

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 520

H.P. 396

House of Representatives, February 1, 2005

An Act To Improve Binding Arbitration in Public Sector Labor Relations

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TUTTLE of Sanford.
Cosponsored by Senator BRYANT of Oxford and
Representatives: CLARK of Millinocket, CUMMINGS of Portland, DUPLESSIE of
Westbrook, JACKSON of Fort Kent, Speaker RICHARDSON of Brunswick.

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 a
10 total period of 45 days from the submission of findings and
 recommendations, in which to make a good faith effort to resolve
 their controversy.

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

18 If they do not jointly agree to such an arbitration procedure
20 within 10 days after the end of said ~~the~~ 45-day period, then
22 either party may, by written notice to the other, request that
24 their differences be submitted to a board of 3 arbitrators. The
 bargaining agent and the public employer shall within 5 days of
26 such ~~the~~ request each select and name one arbitrator and shall
 immediately thereafter notify each other in writing of the name
28 and address of the person so selected. The 2 arbitrators so
 selected and named shall, within 10 days from such ~~the~~ request,
30 agree upon and select and name a neutral arbitrator. If either
32 party ~~shall~~ does not select its arbitrator or if the 2
 arbitrators ~~shall~~ fail to agree upon, select and name a neutral
 arbitrator within said ~~the~~ 10 days, either party may request the
34 American Arbitration Association or a successor organization to
 utilize its procedures for the selection of the neutral
36 arbitrator. As soon as possible after receipt of such ~~the~~
 request, the neutral arbitrator ~~will~~ must be selected in
38 accordance with rules and procedures prescribed by the American
 Arbitration Association for making such a selection. The neutral
40 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
42 pursuant to subsection 3. As soon as possible after the
 selection of the neutral arbitrator, the 3 arbitrators or, if
44 either party ~~shall~~ has not have selected its arbitrator, the 2
 arbitrators, as the case may be, shall meet with the parties or
46 their representatives, or both, forthwith, either jointly or
 separately,; make inquiries and investigations,; hold hearings,
 e; and take such other steps as they ~~deem~~ consider appropriate.
48 If the neutral arbitrator is selected by utilizing the procedures
 of the American Arbitration Association, the arbitration
50 proceedings ~~will~~ must be conducted in accordance with the rules

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

11
12 If the controversy is not resolved by the parties themselves, the
13 arbitrators shall proceed as follows: With Except for municipal
14 and county employees, professional firefighters and law
15 enforcement personnel of police departments and sheriff's
16 departments, with respect to a controversy over salaries,
17 pensions and insurance, the arbitrators will shall recommend
18 terms of settlement and may make findings of fact; sueh the
19 recommendations and findings will be are advisory only and will
20 must be made, if reasonably possible, within 30 days after the
21 selection of the neutral arbitrator; the arbitrators may in their
22 discretion, make sueh the recommendations and findings public,
23 and either party may make sueh the recommendations and findings
24 public if agreement is not reached with respect to sueh the
25 findings and recommendations within 10 days after their receipt
26 from the arbitrators; with respect to a controversy over subjects
27 other than salaries, pensions and insurance, and with respect to
28 all matters concerning municipal and county employees,
29 professional firefighters and law enforcement personnel of police
30 departments and sheriff's departments, the arbitrators shall make
31 determinations with respect therete to a controversy if
32 reasonably possible within 30 days after the selection of the
33 neutral arbitrator; sueh these determinations may be made public
34 by the arbitrators or either party; and if made by a majority of
35 the arbitrators, sueh the determinations will be are binding on
36 both parties and the parties will shall enter an agreement or
37 take whatever other action that may be appropriate to carry out
38 and effectuate sueh the binding determinations; and sueh the
39 determinations will be are subject to review by the Superior
40 Court in the manner specified by section 972. The results of all
41 arbitration proceedings, recommendations and awards conducted
42 under this section shall must be filed with the Maine Labor
43 Relations Board at the offices of its executive director
44 simultaneously with the submission of the recommendations and
45 award to the parties. In the event the parties settle their
46 dispute during the arbitration proceeding, the arbitrator or the
47 ~~chairman~~ chair of the arbitration panel will shall submit a
48 report of his the panel's activities to the Executive Director of
49 the Maine Labor Relations Board not more than 5 days after the
50 arbitration proceeding has terminated.

SUMMARY

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4 This bill makes arbitration by municipal and county
employees and employees of sheriff's departments, police
6 departments and professional fire departments binding with
respect to monetary matters as well as all other matters.