

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 537

H.P. 402

House of Representatives, February 14, 1995

**An Act to Include Salaries, Pensions and Insurance for Binding
Arbitration under the Municipal Public Employee Labor Relations Laws.**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MORRISON of Bangor.
Cosponsored by Representatives: AHEARNE of Madawaska, CLARK of Millinocket,
DRISCOLL of Calais, JOSEPH of Waterville, KEANE of Old Town, NADEAU of Saco,
RICHARDSON of Portland, TOWNSEND of Portland, TREAT of Gardiner, TUTTLE of
Sanford, Senators: BUSTIN of Kennebec, MICHAUD of Penobscot, RAND of Cumberland,
RUHLIN of Penobscot.

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

2 **Sec. 1. 26 MRSA §965, sub-§4**, as amended by PL 1975, c. 564,
4 §18, is further amended to read:

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

16 If the parties have not resolved their controversy by the end of
18 said the 45-day period, they may jointly agree to an arbitration
20 procedure which that will result in a binding determination of
22 their controversy. Such determinations ~~will-be~~ are subject to
24 review by the Superior Court in the manner specified by section
26 972.

28 If they do not jointly agree to ~~sueh~~ an arbitration procedure
30 within 10 days after the end of ~~said the~~ 45-day period, then
32 either party may, by written notice to the other, request that
34 their differences be submitted to a board of 3 arbitrators. The
36 bargaining agent and the public employer shall within 5 days of
38 such a request each select and name one arbitrator and shall
40 immediately thereafter notify each other in writing of the name
42 and address of the person so selected. The 2 arbitrators so
44 selected and named shall, within 10 days from such a request,
46 agree upon and select and name a neutral arbitrator. If either
48 party ~~shall-not~~ fails to select its arbitrator or if the 2
50 arbitrators shall fail to agree upon, select and name a neutral
52 arbitrator within ~~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 a request, the neutral arbitrator ~~will must~~
be selected in accordance with rules and procedures prescribed by
the American Arbitration Association for making such a
selection. The neutral arbitrator so selected ~~will may~~ 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~~
failed to select 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 ~~sueh~~ other steps as they
~~deem~~ determine appropriate. If the neutral arbitrator is
selected by utilizing the procedures of the American Arbitration
Association, the arbitration proceedings ~~will must~~ be conducted
in accordance with the rules and procedures of the American
Arbitration Association. The hearing ~~shall-be~~ is informal, and
the rules of evidence

2 prevailing in judicial proceedings shall are not be binding. Any
3 and ~~all~~ documentary evidence and other data deemed determined
4 relevant by the arbitrators may be received in evidence. The
5 arbitrators ~~shall have the power to~~ may administer oaths and to
6 require by subpoena the attendance and testimony of witnesses,
7 and the production of books, records and other evidence relative
8 or pertinent to the issues represented to them for determination.

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

2 a report of his the chair's activities to the ~~Executive-Direector~~
3 ~~of-the-Maine-Labor-Relations-Board~~ executive director not more
4 than 5 days after the arbitration proceeding has terminated.

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6

STATEMENT OF FACT

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10 This bill includes salaries, pensions and insurance among
those subjects eligible for binding determination by arbitrators
under the municipal public employees labor relations laws.