of judicial employee under  
40 section 1282 may not be included in a bargaining  
41 unit. The executive director or his designee con-  
42 ducting unit determination proceedings may administer  
43 oaths and require by subpoena the attendance and tes-

1 timony of witnesses, the production of books, records  
2 and other evidence relative or pertinent to the is-  
3 ssues represented to them.

4 2. Criteria. In determining whether a supervi-  
5 sory position should be excluded from the proposed  
6 bargaining unit, the executive director or his desig-  
7 nee shall consider, among other criteria, if the  
8 principal functions of the position are characterized  
9 by performing such management control duties as  
10 scheduling, assigning, overseeing and reviewing the  
11 work of subordinate employees, or performing such du-  
12 ties as are distinct and dissimilar from those per-  
13 formed by the employees supervised, or exercising  
14 judgment in adjusting grievances, applying other es-  
15 tablished personnel policies and procedures and in  
16 enforcing a collective bargaining agreement or estab-  
17 lishing or participating in the establishment of per-  
18 formance standards for subordinate employees and tak-  
19 ing corrective measures to implement those standards.

20 3. Determination of unit appropriateness. In  
21 determining the unit appropriate for purposes of col-  
22 lective bargaining, the executive director or his  
23 designee shall seek to insure to employees the ful-  
24 lest freedom in exercising the rights guaranteed by  
25 this chapter, to insure a clear and identifiable com-  
26 munity of interest among employees concerned and to  
27 avoid excessive fragmentation among bargaining units.

28 4. Unit clarification. When there is a certi-  
29 fied or currently recognized bargaining representa-  
30 tive and when the circumstances surrounding the for-  
31 mation of an existing bargaining unit are alleged to  
32 have changed sufficiently to warrant modification in  
33 the composition of that bargaining unit, the public  
34 employer or any recognized or certified bargaining  
35 agent may file with the executive director a petition  
36 for a unit clarification, provided that the parties  
37 are unable to agree on appropriate modifications and  
38 there is no question concerning representation.

39 §1287. Determination of bargaining agent

40 1. Voluntary recognition. Any judicial employee  
41 organization may file a request with the public em-  
42 ployer alleging that a majority of the judicial em-

1 ployees in an appropriate bargaining unit wish to be  
2 represented for the purpose of collective bargaining  
3 between the public employer and the employees' orga-  
4 nization. The request shall describe the grouping of  
5 jobs or positions which constitute the unit claimed  
6 to be appropriate and shall include a demonstration  
7 of majority support. The request for recognition  
8 shall be granted by the public employer, unless the  
9 public employer desires that an election determine  
10 whether the organization represents a majority of the  
11 members in the bargaining unit.

12 2. Elections. The executive director of the  
13 board or his designee, upon signed request of a pub-  
14 lic employer alleging that one or more judicial em-  
15 ployees or judicial employee organizations have pre-  
16 sented to it a claim to be recognized as the repre-  
17 sentative of a bargaining unit of judicial employees,  
18 or upon signed petition of at least 30% of a bargain-  
19 ing unit of judicial employees that they desire to be  
20 represented by an organization, shall conduct a se-  
21 cret ballot election to determine whether the organi-  
22 zation represents a majority of the members of the  
23 bargaining unit. Such an election may be conducted  
24 at suitable work locations or through the United  
25 States mail, provided that the procedures adopted and  
26 employed by the board shall maintain the anonymity of  
27 the voter from both the employee organizations and  
28 the management representatives involved.

29 3. Voting.

30 A. The ballot shall contain the name of the or-  
31 ganization and that of any other organization  
32 showing written proof of at least 10% representa-  
33 tion of the judicial employees within the unit,  
34 together with a choice for any judicial employee  
35 to designate that he does not desire to be repre-  
36 sented by any bargaining agent. When more than  
37 one organization is on the ballot and no one of  
38 the 3 or more choices receives a majority vote of  
39 the judicial employees voting, a runoff election  
40 shall be held. The runoff ballot shall contain  
41 the 2 choices which received the largest and 2nd  
42 largest number of votes. When an organization  
43 receives the majority of votes of those voting,  
44 the executive director of the board shall certify



1 it as the bargaining agent. The bargaining agent  
2 certified as representing a bargaining unit shall  
3 be recognized by the public employer as the sole  
4 and exclusive bargaining agent for all of the em-  
5 ployees in the bargaining unit, unless and until  
6 a decertification election by secret ballot shall  
7 be held and the bargaining agent declared by the  
8 executive director of the board as not represent-  
9 ing a majority of the unit.

10 B. Whenever 30% of the employees in a certified  
11 bargaining unit petition for a bargaining agent  
12 to be decertified, the procedures for conducting  
13 an election on the question shall be the same as  
14 for representation as bargaining agent as set  
15 forth in this chapter.

16 C. No question concerning representation may be  
17 raised within one year of a certification or at-  
18 tempted certification. Where there is a valid  
19 collective bargaining agreement in effect, no  
20 question concerning unit or representation may be  
21 raised, except during the period not more than 90  
22 days nor less than 60 days prior to the expira-  
23 tion date of the agreement. Unit clarification  
24 proceedings are not subject to this time limita-  
25 tion and may be brought at any time consistent  
26 with section 1286, subsection 4.

27 D. The bargaining agent certified by the execu-  
28 tive director of the board or his designee as the  
29 exclusive bargaining agent shall be required to  
30 represent all the judicial employees within the  
31 unit without regard to membership in the organi-  
32 zation certified as bargaining agent, provided  
33 that any judicial employee at any time may  
34 present his grievance to the public employer and  
35 have that grievance adjusted without the inter-  
36 vention of the bargaining agent, if the adjust-  
37 ment is not inconsistent with the terms of a col-  
38 lective bargaining agreement then in effect and  
39 if the bargaining agent's representative has been  
40 given reasonable opportunity to be present at any  
41 meeting of the parties called for the resolution  
42 of that grievance.

43 §1288. Maine Labor Relations Board; rule-making  
44 procedure and review of proceedings

1           1. Rule-making procedure. Proceedings conducted  
2 under this chapter shall be subject to the rules and  
3 procedures of the board promulgated under section  
4 968, subsection 3.

5           2. Review of representation proceedings. Any  
6 person aggrieved by any ruling or determination of  
7 the executive director under sections 1286 and 1287  
8 may appeal, within 15 days of the announcement of the  
9 ruling or determination, except that in the instance  
10 of objections to the conduct of an election or chal-  
11 lenged ballots the time period shall be 5 working  
12 days, to the Maine Labor Relations Board. Upon re-  
13 ceipt of such an appeal, the board shall, within a  
14 reasonable time, hold a hearing, having first caused  
15 7 days' notice in writing of the time and place of  
16 that hearing to be given to the aggrieved party, the  
17 labor organizations or bargaining agent and the pub-  
18 lic employer. The hearings and the procedures estab-  
19 lished in furtherance thereof shall be in accordance  
20 with section 968. Decisions of the board made pursu-  
21 ant to this subsection shall be subject to review by  
22 the Superior Court in the manner specified in section  
23 1292.

24 §1289. Prevention of prohibited acts

25           1. Prevention of prohibited acts; board pow-  
26 ers. The board may prevent any person, the public  
27 employer, any judicial employee, any judicial employ-  
28 ee organization or any bargaining agent from engaging  
29 in any of the prohibited acts enumerated in section  
30 1284. This power shall not be affected by any other  
31 means of adjustment or prevention that has been or  
32 may be established by agreement, law or otherwise.

33           2. Complaints. The public employer, any judi-  
34 cial employee, any judicial employee organization or  
35 any bargaining agent which believes that any person,  
36 the public employer, any judicial employee, any judi-  
37 cial employee organization or any bargaining agent  
38 has engaged in or is engaging in any such prohibited  
39 practice may file a complaint with the executive di-  
40 rector of the board stating the charges in that re-  
41 gard. No such complaint may be filed with the execu-  
42 tive director until the complaining party has served  
43 a copy thereof upon the party complained of. Upon

1 receipt of the complaint, the executive director or  
2 his designee shall review the charge to determine  
3 whether the facts as alleged may constitute a prohib-  
4 ited act and shall forthwith cause an investigation  
5 to be conducted. The executive director shall at-  
6 tempt to obtain and evaluate sworn affidavits from  
7 persons having knowledge of the facts. If it is de-  
8 termined that the sworn facts do not, as a matter of  
9 law, constitute a violation, the charge shall be dis-  
10 missed by the executive director, subject to review  
11 by the board. If it is determined from the sworn  
12 facts that the complaint is meritorious, the execu-  
13 tive director shall recommend a proposed settlement.  
14 The parties have 30 days after the recommendations  
15 are made to resolve their dispute. If the parties  
16 have not resolved their dispute by the end of the  
17 30-day period, either party or the executive director  
18 may make the recommendations public, but not until  
19 the expiration of the 30-day period, unless the par-  
20 ties otherwise agree. If a formal hearing is deemed  
21 necessary by the executive director or by the board,  
22 the executive director shall serve upon the parties  
23 to the complaint a notice of the prehearing confer-  
24 ence and of the hearing before the board, that notice  
25 to designate the time and place of the hearing for  
26 the prehearing conference or the hearing, as appro-  
27 priate, provided that a hearing shall not be held  
28 based upon any alleged prohibited practice occurring  
29 more than 6 months prior to the filing of the com-  
30 plaint with the executive director. The party com-  
31 plained of shall have the right to file a written an-  
32 swer to the complaint and to appear in person or oth-  
33 erwise and give testimony at the place and time fixed  
34 for the hearing. In the discretion of the board, any  
35 other person or organization may be allowed to inter-  
36 vene in that proceeding and to present testimony.  
37 Nothing in this subsection may restrict the right of  
38 the board to require the executive director or his  
39 designee to hold a prehearing conference on any pro-  
40 hibited practice complaint prior to the hearing be-  
41 fore the board and taking whatever action, including  
42 dismissal, attempting to resolve disagreements be-  
43 tween the parties or recommending an order to the  
44 board, as he may deem appropriate, subject to review  
45 by the board.

1           3. Cease and desist order. After hearing and  
2 argument, if, upon a preponderance of the evidence  
3 received, the board shall be of the opinion that any  
4 party named in the complaint has engaged in or is en-  
5 gaging in any such prohibited practice, the board  
6 shall in writing state its findings of fact and the  
7 reasons for its conclusions and shall issue and cause  
8 to be served upon the party an order requiring the  
9 party to cease and desist from that prohibited prac-  
10 tice and to take such affirmative action, including  
11 reinstatement of employees with or without back pay,  
12 as will effectuate the policies of this Act. No or-  
13 der of the board may require the reinstatement of any  
14 individual as an employee who has been suspended or  
15 discharged, or the payment to him of any back pay, if  
16 that individual was suspended or discharged for  
17 cause.

18           4. Dismissal of complaint. After hearing and  
19 argument, if the board is not persuaded by a prepon-  
20 derance of the evidence received that the party named  
21 in the complaint has engaged in or is engaging in any  
22 prohibited practice, the board shall in writing state  
23 its findings of fact and the reasons for its conclu-  
24 sions and shall issue an order dismissing the com-  
25 plaint.

26           5. Action to compel compliance. If, after the  
27 issuance of an order by the board requiring any party  
28 to cease and desist or to take any other affirmative  
29 action, that party fails to comply with the order of  
30 the board, the party in whose favor the order oper-  
31 ates or the board may file a civil action in the Su-  
32 perior Court in Kennebec County to compel compliance  
33 with the order of the board. In such action to com-  
34 pel compliance, the Superior Court shall not review  
35 the action of the board other than to determine ques-  
36 tions of law. If an action to review the decision of  
37 the board is pending at the time of the commencement  
38 of an action for enforcement pursuant to this subsec-  
39 tion or is thereafter filed, the 2 actions shall be  
40 consolidated.

41           6. Interim injunctive relief. Whenever a com-  
42 plaint is filed with the executive director of the  
43 board, alleging that the public employer has violated  
44 section 1284, subsection 1, paragraph F, or alleging

1 that a judicial employee or judicial employee organi-  
2 zation or bargaining agent has violated section 1284,  
3 subsection 2, paragraph C, the party making the com-  
4 plaint may simultaneously seek interim injunctive re-  
5 lief from the Superior Court in the county in which  
6 the prohibited practice is alleged to have occurred  
7 pending the final adjudication of the board with re-  
8 spect to that matter.

9       7. Review. Either party may seek a review by  
10 the Superior Court in Kennebec County of a decision  
11 or order of the Maine Labor Relations Board by filing  
12 a complaint in accordance with the Maine Rules of  
13 Civil Procedure, Rule 80C, provided that the com-  
14 plaint shall be filed within 15 days of the effective  
15 date of the decision. Upon the filing of the com-  
16 plaint, the court shall set the complaint down for  
17 hearing at the earliest possible time and shall cause  
18 all interested parties and the board to be notified.  
19 Pending review and upon application of any party in  
20 interest, the court may grant such temporary relief  
21 or restraining order and may impose such terms and  
22 conditions as it deems just and proper; provided that  
23 the board's decision or order shall not be stayed,  
24 except where it is clearly shown to the satisfaction  
25 of the court that substantial and irreparable injury  
26 will be sustained or that there is a substantial risk  
27 of danger to the public health, safety or welfare or  
28 interference with the exercise of the judicial power.  
29 The executive director shall forthwith file in the  
30 court the record in the proceeding certified by the  
31 executive director or a member of the board. The  
32 record shall include all documents filed in the pro-  
33 ceeding and the transcript, if any. After hearing,  
34 which shall be held not less than 7 days after notice  
35 thereof, the court may enforce, modify, enforce as so  
36 modified or set aside in whole or in part the deci-  
37 sion of the board, except that the finding of the  
38 board on questions of fact shall be final unless  
39 shown to be clearly erroneous. Any appeal to the Law  
40 Court shall be expedited in the same manner as an ap-  
41 peal from an interlocutory order under section 6.

42       8. Privileges seeking injunctive relief. In any  
43 judicial proceeding authorized by this subsection in  
44 which injunctive relief is sought, sections 5 and 6  
45 shall apply, except that neither an allegation nor

1 proof of unavoidable substantial and irreparable in-  
2 jury to the complainant's property may be required to  
3 obtain a temporary restraining order or injunction.

4 9. Interference with exercise of judicial power.  
5 The Maine Labor Relations Board shall not have  
6 power to interfere with the exercise of the judicial  
7 power.

8 §1290. Hearings before the Maine Labor Relations  
9 Board

10 1. Hearings; rules of evidence; evi-  
11 dence. Hearings conducted by the board shall be in-  
12 formal and the rules of evidence prevailing in judi-  
13 cial proceedings shall not be binding. Any and all  
14 documentary evidence and other evidence deemed rele-  
15 vant by the board may be received.

16 2. Subpoenas; evidence; witness fees. The  
17 chairman may administer oaths and require by subpoena  
18 the attendance and testimony of witnesses, the pre-  
19 sentation of books, records and other evidence rela-  
20 tive or pertinent to the issues presented to the  
21 board for determination. Witnesses subpoenaed by the  
22 board shall be allowed the same fees as are paid to  
23 witnesses in the Superior Court. These fees, togeth-  
24 er with all necessary expenses of the board, shall be  
25 paid by the Treasurer of State on warrants drawn by  
26 the State Controller.

27 §1291. Scope of binding contract arbitration

28 A collective bargaining agreement between the  
29 public employer and a bargaining agent may provide  
30 for binding arbitration as the final step of a griev-  
31 ance procedure, but the only grievances which may be  
32 taken to such binding arbitration shall be disputes  
33 between the parties as to the meaning or application  
34 of the specific terms of the collective bargaining  
35 agreement. An arbitrator with the power to make  
36 binding decisions pursuant to any such provision  
37 shall have no authority to add to, subtract from or  
38 modify the collective bargaining agreement.

39 §1292. Review of arbitration awards

1           1. Review by Superior Court. Either party may  
2 seek a review by the Superior Court of a binding de-  
3 termination by an arbitration panel. The review  
4 shall be sought in accordance with the Maine Rules of  
5 Civil Procedure, Rule 80C.

6           2. Questions of fact. In the absence of fraud,  
7 the binding determination of an arbitration panel,  
8 arbitrator or mediator-arbitrator shall be final upon  
9 all questions of fact.

10           3. Action by court; appeal. The court may, af-  
11 ter consideration, affirm or reverse or modify any  
12 such binding determination or decision based upon any  
13 erroneous ruling. An appeal may be taken to the Law  
14 Court as in any civil action.

15   §1293. Separability

16           1. Separability. If any clause, sentence, para-  
17 graph or part of this chapter, or the application  
18 thereof to any person or circumstances, shall, for  
19 any reason, be adjudged by a court of competent ju-  
20 risdiction to be invalid, such judgment shall not af-  
21 fect, impair or invalidate the remainder of this  
22 chapter and the application of such provision to oth-  
23 er persons or circumstances, but shall be confined in  
24 its operation to the clause, sentence, paragraph or  
25 part thereof, directly involved in the controversy in  
26 which such judgment shall have been rendered and to  
27 the person or circumstances involved. It is declared  
28 to be the legislative intent that this chapter would  
29 have been adopted had such invalid provisions not  
30 been included.

31           2. Eligibility under federal programs. Nothing  
32 in this chapter or any contract negotiated pursuant  
33 to this chapter may in any way be interpreted or al-  
34 lowed to restrict or impair the eligibility of the  
35 State or the Judicial Department in obtaining the  
36 benefits under any federal grant-in-aid or assistance  
37 programs.

38   §1294. Amendment

39           This Act shall not be amended without first con-  
40 sulting the Supreme Judicial Court.





1 mitted to abandon those constitutional and statutory  
2 responsibilities. Yet the constitutionally ordained  
3 function of the Legislature is to set policy and en-  
4 act laws setting forth the rights and duties of  
5 Maine's citizens, and the Legislature has chosen to  
6 progressively extend the right of collective bargain-  
7 ing to many other public employees in this State.  
8 The Advisory Committee did not find it necessary to  
9 seek a final resolution of this issue, because it  
10 chose to recommend the continuance of the  
11 traditionally cooperative relationship between the  
12 Legislature and Judicial Department.

13 The committee recommended that the Supreme Judi-  
14 cial Court promulgate an administrative order and the  
15 Legislature enact statutory provisions essentially  
16 paralleling and supplementing the order. In the com-  
17 mittee's words: "The proposed court order and stat-  
18 ute extend the rights of collective bargaining to the  
19 Judicial Department's employees and empower nonjudi-  
20 cial agencies to effect the collective bargaining  
21 process. In contrast, the proposed statute contains  
22 the details of collective bargaining. Once the court  
23 and Legislature extend the rights and powers associ-  
24 ated with collective bargaining, there is considera-  
25 ble practical utility in leaving the details to the  
26 Legislature. If changes of detail are deemed desir-  
27 able for employees of the executive branch, commensu-  
28 rate changes can automatically be made in the judi-  
29 cial system as well. On the other hand, if a major  
30 change were to be made, giving a right to strike for  
31 example, then amendments to both the statute and  
32 court order would be appropriate after consultation  
33 between designated representatives of the Judicial  
34 Department and the Legislature." And further: "In the  
35 event that fundamental changes in the systems are  
36 suggested, changes which require amendment to both  
37 the statute and court order, we suggest that a new  
38 Advisory Committee be established, similar to ours,  
39 to assess the proposals and make recommendations to  
40 both the Legislature and the Court."

41 The Judicial Employees Labor Relations Act pro-  
42 posed in this bill is modeled closely on the State  
43 Employees Labor Relations Act ("S.E.L.R.A.", the Re-  
44 vised Statutes Title 26, section 979 et seq.) and the  
45 Municipal Public Employees Labor Relations Act

1 ("M.P.E.L.R.A.", the Revised Statutes Title 26, sec-  
2 tion 965 et seq.) with some changes required to re-  
3 cognize constitutional differences between the execu-  
4 tive and judicial branches. The Advisory Committee  
5 attached comments to the draft legislation to explain  
6 the reasoning behind these changes and their other  
7 recommendations. The full comments are available in  
8 the report of the Advisory Committee; this statement  
9 of fact contains a summary.

10 The Revised Statutes Title 26, section 1281, de-  
11 clares the commitment of both the legislative and ju-  
12 dicial branches to collective bargaining for judicial  
13 employees. Beginning in 1965, these rights have been  
14 extended so that employees of the legislative and ju-  
15 dicial branches are the only public employees not  
16 currently covered by bargaining legislation.

17 The Revised Statutes Title 26, section 1282, is  
18 the definitions section which closely parallels Title  
19 26, section 979-A. The differences between the Title  
20 26, section 1282, subsection 5, definition of public  
21 employer and the parallel provision in the S.E.L.R.A.  
22 are not designed to alter the public employer's re-  
23 sponsibility, but to recognize constitutional differ-  
24 ences. The court holds the judicial power to adjudi-  
25 cate issues arising from collective bargaining dis-  
26 putes, yet here it also has general administrative  
27 and supervisory authority over the Judicial Depart-  
28 ment employees. Because of this judicial function,  
29 the court believes it is advisable to remove itself  
30 from the actual process of bargaining by designating  
31 another office to serve as bargaining representative  
32 for the department. A logical choice is the State  
33 Court Administrator whose present duties are consist-  
34 ent with functions assigned to the public employer  
35 (See the Revised Statutes Title 4, section 17). The  
36 bargaining representative's authority permits consul-  
37 tation with the Chief Judges of the District Court  
38 and Superior Court on matters affecting the operation  
39 of the courts.

40 In keeping with the State Employees Labor Rela-  
41 tions Act, section 1282, subsection 3 recognizes that  
42 the Legislature assumes special responsibilities when  
43 it acts to extend collective bargaining rights to  
44 public employees. Also, see the Revised Statutes Ti-

1 tle 26, section 1285, subsection 1, last paragraph,  
2 under which cost items must be passed upon by the  
3 Legislature. For that reason, it is desirable that  
4 the Legislature maintain liaison with those persons  
5 in the Judicial Department who are negotiating with  
6 judicial employees.

7 The Advisory Committee gave the following comment  
8 on the Revised Statutes Title 26, section 1282, sub-  
9 section 5, which defines those who are entitled to  
10 enjoy the rights of collective bargaining. "The sec-  
11 tion is designed to be as inclusive as possible un-  
12 less there is some good reason for exclusion. Judges  
13 are excluded because their judicial duties must inev-  
14 itably include deciding issues arising from collec-  
15 tive bargaining disputes and because the performance  
16 of their judicial duties is subject to review and  
17 regulation by the Supreme Judicial Court. The State  
18 Court Administrator is excluded even if he is not  
19 designated as the Judicial Department's bargaining  
20 representative because of his inherently managerial  
21 functions. (See the Revised Statutes Title 4, sec-  
22 tion 17). Law clerks to the judges and justices are  
23 excluded because of their participation in assisting  
24 judges in performing their essential judicial func-  
25 tion. (Law clerks, who are typically appointed for  
26 one-year terms, would in any case be eligible for  
27 participation for only a 6-month period.) Other per-  
28 sons who serve the judiciary, such as referees, re-  
29 ceivers and appointees to advisory committees, are  
30 not specifically excluded because they would not be  
31 considered to be employees of the Judicial Depart-  
32 ment. Personnel of the Board of Overseers of the Bar  
33 are not employees of the Judicial Department.

34 "This subsection does not exclude supervisory  
35 personnel, such as clerks of the various courts, or  
36 persons who stand in a confidential relationship to  
37 the judges, such as the judges' personal secretaries.  
38 While supervisory employees may well require separate  
39 representation, they remain Judicial Department em-  
40 ployees who can fruitfully negotiate on the terms and  
41 conditions of their employment. Because the judges  
42 and justices are removed from the collective bargain-  
43 ing process, there is no apparent need to exclude  
44 their personal secretaries from collective bargain-  
45 ing. Regional State Court Administrators would be

1 excluded if the functions of their offices bring them  
2 within paragraph C or D. A small number of employees  
3 in the State Court Administrator's office will likely  
4 be excluded under subparagraph C."

5 The Revised Statutes Title 26, section 1283 sets  
6 forth the right of judicial employees to join labor  
7 organizations while Title 26, section 1284, lists  
8 prohibited acts. These sections are the same as the  
9 Revised Statutes Title 26, sections 979-B and 979-C  
10 in the S.E.L.R.A..

11 The Revised Statutes Title 26, section 1285, sub-  
12 section 1, obligates the public employer and the bargaining  
13 agent to bargain collectively. Its provisions track the  
14 S.E.L.R.A.. The Advisory Committee discussed whether to  
15 create an exception to this obligation to bargain in  
16 recognition of the judiciary's special needs, analogous  
17 to the educational policies exception for teachers (See  
18 the Revised Statutes Title 26, section 965). For example,  
19 if a presiding justice directs court employees to remain  
20 on duty while a jury continues its deliberations past  
21 normal court closing hours, he is exercising a judicial  
22 power which cannot be bargained away even though its  
23 exercise affects employees' working conditions. This  
24 Act contains no such exception. The court believes  
25 that, because it cannot bargain away its judicial  
26 power, nothing is gained by formulating an escape  
27 clause from the bargaining obligation, and further  
28 that such an exception to bargaining is "an invitation  
29 to fruitless controversy from categorical refusals  
30 to discuss. If a matter affects the working conditions  
31 of judicial employees, then it is better that the matter  
32 be discussed--on the understanding, however, that there  
33 is no duty to agree or concede."

35 The Revised Statutes Title 26, section 1285, sub-  
36 section 2, contains the same wording as the S.E.L.R.A.  
37 mediation provision (the Revised Statutes Title 26,  
38 section 979-D, subsection 2). Mediation is ordinarily  
39 the first step in resolving disputes which stand in  
40 the way of reaching a collective bargaining agreement.  
41 Mediation need not be initiated at all, but it can be  
42 commenced by either party prior to arbitration. This  
43 bill's provisions specify that the first step can be  
44 fact-finding upon mutual agreement

1 of the parties, mediation-arbitration also by mutual  
2 agreement or traditional arbitration either initiated  
3 by mutual agreement or by one side alone.

4 The Revised Statutes Title 26, section 1285, sub-  
5 section 3, provides for fact-finding. Paragraph A is  
6 like the S.E.L.R.A. provision, while paragraphs B and  
7 C are derived from the Municipal Public Employees La-  
8 bor Relations Act (M.P.E.L.R.A., the Revised Statutes  
9 Title 26, section 965, subsection 3), which is incor-  
10 porated by reference in the S.E.L.R.A., (Title 26,  
11 section 975-D, subsection 3). Fact-finding can be a  
12 useful device for assisting the parties in reaching  
13 an agreement particularly in complicated cases. This  
14 proposal retains the option of invoking fact-finding  
15 by mutual agreement. In the event that fact-finding  
16 is invoked, it can be followed by  
17 mediation-arbitration if both sides agree or by arbi-  
18 tration whether by agreement or unilateral action.  
19 If the parties do not agree to fact-finding, then the  
20 same options exist: Mediation-arbitration by agree-  
21 ment or arbitration either by agreement or unilateral  
22 action.

23 The arbitration provisions of the Revised Stat-  
24 utes Title 26, section 1285, subsection 4 are derived  
25 in large part from the S.E.L.R.A.. Two forms of arbi-  
26 tration are available: (A) arbitration which is  
27 binding on all issues but which requires the parties'  
28 assent in advance (a new provision) and (B) arbitra-  
29 tion which is binding except as to salaries, pensions  
30 and insurance, but which can be initiated by one side  
31 alone. Arbitration can but need not be preceded by  
32 mediation or fact-finding. Binding determinations of  
33 an arbitrator are subject to judicial review in ac-  
34 cordance with section 12 below.

35 The Revised Statutes Title 26, section 1285, sub-  
36 section 5, provides for a new dispute resolution  
37 technique, mediation-arbitration, which is proposed  
38 as an additional option available to the parties for  
39 resolving impasses in contract negotiation.  
40 Mediation-arbitration can be invoked only by mutual  
41 agreement of the parties. The principal advantages  
42 of this combined procedure are that it tends to speed  
43 up the process of settling and resolving contract  
44 disputes and tends to be less costly than separate

1 procedures. The parties may agree that all issues  
2 will be subject to binding arbitration; otherwise ar-  
3 bitration is binding only on issues other than sala-  
4 rries, pensions and insurance.

5 The wording of the Revised Statutes Title 26,  
6 section 1285, subsections 6, 7 and 8 on reports,  
7 costs and administration of impasse resolution pro-  
8 ceedings is based on the state and municipal employ-  
9 ees acts. (Title 26, section 965, subsections 4-6 and  
10 section 979-D, subsection 5).

11 The Revised Statutes Title 26, section 1287, on  
12 determination of the bargaining unit contains lan-  
13 guage identical to the Revised Statutes Title 26,  
14 section 979-F, and section 1288 on Maine Labor Rela-  
15 tions Board procedures is worded the same as Title  
16 26, section 979-G. Section 1289 on the enforcement  
17 and prevention of acts prohibited in section 1284 is  
18 based on section 979-H, subsection 2, but adds new  
19 procedures for investigation by the Executive Direc-  
20 tor of the M.L.R.B. in the hopes of speeding up reso-  
21 lution of prohibited-acts disputes. Opportunity is  
22 also given for private resolution of disputes. Sec-  
23 tion 1289 is otherwise the same as section 979-H, ex-  
24 cept in subsection 7 which allows the Superior Court  
25 to stay an M.L.R.B. order if it interferes with the  
26 exercise of the judicial power and in subsection 9  
27 which states that the M.L.R.B. "shall not have power  
28 to interfere with the exercise of the judicial pow-  
29 er." This latter provision has no parallel in the  
30 state or municipal Acts.

31 The remainder of the bill covers procedures in  
32 M.L.R.B. hearings, the scope of binding arbitration  
33 and the review of arbitration awards. These provi-  
34 sions are based on the state and municipal Acts.

1           The last section of this bill has no counterpart  
2 in the other public employee Acts. It states: "This  
3 Act shall not be amended without first consulting the  
4 Supreme Judicial Court." Again, this reflects the co-  
5 operative approach between the judicial and legisla-  
6 tive branches. Although it is contemplated that the  
7 Legislature will make adjustments in statutory de-  
8 tails, it is best that it receive the input of the  
9 Judiciary Department before doing so.

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