

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1989

H.P. 1382

House of Representatives, March 23, 1999

**An Act to Amend Binding Arbitration to Include Salaries, Pensions and Insurance for State, Legislative and Municipal Employees and to Provide a Process for Voting when a Public Employer's Last Offer is Not Selected.**

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Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Brunswick.

Cosponsored by Representatives: HATCH of Skowhegan, SAMSON of Jay, TRACY of Rome.

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

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4       **Sec. 1. 26 MRSA §965, sub-§4**, as amended by PL 1975, c. 564,  
§18, is further amended by repealing and replacing the 4th  
6 blocked paragraph to read:

8       If the controversy is not resolved by the parties themselves, the  
10 arbitrators shall proceed as described in this paragraph. With  
12 respect to any controversy over salaries, pensions and insurance,  
14 the arbitrators shall make determinations with respect thereto if  
16 reasonably possible within 30 days after the selection of the  
18 neutral arbitrator; those determinations may be made public by  
20 the arbitrators or the other parties. If those determinations  
22 are made by a majority of the arbitrators, then the  
24 determinations are binding on both parties, unless a municipality  
26 calls for an election on the determinations and the  
28 determinations are rejected pursuant to subsection 7; in that  
30 case, the parties shall enter an agreement or take whatever other  
32 action that may be appropriate to carry out and effectuate  
binding determinations. Those determinations are 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 must 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 chair of the arbitration panel shall submit  
a report of the arbitrator or 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.

34       **Sec. 2. 26 MRSA §965, sub-§7** is enacted to read:

36       7. **Municipal referendum on arbitration.** If the public  
38 employer is an officer, board, commission, council, committee or  
40 other person or body acting on behalf of a municipality or a  
42 subdivision of a municipality and if determinations adopted by  
44 the arbitrators under subsection 4 are not the last best offer of  
46 the municipality or the subdivision of the municipality, the  
48 municipal officers may by majority vote submit the arbitrators'  
determinations to the voters of the municipality or the  
subdivision of the municipality for approval at an election  
called for that purpose. A municipality or a subdivision of a  
municipality may not hold an election on the arbitrators'  
determinations unless the municipal officers vote to submit the  
arbitrators' determinations to the voters within 10 days of the  
date of the arbitrators' decision. Written notice of an election  
must be given to the public employees' bargaining agent. If the  
majority of legal voters in the municipality or the subdivision  
of the municipality voting at the election do not approve the

2 arbitrators' determinations, the determinations are not binding  
4 and arbitration must continue pursuant to subsection 4. If the  
6 municipal officers do not vote to submit the arbitrators'  
8 determinations to the voters within 10 days of the arbitrators'  
10 decision, the arbitrators' determinations are final. An election  
12 on the arbitrators' determinations must be held as follows.

14 A. The election must be held at regular voting places.

16 B. The election must be called, advertised and conducted  
18 according to the laws relating to municipal elections within  
20 45 days of the municipal officers' vote to submit the  
22 arbitrators' determinations to the voters. Public notice  
24 must be provided at least 30 days before the election.

26 C. The municipal registrar shall make a complete list of  
28 all the eligible voters of the municipality or subdivision  
30 of the municipality. The list prepared by the registrar  
32 governs the eligibility of a voter. For the purposes of  
34 registration of voters, the registrar of voters must be in  
36 session on the regular work day preceding the election.

38 D. The voters shall indicate by a cross or check mark  
40 placed against the words "Yes" or "No" their opinion of the  
42 arbitrator's determinations.

44 E. The ballot presented to voters must be concise and clear  
46 and it must accurately summarize the arbitrators'  
48 determinations. The ballot must clearly state any matters  
50 relating to money and must disclose any percentage of  
increase or decrease compared to the previous contract of  
the parties.

F. The municipal officers shall declare the results of the  
election and the municipal clerk shall file a certificate of  
the election result with the Secretary of State within 10  
days of the election.

Sec. 3. 26 MRSA §979-D, sub-§4, ¶D, as enacted by PL 1973, c.  
774, is amended to read:

D. ~~With respect to controversies over salaries, pensions~~  
~~and insurance, the arbitrator will recommend terms of~~  
~~settlement and may make findings of fact. Such~~  
~~recommendations and findings shall be advisory and shall not~~  
~~be binding upon the parties. The determination by the~~  
~~arbitrator on all other issues shall be~~, including  
salaries, pensions and insurance, are final and binding on  
the parties unless the Governor calls for a vote of the  
Legislature pursuant to subsection 6 or the Legislative

2           Council calls for a vote of the Legislature pursuant to  
3           subsection 7 and the determinations are rejected by the  
4           Legislature.

6           **Sec. 4. 26 MRSA §979-D, sub-§§6 and 7 are enacted to read:**

8           6. Governor submits arbitrator's determinations to  
9           Legislature for approval. If the determinations adopted by the  
10           arbitrators with respect to the executive branch under subsection  
11           4 are not the public employer's last best offer, the Governor may  
12           submit the arbitrators' determinations to the Legislature for  
13           approval. The Legislature may not hold a vote on the  
14           arbitrators' determinations unless the Governor informs the  
15           Legislative Council in writing within 10 days of the date of the  
16           arbitrators' decision of a decision to submit the determinations  
17           to the Legislature. The Governor must give written notice to the  
18           state employees' bargaining agent of a decision to submit the  
19           determinations to the Legislature.

20           The Legislature shall vote on the determinations within 45 days  
21           of the date of the Governor's written decision to the Legislative  
22           Council to submit the determinations to the Legislature. Public  
23           notice must be provided at least 30 days in advance of the  
24           Legislature's initial consideration of the determinations. If a  
25           majority of Legislators voting does not approve the arbitrators'  
26           determinations, the determinations are not binding and  
27           arbitration must continue pursuant to subsection 4. If the  
28           Governor does not notify the Legislative Council of a decision to  
29           submit the arbitrators' determinations to the Legislature within  
30           10 days of the arbitrators' decision, the arbitrators'  
31           determinations are final.

32           7. Legislative Council submits arbitrators' decisions to  
33           Legislature for approval. If the determinations adopted by the  
34           arbitrators with respect to the Legislature under subsection 4  
35           are not the public employer's last best offer, the Legislative  
36           Council may by majority vote submit the arbitrators'  
37           determinations to the Legislature for approval. The Legislature  
38           may not hold a vote on the arbitrators' determinations unless the  
39           Legislative Council votes to submit the arbitrators'  
40           determinations to the Legislature within 10 days of the date of  
41           the arbitrators' decision. The Legislative Council must give  
42           written notice to the state employees' bargaining agent of a  
43           decision to submit determinations to the Legislature.

44           The Legislature shall vote on the determinations within 45 days  
45           of the date of the Legislative Council's vote to submit the  
46           determinations to the Legislature. Public notice must be  
47           provided at least 30 days in advance of the Legislature's initial  
48           consideration of the determinations. If a majority of  
49           Legislators voting does not approve the arbitrators' determinations,  
50           the determinations are not binding and arbitration must continue  
          pursuant to subsection 4.

2 Legislators voting does not approve the arbitrators'  
3 determinations, the determinations are not binding and  
4 arbitration must continue pursuant to subsection 4. If the  
5 Legislature does not vote to submit the arbitrators'  
6 determinations to the Legislature within 10 days of the  
7 arbitrators' decision, the arbitrators' determinations are final.

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## SUMMARY

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11 This bill allows binding arbitration for state, legislative  
12 and municipal employees to include final determinations regarding  
13 salaries, pensions and insurance. It also creates a process  
14 under which binding arbitration may be submitted to municipal  
15 voters or the Legislature for approval, when the last best offer  
16 of the municipality or Legislature is not selected as the outcome  
in arbitration procedures.