

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 798

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S.P. 300

In Senate, March 15, 1989

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

Cosponsored by Senator MATTHEWS of Kennebec, Representative McHENRY of Madawaska and Representative DORE of Auburn.

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STATE OF MAINE

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

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An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law.

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1       **Be it enacted by the People of the State of Maine as follows:**

3               **26 MRSA §965, sub-§4**, as amended by PL 1975, c. 564, §18, is  
5 further amended to read:

7               **4. Arbitration.** In addition to the 30-day period referred  
9 to in subsection 3, the parties shall have 15 more days, making a  
11 total period of 45 days from the submission of findings and  
13 recommendations, in which to make a good faith effort to resolve  
15 their controversy.

17               If the parties have not resolved their controversy by the end of  
19 said 45-day period, they may jointly agree to an arbitration  
21 procedure which will result in a binding determination of their  
23 controversy. Such determinations will be subject to review by the  
25 Superior Court in the manner specified by section 972.

27               If they do not jointly agree to such an arbitration procedure  
29 within 10 days after the end of said 45-day period, then either  
31 party may, by written notice to the other, request that their  
33 differences be submitted to a board of 3 arbitrators. The  
35 bargaining agent and the public employer shall within 5 days of  
37 such request each select and name one arbitrator and shall  
39 immediately thereafter notify each other in writing of the name  
41 and address of the person so selected. The 2 arbitrators so  
43 selected and named shall, within 10 days from such request, agree  
45 upon and select and name a neutral arbitrator. If either party  
47 shall not select its arbitrator or if the 2 arbitrators shall  
49 fail to agree upon, select and name a neutral arbitrator within  
51 said 10 days, either party may request the American Arbitration  
Association to utilize its procedures for the selection of the  
neutral arbitrator. As soon as possible after receipt of such  
request, the neutral arbitrator will be selected in accordance  
with rules and procedures prescribed by the American Arbitration  
Association for making such selection. The neutral arbitrator so  
selected will not, without the consent of both parties, be the  
same person who was selected as mediator pursuant to subsection 2  
nor any member of the fact-finding board selected pursuant to  
subsection 3. As soon as possible after the selection of the  
neutral arbitrator, the 3 arbitrators or if either party shall  
not have selected its arbitrator, the 2 arbitrators, as the case  
may be, shall meet with the parties or their representatives, or  
both, forthwith, either jointly or separately, make inquiries and  
investigations, hold hearings, or take such other steps as they  
deem appropriate. If the neutral arbitrator is selected by  
utilizing the procedures of the American Arbitration Association,  
the arbitration proceedings will be conducted in accordance with  
the rules and procedures of the American Arbitration Association.  
The hearing shall be informal, and the rules of evidence  
prevailing in judicial proceedings shall not be binding. Any and  
all documentary evidence and other data deemed relevant by the  
arbitrators may be received in evidence. The arbitrators shall

1 have the power to administer oaths and to require by subpoena the  
3 attendance and testimony of witnesses, the production of books,  
records and other evidence relative or pertinent to the issues  
represented to them for determination.

5 ~~If the controversy is not resolved by the parties themselves, the~~  
7 ~~arbitrators shall proceed as follows: With respect to a~~  
9 ~~controversy over salaries, pensions and insurance, the~~  
11 ~~arbitrators will recommend terms of settlement and may make~~  
13 ~~findings of fact, such recommendations and findings will be~~  
15 ~~advisory only and will be made, if reasonably possible, within 30~~  
17 ~~days after the selection of the neutral arbitrator; the~~  
19 ~~arbitrators may in their discretion, make such recommendations~~  
21 ~~and findings public, and either party may make such~~  
23 ~~recommendations and findings public if agreement is not reached~~  
25 ~~with respect to such findings and recommendations within 10 days~~  
27 ~~after their receipt from the arbitrators; with respect to a~~  
29 ~~controversy over subjects other than salaries, pensions and~~  
31 ~~insurance, the arbitrators shall make determinations with respect~~  
33 ~~thereto if reasonably possible within 30 days after the selection~~  
35 ~~of the neutral arbitrator; such determinations may be made public~~  
37 ~~by the arbitrators or either party; and if made by a majority of~~  
39 ~~the arbitrators, such determinations will be binding on both~~  
41 ~~parties and the parties will enter an agreement or take whatever~~  
43 ~~other action that may be appropriate to carry out and effectuate~~  
45 ~~such binding determinations; and such determinations will be~~  
47 ~~subject to review by the Superior Court in the manner specified~~  
49 ~~by section 972. If the controversy is not resolved by the parties~~  
51 ~~themselves, the arbitrators shall proceed as follows: With~~  
53 ~~respect to a controversy over salaries, pensions, insurance and~~  
other subjects, the arbitrators shall make determinations with  
respect thereto, if reasonably possible, within 30 days after the  
selection of the neutral arbitrator; these determinations may be  
made public by the arbitrators or either party; and if made by a  
majority of the arbitrators, these determinations shall be  
binding on both parties and the parties shall enter an agreement  
or take whatever other action that may be appropriate to carry  
out and effectuate these binding determinations, not including  
strike, work stoppage or slow down or any other related activity  
in contravention of the agreement, and these determinations shall  
be subject to review by the Superior Court in the manner  
specified by section 972. The results of all arbitration  
proceedings, recommendations and awards conducted under this  
section shall be filed with the Maine Labor Relations Board at  
the offices of its executive director simultaneously with the  
submission of the recommendations and award to the parties. In  
the event the parties settle their dispute during the arbitration  
proceeding, the arbitrator or the chairman chair of the  
arbitration panel will submit a report of his the chair's  
activities to the Executive Director of the Maine Labor Relations  
Board not more than 5 days after the arbitration proceeding has  
terminated.

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**STATEMENT OF FACT**

The purpose of this bill is to include salaries, pensions and insurance among those subjects for binding determination by arbitrators under the municipal public employees labor relations laws.