

MAINE STATE LEGISLATURE

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Date: 3-20-08

(Filing No. S-475)

LABOR

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

123RD LEGISLATURE

SECOND REGULAR SESSION

Majority

COMMITTEE AMENDMENT "A" to S.P. 738, L.D. 1931, Bill, "An Act To Protect Employee Choice of Collective Bargaining Agents in the Educational Unit Consolidation Process"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 20-A MRSA §1464, sub-§2, ¶A, as enacted by PL 2007, c. 240, Pt. XXXX, § 13, is amended to read:

A. Merger into regional school unit-wide bargaining units must be completed according to the schedule contained in this section and, except as required by paragraph H, no later than the latest expiration date of any collective bargaining agreement that was in effect on the operational date established pursuant to section 1463, subsection 1 that covered any employees in the merged unit.

Sec. 2. 20-A MRSA §1464, sub-§2, ¶F, as enacted by PL 2007, c. 240, Pt. XXXX, § 13, is amended to read:

F. When there are bargaining units that will be merged into a regional school unit-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be merged as of the operational date pursuant to section 1463, subsection 1 as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph E must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to paragraph H, except that the petition for an election must be filed not more than 90 days prior to the expiration date of the agreement having the latest expiration date among the

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1 bargaining units that will be merged into the regional school unit-wide bargaining
2 unit.

3 **Sec. 3. 20-A MRSA §1464, sub-§2, ¶H,** as enacted by PL 2007, c. 240, Pt.
4 XXXX, §13, is amended to read:

5 H. When bargaining units with different bargaining agents must be merged into a
6 single regional school unit-wide bargaining unit pursuant to this section, the
7 bargaining agent of the merged bargaining unit must be selected in accordance with
8 Title 26, section 967 except as modified in this section.

9 (1) A petition for an election to determine the bargaining agent must be filed
10 with the Maine Labor Relations Board by any of the current bargaining agents or
11 the regional school unit.

12 (2) The petition must be filed not more than 90 days prior to ~~the expiration date~~
13 ~~of the agreement having the latest expiration date among the bargaining units that~~
14 ~~will be merged into the regional school unit-wide bargaining unit~~ August 31,
15 2012.

16 (3) The election ballot may contain only the names of the bargaining agents of
17 bargaining units that will be merged into the regional school unit-wide bargaining
18 unit and the choice of "no representative," but no other choices. No showing of
19 interest is required from any such bargaining agent other than its current status as
20 representative.

21 (4) The obligation to bargain with existing bargaining agents continues from the
22 operational date established pursuant to section 1463, subsection 1 until the
23 determination of the bargaining agent of the regional school unit-wide bargaining
24 unit under this section; but in no event may any collective bargaining agreement
25 that is executed after the operational date extend beyond ~~the expiration date of~~
26 ~~the agreement having the latest expiration date among the bargaining units that~~
27 ~~will be merged into the regional school unit-wide bargaining unit that was in~~
28 ~~effect on the operational date~~ August 31, 2012.

29 (5) The Maine Labor Relations Board shall expedite to the extent practicable all
30 petitions for determination of the bargaining agent in the regional school unit-
31 wide bargaining unit filed pursuant to this section.

32 (6) The bargaining units must be merged into a regional school unit-wide
33 bargaining unit as of the date of certification of the results of the election by the
34 Maine Labor Relations Board or the expiration of the collective bargaining
35 agreements in the unit, whichever occurs later.

36 (7) Until August 31, 2012, existing bargaining agents shall continue to represent
37 the bargaining units that they represented on the day prior to the operational date
38 of the regional school unit. If necessary, each bargaining agent and the regional
39 school unit must negotiate an interim collective bargaining agreement to expire
40 on August 31, 2012.

41 **Sec. 4. PL 2007, c. 240, Pt. XXXX, §43, sub-§6, ¶B** is amended to read:

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B. As early as possible but no later than August 31, 2011 for regional school units approved prior to January 15, 2008 and no later than August 31, 2012 for regional school units approved after January 15, 2008 and before November 2, 2008, all bargaining units must be structured on a regional school unit-wide basis. Bargaining units that existed in the participating school administrative units shall merge in accordance with the procedures and criteria in this section. Merger into regional school unit-wide bargaining units is not subject to approval or disapproval of employees.

(1) Merger into regional school unit-wide bargaining units must be completed according to the schedule contained in this subsection, and, except as required by subparagraph (8), no later than the latest expiration date of any collective bargaining agreement that was in effect on the operational date, which covered any employees in the merged unit.

(2) There must be one unit of teachers and, to the extent they are currently included in bargaining units, other certified professional employees, excluding principals and other administrators.

(3) Any additional bargaining units in a regional school unit must be structured as follows:

(a) In the initial establishment of such units, units must be structured primarily on the basis of the existing pattern of organization, maintaining the grouping of employee classifications into bargaining units that existed prior to the creation of the regional school unit and avoiding conflicts among different bargaining agents to the extent possible.

(b) In the event of a dispute regarding the classifications to be included within a regional school unit-wide bargaining unit, the current bargaining agent or agents or the regional school unit may petition the Maine Labor Relations Board to determine the appropriate unit in accordance with this section and Title 26, section 966, subsections 1 and 2.

(4) When there is the same bargaining agent in all bargaining units that will be merged into a regional school unit-wide bargaining unit, the units must be merged as of the operational date, and the regional school unit shall recognize the bargaining agent as the representative of the merged unit.

(5) When all bargaining units that will be merged into a regional school unit-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be merged as of the operational date. The identity of the single affiliate that will be designated the bargaining agent for the merged unit must be selected by the existing bargaining agents and the state labor organization. Upon completion of the merger and designation of the bargaining agent and notification by the state organization to the regional school unit, the regional school unit shall recognize the designated bargaining agent as the representative of employees in the merged unit. If necessary, the parties will then execute a written amendment to any collective bargaining agreement then in effect to change the name of the bargaining agent to reflect the merger.

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1 (6) Where there are bargaining units that will be merged into a regional school
2 unit-wide bargaining unit in which there are employees who are not represented
3 by any bargaining agent and other employees who are represented either by the
4 same bargaining agent or separate local affiliates of the same state labor
5 organization, the units must be merged as of the operational date as long as a
6 majority of employees who compose the merged unit were represented by the
7 bargaining agent prior to the merger. The procedures for merger of separate local
8 affiliates of the same state labor organization described in subparagraph (5) must
9 be followed if applicable. If prior to the merger a bargaining agent did not
10 represent a majority of employees who compose the merged unit, a bargaining
11 agent election must be conducted by the Maine Labor Relations Board pursuant
12 to subparagraph (8), except that the petition for an election must be filed not
13 more than 90 days prior to the expiration date of the agreement having the latest
14 expiration date among the bargaining units that will be merged into the regional
15 school unit-wide bargaining unit.

16 (7) When there are unexpired collective bargaining agreements with different
17 expiration dates in the merged bargaining units described in subparagraphs (4),
18 (5) and (6), all contracts must be honored to their expiration dates unless
19 mutually agreed to otherwise by the public employer and the bargaining agent.
20 Collective bargaining agreements must be bargained on an interim basis in any
21 merged bargaining unit so that all collective bargaining agreements expire on the
22 same date.

23 (8) When bargaining units with different bargaining agents must be merged into
24 a single regional school unit-wide bargaining unit pursuant to this subsection, the
25 bargaining agent of the merged bargaining unit must be selected in accordance
26 with Title 26, section 967, except as modified in this subparagraph.

27 (a) A petition for an election to determine the bargaining agent must be filed
28 with the Maine Labor Relations Board by any of the current bargaining
29 agents or the regional school unit.

30 (b) The petition must be filed not more than 90 days prior to ~~the expiration~~
31 ~~date of the agreement having the latest expiration date among the bargaining~~
32 ~~units that will be merged into the regional school unit wide bargaining unit~~
33 August 31, 2012.

34 (c) The election ballot may contain only the names of the bargaining agents
35 of bargaining units that will be merged into the regional school unit-wide
36 bargaining unit and the choice of "no representative," but no other choices.
37 No showing of interest is required from any such bargaining agent other than
38 its current status as representative.

39 (d) The obligation to bargain with existing bargaining agents continues from
40 the operational date until the determination of the bargaining agent of the
41 regional school unit-wide bargaining unit under this subsection; but in no
42 event may any collective bargaining agreement that is executed after the
43 operational date extend beyond ~~the expiration date of the agreement having~~
44 ~~the latest expiration date among the bargaining units that will be merged into~~

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- 1 ~~the regional school unit-wide bargaining unit that was in effect on the~~
- 2 ~~operational date August 31, 2012.~~
- 3 (e) The Maine Labor Relations Board shall expedite to the extent practicable
- 4 all petitions for determination of the bargaining agent in the regional school
- 5 unit-wide bargaining unit filed pursuant to this subsection.
- 6 (f) The bargaining units must be merged into a regional school unit-wide
- 7 bargaining unit as of the date of certification of the results of the election by
- 8 the Maine Labor Relations Board, or the expiration of the collective
- 9 bargaining agreements in the unit, whichever occurs later.
- 10 (g) Until August 31, 2012, existing bargaining agents shall continue to
- 11 represent the bargaining units that they represented on the day prior to the
- 12 operational date of the regional school unit. If necessary, each bargaining
- 13 agent and the regional school unit must negotiate an interim collective
- 14 bargaining agreement to expire on August 31, 2012.'

SUMMARY

16 The bill removed language from the regional school unit authorization laws requiring
17 the merger of bargaining units on a regional school unit-wide basis in order to preserve
18 existing bargaining units, collective bargaining agents and existing collective bargaining
19 obligations.

20 This amendment maintains current provisions of the regional school unit
21 authorization laws requiring the merger of bargaining units on a regional school unit-wide
22 basis, but extends the deadline for the merger of bargaining units represented by different
23 collective bargaining agents until August 31, 2012.

FISCAL NOTE REQUIRED
(See attached)

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Approved: 03/18/08 *mac*

123rd MAINE LEGISLATURE

LD 1931

LR 2721(02)

An Act To Protect Employee Choice of Collective Bargaining Agents in the Educational Unit Consolidation Process

Fiscal Note for Bill as Amended by Committee Amendment "A "

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

No State fiscal impact

Fiscal Detail and Notes

Allowing existing bargaining units, collection bargaining agents and existing collective bargaining obligations to remain intact after the merger of school administrative units into regional school units until August 31, 2012 will not affect the total state and local cost of funding K-12 public education based on the essential programs and services funding model or the State's share of that cost. The impact to regional school units can not be determined at this time.