

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)



123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 814

S.P. 257

February 16, 2007

**An Act To Incorporate Binding Arbitration for Monetary Issues in
Collective Bargaining for All State, County and Municipal
Employees**

Received by the Secretary of the Senate on February 15, 2007. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator STRIMLING of Cumberland.

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

2 **Sec. 1. 26 MRSA §964, sub-§1**, as enacted by PL 1969, c. 424, §1, is amended to
3 read:

4 **1. Public employer prohibitions.** Public employers, their representatives and their
5 agents are prohibited from:

6 A. Interfering with, restraining or coercing employees in the exercise of the rights
7 guaranteed in section 963;

8 B. Encouraging or discouraging membership in any employee organization by
9 discrimination in regard to hire or tenure of employment or any term or condition of
10 employment;

11 C. Dominating or interfering with the formation, existence or administration of any
12 employee organization;

13 D. Discharging or otherwise discriminating against an employee because ~~he~~ the
14 employee has signed or filed any affidavit, petition or complaint or given any
15 information or testimony under this chapter;

16 E. Refusing to bargain collectively with the bargaining agent of its employees as
17 required by section 965;

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

20 G. Invoking a lockout;

21 H. Failing to comply with the provisions of this chapter or any rule adopted by the
22 board pursuant to this chapter;

23 I. Breaching a collective bargaining agreement; and

24 J. Enacting any law or adopting any rule relative to the terms and conditions of
25 employment that would invalidate a portion of an agreement entered into by the
26 public employer, its representative or its agent enacting the law or adopting the rule.

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

29 **4. Arbitration.** In addition to the 30-day period referred to in subsection 3, the
30 parties ~~shall~~ have 15 more days, making a total period of 45 days, from the submission of
31 findings and recommendations; in which to make a good faith effort to resolve their
32 controversy.

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

37 If they do not jointly agree to such an arbitration procedure within 10 days after the end
38 of said 45-day period, then either party may, by written notice to the other, request that

1 their differences be submitted to a board of 3 arbitrators. The bargaining agent and the
2 public employer shall within 5 days of such request each select and name one arbitrator
3 and shall immediately thereafter notify each other in writing of the name and address of
4 the person so selected. The 2 arbitrators so selected and named shall, within 10 days from
5 such request, agree upon and select and name a neutral arbitrator. If either party ~~shall~~
6 does not select its arbitrator or if the 2 arbitrators ~~shall~~ fail to agree upon, select and name
7 a neutral arbitrator within said 10 days, either party may request the American Arbitration
8 Association to utilize its procedures for the selection of the neutral arbitrator. As soon as
9 possible after receipt of such request, the neutral arbitrator ~~will~~ must be selected in
10 accordance with rules and procedures prescribed by the American Arbitration Association
11 for making such selection. The neutral arbitrator so selected ~~will~~ may not, without the
12 consent of both parties, be the same person who was selected as mediator pursuant to
13 subsection 2 nor any member of the fact-finding board selected pursuant to subsection 3.
14 As soon as possible after the selection of the neutral arbitrator, the 3 arbitrators or, if
15 either party ~~shall~~ has not ~~have~~ selected its arbitrator, the 2 arbitrators, as the case may be,
16 shall meet with the parties or their representatives, or both, forthwith, either jointly or
17 separately, make inquiries and investigations, hold hearings, or take such other steps as
18 they ~~deem~~ consider appropriate. If the neutral arbitrator is selected by utilizing the
19 procedures of the American Arbitration Association, the arbitration proceedings ~~will~~ must
20 be conducted in accordance with the rules and procedures of the American Arbitration
21 Association. The hearing ~~shall~~ must be informal, and the rules of evidence prevailing in
22 judicial proceedings ~~shall~~ are not be binding. Any ~~and all~~ documentary evidence and
23 other data ~~deemed~~ considered relevant by the arbitrators may be received in evidence.
24 The arbitrators ~~shall~~ have the power to administer oaths and to require by subpoena the
25 attendance and testimony of witnesses, the production of books, records and other
26 evidence relative or pertinent to the issues represented to them for determination.

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

1 panel ~~will~~ shall submit a report of ~~his~~ activities to the Executive Director of the Maine
2 Labor Relations Board not more than 5 days after the arbitration proceeding has
3 terminated.

4 **Sec. 3. 26 MRSA §979-C, sub-§1**, as enacted by PL 1973, c. 774, is amended to
5 read:

6 **1. Public employer prohibitions.** The public employer, its representatives and its
7 agents are prohibited from:

8 A. Interfering with, restraining or coercing employees in the exercise of the rights
9 guaranteed in section 979-B;

10 B. Encouraging or discouraging membership in any employee organization by
11 discrimination in regard to hire or tenure of employment or any term or condition of
12 employment;

13 C. Dominating or interfering with the formation, existence or administration of any
14 employee organization;

15 D. Discharging or otherwise discriminating against an employee because ~~he~~ the
16 employee has signed or filed any affidavit, petition or complaint or given any
17 information or testimony under this chapter;

18 E. Refusing to bargain collectively with the bargaining agent of its employees as
19 required by section 979-D;

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

22 G. Invoking a lockout;

23 H. Failing to comply with the provisions of this chapter or any rule adopted by the
24 board pursuant to this chapter;

25 I. Breaching a collective bargaining agreement; and

26 J. Enacting any law or adopting any rule relative to the terms and conditions of
27 employment that would invalidate a portion of an agreement entered into by the
28 public employer, its representative or its agent enacting the law or adopting the rule.

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

31 ~~D. With respect to controversies over salaries, pensions and insurance, the arbitrator~~
32 ~~will recommend terms of settlement and may make findings of fact. Such~~
33 ~~recommendations and findings shall be advisory and shall not be binding upon the~~
34 ~~parties. The determination by the arbitrator on all other issues shall be~~ is final and
35 binding on the parties.

36 **SUMMARY**

37 This bill makes a determination on a salary, pension and insurance issue by an
38 arbitrator in collective bargaining with state or municipal employees binding and

1 prohibits certain practices by a public employer of state and municipal employees
2 including:

- 3 1. Invoking a lockout;
- 4 2. Failing to comply with the provisions of the municipal public employees labor
5 relations laws or the state employees labor relations laws or any rule adopted by the
6 Maine Labor Relations Board pursuant to these laws;
- 7 3. Breaching a collective bargaining agreement; or
- 8 4. Enacting any law or adopting any rule relative to the terms and conditions of
9 employment that would invalidate a portion of an agreement entered into by the
10 public employer enacting the law or adopting the rule.