

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)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1657

H.P. 1132

House of Representatives, April 24, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

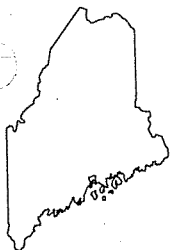
Presented by Representative MARSANO of Belfast.

Cosponsored by Representative BARTH of Bethel and Senator BRAUN of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Open Teacher-employer Bargaining to the Public.



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

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Sec. 1. 1 MRSA §402, sub-§2, ¶C, as amended by PL 1989, c. 358, §2, is further amended to read:

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; and

Sec. 2. 1 MRSA §402, sub-§2, ¶D, as enacted by PL 1989, c. 358, §3, is amended to read:

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; and

Sec. 3. 1 MRSA §402, sub-§2, ¶E is enacted to read:

E. Public teacher bargaining unit agents and public employers of teachers while conducting negotiations, mediation, fact-finding and arbitration concerning comprehensive labor agreements.

Sec. 4. 1 MRSA §402, sub-§3, ¶D, as amended by PL 1989, c. 358, §4, is further amended to read:

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives, unless the parties are public teacher bargaining unit agents and public employers of teachers;

Sec. 5. 1 MRSA §405, sub-§6, ¶D-1 is enacted to read:

D-1. Notwithstanding paragraph D, negotiations between public teacher bargaining unit agents and public employers of teachers or their representatives must be open to the public in accordance with Title 26, section 965, subsection 7;

Sec. 6. 1 MRSA §406, as amended by PL 1987, c. 477, §4, is further amended to read:

2 §406. Public notice

4 Public notice shall ~~shall~~ must be given for all public proceedings
6 as defined in section 402, if these proceedings are a meeting of
8 a body or agency consisting of 3 or more persons. This notice
10 shall ~~shall~~ must be given in ample time to allow public attendance and
12 shall ~~be~~ disseminated in a manner reasonably calculated to notify
14 the general public in the jurisdiction served by the body or
16 agency concerned. In the event of an emergency meeting, local
representatives of the media shall ~~shall~~ must be notified of the
meeting, whenever practical, and the notification ~~to~~ must include
time and location, by the same or faster means used to notify the
members of the agency conducting the public proceeding. In
public proceedings between public teacher bargaining unit agents
and the public employers of teachers or their representatives,
notice must be given by the public employers.

18 Sec. 7. 26 MRSA §962, sub-§8 is enacted to read:

20 8. Public teacher bargaining unit. "Public teacher
22 bargaining unit" means any unit consisting of public school
24 teachers from the primary and secondary school levels and other
nonprofessional employees if a majority of the public teachers
vote for their inclusion in the unit.

26 Sec. 8. 26 MRSA §964, sub-§1, ¶F, as enacted by PL 1969, c.
28 424, §1, is amended to read:

30 F. Blacklisting of any employee organization or its members
for the purpose of denying them employment; and

32 Sec. 9. 26 MRSA §964, sub-§1, ¶G is enacted to read:

34 G. Refusing to open proceedings involving public teacher
36 bargaining unit agents and public employers of teachers and
make available public records of any such proceedings.

38 Sec. 10. 26 MRSA §964, sub-§2, ¶C, as enacted by PL 1969, c.
40 424, §1, is amended to read:

42 C. Engaging in:

44 (1) A work stoppage;

46 (2) A slowdown;

48 (3) A strike; or

50 (4) The blacklisting of any public employer for the
52 purpose of preventing it from filling employee
vacancies; and

2
3 Sec. 11. 26 MRSA §964, sub-§2, ~~¶D~~ is enacted to read:

4 D. Refusing to open proceedings involving public teacher
5 bargaining unit agents and public employers of teachers and
6 make available public records of any such proceedings.

7 Sec. 12. 26 MRSA §965, sub-§1, as amended by PL 1985, c. 46,
8 is further amended to read:

9
10 1. Negotiations. It shall ~~be~~ is the obligation of the
11 public employer and the bargaining agent to bargain
12 collectively. "Collective bargaining" means, for the purposes of
13 this chapter, their mutual obligation:

14 A. To meet at reasonable times;

15 B. To meet within 10 days after receipt of written notice
16 from the other party requesting a meeting for collective
17 bargaining purposes, provided the parties have not otherwise
18 agreed in a prior written contract;

19 C. To confer and negotiate in good faith with respect to
20 wages, hours, working conditions and contract grievance
21 arbitration, except that by such obligation neither party
22 shall ~~be~~ is compelled to agree to a proposal or be required
23 to make a concession and except that public employers of
24 teachers shall meet and consult but not negotiate with
25 respect to educational policies; for the purpose of this
26 paragraph, educational policies shall do not include wages,
27 hours, working conditions or contract grievance arbitration;

28 D. To execute in writing any agreements arrived at, the
29 term of any such agreement to be subject to negotiation but
30 shall may not exceed 3 years; and

31 E. To participate in good faith in the mediation,
32 fact-finding and arbitration procedures required by this
33 section.

34
35
36 Whenever wages, rates of pay or any other matter requiring
37 appropriation of money by any municipality or county are included
38 as a matter of collective bargaining conducted pursuant to this
39 chapter, it is the obligation of the bargaining agent to serve
40 written notice of request for collective bargaining on the public
41 employer at least 120 days before the conclusion of the current
42 fiscal operating budget, except that this requirement is waived
43 in the event that a bargaining agent of a newly formed bargaining
44 unit is recognized or certified during the period not more than
45 120 days nor less than 30 days prior to the end of the fiscal
46 period.
47
48
49
50

2 Negotiations between public teacher bargaining unit agents and
3 public employers of teachers must be open to the public, as
4 specified in subsection 7.

6 **Sec. 13. 26 MRSA §965, sub-§2, ¶G,** as repealed and replaced by
7 PL 1973, c. 617, §2, is amended to read:

8 G. Any information disclosed by either party to a dispute
9 to the panel or any of its members in the performance of
10 this subsection ~~shall be~~ is privileged; except that any such
11 information must be open to the public in bargaining between
12 public teacher bargaining unit agents and public employers
13 of teachers in accordance with subsection 7.

14 **Sec. 14. 26 MRSA §965, sub-§2, ¶H** is enacted to read:

15 H. Mediation between public teacher bargaining unit agents
16 and public employers of teachers must be open to the public
17 in accordance with subsection 7.

18 **Sec. 15. 26 MRSA §965, sub-§3, ¶A-1** is enacted to read:

19 A-1. If the parties are public teacher bargaining unit
20 agents and public employers of teachers, the fact-finding
21 must be open to the public and findings and recommendations
22 of the panel are public records immediately upon creation in
23 accordance with subsection 7.

24 **Sec. 16. 26 MRSA §965, sub-§4,** as amended by PL 1975, c. 564,
25 §18, is further amended by amending the last blocked paragraph to
26 read:

27 If the controversy is not resolved by the parties themselves, the
28 arbitrators shall proceed as follows: With respect to a
29 controversy over salaries, pensions and insurance, the
30 arbitrators ~~will~~ shall recommend terms of settlement and may make
31 findings of fact; such recommendations and findings ~~will be~~ are
32 advisory only and ~~will~~ must be made, if reasonably possible,
33 within 30 days after the selection of the neutral arbitrator; the
34 arbitrators may, in their discretion, make such recommendations
35 and findings public, and either party may make such
36 recommendations and findings public if agreement is not reached
37 with respect to such findings and recommendations within 10 days
38 after their receipt from the arbitrators; with respect to a
39 controversy over subjects other than salaries, pensions and
40 insurance, the arbitrators shall make determinations with respect
41 thereto if reasonably possible within 30 days after the selection
42 of the neutral arbitrator; such determinations may be made public
43 by the arbitrators or either party; and if made by a majority of
44 the arbitrators, such determinations ~~will be~~ are binding on both
45 parties and the parties ~~will~~ shall enter an agreement or take
46 whatever other action that may be appropriate to carry out and
47
48
49
50
51
52

2 effectuate such binding determinations; and such determinations
3 will be are subject to review by the Superior Court in the manner
4 specified by section 972. In the case of arbitrations involving
5 public teacher bargaining unit agents and public employers of
6 teachers, findings, recommendations and determinations are public
7 records immediately upon creation in accordance with subsection
8 7. The results of all arbitration proceedings, recommendations
9 and awards conducted under this section shall must be filed with
10 the Maine Labor Relations Board at the offices of its executive
11 director simultaneously with the submission of the
12 recommendations and award to the parties. In the event the
13 parties settle their dispute during the arbitration proceeding,
14 the arbitrator or the chairman chair of the arbitration panel
15 will shall submit a report of his the arbitrator's or the chair's
16 activities to the Executive Director of the Maine Labor Relations
17 Board not more than 5 days after the arbitration proceeding has
18 terminated.

19 Sec. 17. 26 MRSA §965, sub-§7 is enacted to read:

20
21 7. Open bargaining; public teacher bargaining unit agents
22 and public employers of teachers. Negotiations, mediations,
23 fact-finding and interest arbitrations between public employers
24 of teachers and public teacher bargaining unit agents for
25 comprehensive agreements under this chapter must be open to the
26 public. This does not include deliberations of fact-finding
27 panels in the absence of either or both parties. Meetings among
28 the representatives of one party or between one party and a
29 mediator, fact finder or interest arbitrator may not be open to
30 the public.

31 The right of the public to attend these public proceedings as
32 provided in this subsection does not include any right to
33 actively participate in the proceeding.

34
35 Sec. 18. 26 MRSA §974, as enacted by PL 1979, c. 125, §1, is
36 amended to read:

37 **§974. Publication of initial proposals**

38
39 Either party to negotiations may publicize the parties'
40 written initial collective bargaining proposals. Ne A proposal
41 may not be publicized until 10 days after both parties have made
42 their initial proposal, unless the parties are public teacher
43 bargaining unit agents and public employers of teachers, in which
44 case the proposals are public records immediately upon creation
45 in accordance with section 965, subsection 7.
46
47
48
49
50

STATEMENT OF FACT

2

4 This bill opens to the public bargaining between public
teacher bargaining agents and public employers of teachers. The
6 purposes of this bill are: to conform the traditionally closed
bargaining sessions and privileged information with the State's
freedom of access laws that recognize the public's right to know;
8 and to allow the public access to information that can
substantially affect local taxes.

10

12 The provision that the public may not actively participate
during the collective bargaining sessions is designed to maintain
the efficiency of the collective bargaining process.

14

16 This bill amends the law to: define public teacher and
public employer bargaining as public proceedings; ensure that
records produced in the bargaining process are open to the
18 public; and eliminate the possibility of these proceedings being
conducted in executive sessions. The bill further amends the law
20 to require both public employers of teachers and teacher
bargaining agents to open to the public all phases of the
22 bargaining process of comprehensive agreements in which both
parties are present, including negotiations, mediations,
24 fact-findings and interest arbitration.