

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 624

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H.P. 458

House of Representatives, February 23, 1995

### **An Act Concerning Binding Arbitration.**

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Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in black ink, reading "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative ROTONDI of Madison.

Cosponsored by Representatives: HATCH of Skowhegan, HEESCHEN of Wilton, JOSEPH of Waterville, LUTHER of Mexico, MORRISON of Bangor, SHIAH of Bowdoinham, TREAT of Gardiner, Senator: BUSTIN of Kennebec.

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

2           **Sec. 1. 26 MRSA §965, sub-§1, ¶E**, as amended by PL 1973, c.  
4 788, §119, is further amended to read:

6           E. To participate in good faith in the mediation,  
8 ~~fact-finding~~ and arbitration procedures required by this  
section.

10           **Sec. 2. 26 MRSA §965, sub-§2, ¶E**, as amended by PL 1979, c.  
12 541, Pt. A, §170, is further amended to read:

14           E. The Executive Director of the Maine Labor Relations  
Board shall serve as Executive Director of the Panel of  
16 Mediators. ~~He~~ The Executive Director shall annually, on or  
before the first day of July, make a report to the  
18 Governor. The Executive Director of the Maine Labor  
Relations Board, upon request of one or both of the parties  
to a dispute between an employer and its employees, shall,  
20 or upon ~~his~~ the executive director's own motion or motion of  
the Maine Labor Relations Board may, proffer the services of  
22 one or more members of the panel to be selected by ~~him~~ the  
executive director, to serve as mediator or mediators in  
24 such a dispute. The member or members so selected shall  
exert every reasonable effort to encourage the parties to  
26 the dispute to settle their differences by conference or  
other peaceful means. If the mediator or mediators are  
28 unable to accomplish this objective and to obtain an  
amicable settlement of the dispute between the parties, it  
30 ~~shall~~ is then be the duty of the mediator or mediators to  
advise the parties of the services available to assist them  
32 in the settlement of their dispute. If the parties are  
unable to resolve their controversy through mediation, the  
34 mediator shall inform the parties that the arbitration  
process will start in 30 days and will result in a binding  
36 determination of their controversy. At this time, the  
mediator or mediators shall submit a written report to the  
38 executive director stating the action or actions that have  
been taken and the results of their endeavors. The parties  
40 may use the 30 days to attempt resolution of their  
controversy.

42           **Sec. 3. 26 MRSA §965, sub-§3**, as amended by PL 1977, c. 696,  
44 §204, is repealed.

46           **Sec. 4. 26 MRSA §965, sub-§4**, as amended by PL 1975, c. 564,  
48 §18, is repealed and the following enacted in its place:

50           **4. Arbitration.** If arbitration of the controversy is  
required, it must be conducted in accordance with this section.

2 A. If the parties are unable to resolve their controversy  
3 through mediation, the arbitration process will start 30  
4 days after the end of mediation and will result in a binding  
5 determination of their controversy.

6 B. If an agreement between the parties is not filed with  
7 the Executive Director of the Maine Labor Relations Board  
8 within 30 days of the end of mediation, the director shall  
9 forward to the parties a list of potential arbitrators.  
10 Within 5 days of receipt of that list, each party shall  
11 select one arbitrator and shall immediately notify the other  
12 party in writing of the name and address of the person  
13 selected. A person is ineligible to serve as an arbitrator  
14 if that person resides, works or operates a business in the  
15 public employer's district. The 2 arbitrators jointly shall  
16 name a neutral arbitrator within 10 days of their  
17 selection. If either party fails to select its arbitrator  
18 or if the 2 arbitrators fail to name a neutral arbitrator  
19 within the 10 days, then the Director of the Maine Labor  
20 Relations Board shall appoint the required arbitrators.

22 C. As soon as possible after the selection of the neutral  
23 arbitrator, the 3 arbitrators shall meet with the parties or  
24 their representatives, or both, either jointly or  
25 separately, to make inquiries and investigations, hold  
26 hearings or take other steps they determine appropriate.  
27 All hearings must be informal and need not conform to the  
28 rules of evidence prevailing in judicial proceedings. Any  
29 documentary evidence and other data determined relevant by  
30 the arbitrators may be received in evidence. The  
31 arbitrators have the power to administer oaths and to  
32 require by subpoena the attendance and testimony of  
33 witnesses and the production of books, records and other  
34 evidence relative or pertinent to the issues for their  
35 determination.

36 D. No later than 30 days beyond the close of the  
37 investigation and hearing, the arbitrators shall submit the  
38 report with its determinations to the parties and  
39 simultaneously file a copy with the Executive Director of  
40 the Maine Labor Relations Board. The arbitrators'  
41 determinations on all issues are binding on both parties and  
42 the parties shall enter an agreement or take whatever other  
43 action may be appropriate to carry out and effectuate the  
44 binding determinations. In the event the parties settle  
45 their dispute during the arbitration proceeding, the  
46 arbitration panel shall submit a report of the record of  
47 events to the Executive Director of the Maine Labor  
48 Relations Board not more than 15 days after the arbitration  
49 proceeding terminates.

**Sec. 5. 26 MRSA §965, sub-§5,** as amended by PL 1991, c. 622, Pt. O, §5, is further amended to read:

5. **Costs.** The costs for the services of the mediator, ~~the members of the fact-finding board~~ and of the neutral arbitrator including, if any, per diem expenses, and actual and necessary travel and subsistence expenses and the costs of hiring the premises where any mediation, ~~fact-finding~~ or arbitration proceedings are conducted, must be shared equally by the parties to the proceedings. All other costs must be assumed by the party incurring them.

## STATEMENT OF FACT

This bill removes the fact-finding procedures from the municipal public employees labor relations laws and changes the arbitration procedures so that the decision of the arbitration panel is binding on all issues.