

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1798

H.P. 1290

House of Representatives, March 4, 2014

**An Act To Implement the Recommendations of the Task Force
Convened by the Maine Labor Relations Board Regarding
Compensation for the Panel of Mediators**

Reported by Representative HERBIG of Belfast for the Joint Standing Committee on Labor, Commerce, Research and Economic Development pursuant to Resolve 2013, chapter 26, section 2.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed pursuant to Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 **Sec. 1. 26 MRSA §965, sub-§2, ¶C**, as amended by PL 1997, c. 412, §2, is
3 further amended to read:

4 C. The Panel of Mediators, consisting of not less than 5 nor more than 10 impartial
5 members, must be appointed by the Governor from time to time upon the expiration
6 of the terms of the several members, for terms of 3 years. The Maine Labor
7 Relations Board shall supply to the Governor nominations for filling vacancies.
8 Vacancies occurring during a term must be filled for the unexpired term. Members of
9 the panel are entitled to a fee for services in the amount of ~~\$100 for up to 4 hours of~~
10 ~~mediation services provided and \$100 for each consecutive period of up to 4 hours~~
11 ~~thereafter and also are entitled to traveling and all other necessary expenses.~~
12 ~~Notwithstanding the provisions of Title 5, section 12003-A, subsection 9, members of~~
13 ~~the panel who provide mediation services in more than one dispute in a given day are~~
14 ~~entitled to the compensation as provided in this paragraph in each such case. The~~
15 ~~necessary expenses incurred by the members must be allocated to the mediation~~
16 ~~session that required the costs \$600 per calendar day for each day or part of a day~~
17 ~~actually employed in the discharge of their official duties. The costs for services~~
18 rendered and expenses incurred by members of the panel and any state cost allocation
19 program charges must be shared equally by the parties to the proceedings and must
20 be paid into a special fund administered by the Maine Labor Relations Board.
21 Authorization for services rendered and expenditures incurred by members of the
22 panel is the responsibility of the Executive Director of the Maine Labor Relations
23 Board. All costs must be paid from that special fund. The executive director may
24 estimate costs upon receipt of a request for services and collect those costs prior to
25 providing the services. The executive director shall bill or reimburse the parties, as
26 appropriate, for any difference between the estimated costs that were collected and
27 the actual costs of providing the services. Once one party has paid its share of the
28 estimated cost of providing the service, the mediator is assigned. A party who has
29 not paid an invoice for the estimated or actual cost of providing services within 60
30 days of the date the invoice was issued is, in the absence of good cause shown, liable
31 for the amount of the invoice together with a penalty in the amount of 25% of the
32 amount of the invoice. Any penalty amount collected pursuant to this provision
33 remains in the special fund administered by the Maine Labor Relations Board and
34 that fund does not lapse. The executive director is authorized to collect any sums due
35 and payable pursuant to this provision through civil action. In such an action, the
36 court shall allow litigation costs, including court costs and reasonable attorney's fees,
37 to be deposited in the General Fund if the executive director is the prevailing party in
38 the action.

39 **Sec. 2. Report.** The Maine Labor Relations Board shall submit a report by
40 December 15, 2017 to the joint standing committee of the Legislature having jurisdiction
41 over labor matters on the effect of the change made pursuant to this Act, specifically with
42 regard to the impact on recruitment and retention of mediators and the effect on the
43 public sector collective bargaining process as a whole.

1

SUMMARY

2 This bill is reported out by the Joint Standing Committee on Labor, Commerce,
3 Research and Economic Development pursuant to Resolve 2013, chapter 26, section 2.
4 As required by the resolve, the Maine Labor Relations Board submitted to the committee
5 its report on the question of mediator compensation and its impact on the recruitment and
6 retention of able labor mediators and the public sector collective bargaining process as a
7 whole, with recommendations and draft implementing legislation that would provide
8 reasonable compensation for the members of the Panel of Mediators. This bill
9 incorporates all of the changes to law that the board recommended in its report.

10 The committee has not taken a position on the substance of the report or this bill and
11 by reporting this bill out the committee is not suggesting, and does not intend to suggest,
12 that it agrees or disagrees with any aspect of the commission's plan or this bill. The
13 committee is reporting the bill out for the sole purpose of turning the board's
14 recommendations into a printed bill that can be referred to the committee for an
15 appropriate public hearing and subsequent processing in the normal course. The
16 committee is taking this action to ensure clarity and transparency in the legislative review
17 of the board's recommended legislation.

18 The bill increases the payment for mediation services provided by the members of the
19 Panel of Mediators from \$100 for each consecutive 4-hour period to \$600 per whole or
20 partial calendar day. The bill eliminates the provisions permitting the mediators to collect
21 reimbursement for expenses incurred and to charge for more than one dispute in the same
22 calendar day.