

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2032

S.P. 860

In Senate, December 13, 2023

**An Act to Improve Maine's Labor Laws by Changing the Laws
Governing Elections of Collective Bargaining Agents for Certain
Public Employees**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 11, 2023. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TIPPING of Penobscot.

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

2 **Sec. 1. 26 MRSA §979-F**, as amended by PL 1981, c. 277, is further amended to
3 read:

4 **§979-F. Determination of bargaining agent**

5 **1. Voluntary recognition.** Any state employee organization may file a request with
6 the public employer alleging that a majority of the state employees in an appropriate
7 bargaining unit wish to be represented for the purpose of collective bargaining between the
8 public employer and the employees' organization. ~~Such~~ The request shall must describe the
9 grouping of jobs or positions ~~which that~~ constitute the unit claimed to be appropriate and
10 shall must include a demonstration of majority support. ~~Such~~ The request for recognition
11 shall may be granted by the public employer ~~unless the public employer desires that an~~
12 ~~election determine whether the organization represents a majority of the members in the~~
13 ~~bargaining unit.~~

14 **1-A. Majority sign-up.** If a request by a state employee organization for recognition
15 pursuant to subsection 1 is not granted by the public employer, the executive director or
16 the executive director's designee shall examine the demonstration of support. If the
17 executive director or the executive director's designee finds that a majority of the
18 employees in a unit appropriate for bargaining have signed valid authorizations designating
19 the employees' organization specified in the petition as their bargaining representative and
20 that no other individual or labor organization is currently certified or recognized as the
21 exclusive representative of any of the employees in the unit, the board may not direct an
22 election but shall certify the employees' organization as the representative. However, if the
23 majority status of the employees in the appropriate unit is in question, the executive director
24 or the executive director's designee shall call an election to determine whether the
25 organization represents a majority of the members in the bargaining unit.

26 **2. Elections.**

27 A. ~~The executive director of the board, or his the executive director's designee upon~~
28 ~~signed request of a public employer alleging that one or more state employees or state~~
29 ~~employee organizations have presented to it a claim to be recognized as the~~
30 ~~representative of a bargaining unit of state employees, pursuant to subsection 1-A, or~~
31 ~~upon signed petition of at least 30% of a bargaining unit of state employees that they~~
32 ~~desire to be represented by an organization, shall conduct a secret ballot election to~~
33 ~~determine whether the organization represents a majority of the members of the~~
34 ~~bargaining unit. Such an~~ The election may be conducted at suitable work locations or
35 through the United States mail provided, nevertheless, that and the procedures adopted
36 and employed by the Maine Labor Relations Board shall maintain the anonymity of
37 the voter from both board must ensure that neither the employee organizations and nor
38 the management representatives involved in the election have access to information
39 that would identify a voter.

40 B. The ballot shall must contain the name of ~~such~~ the organization under paragraph A
41 and that of any other organization showing written proof of at least 10% representation
42 of the state employees within the unit, together with a choice for any state employee to
43 designate that he the state employee does not desire to be represented by any bargaining
44 agent. Where When more than one organization is on the ballot and no one of the 3 or

1 more choices receives a majority vote of the state employees voting, a run-off election
2 ~~shall~~ must be held. The run-off ballot ~~shall~~ must contain the 2 choices ~~which~~ that
3 received the largest and 2nd largest number of votes. When an organization receives
4 the majority of votes of those voting, the executive director ~~of the board~~ or the
5 executive director's designee shall certify ~~it~~ the organization as the bargaining agent.
6 The bargaining agent certified as representing a bargaining unit ~~shall~~ must be
7 recognized by the public employer as the ~~sole and~~ exclusive bargaining agent for all of
8 the employees in the bargaining unit ~~unless and~~ until a decertification election by secret
9 ballot ~~shall be~~ is held and the bargaining agent declared by the executive director ~~of~~
10 ~~the board~~ as not representing a majority of the unit.

11 C. Whenever 30% of the employees in a certified bargaining unit petition for a
12 bargaining agent to be decertified, the procedures for conducting an election on the
13 question ~~shall be~~ of decertification are the same as for representation as a bargaining
14 agent ~~hereinbefore set forth~~ as established in this subsection.

15 D. ~~No~~ A question concerning representation may not be raised within one year of a
16 certification or attempted certification. ~~Where~~ When there is a valid collective
17 bargaining agreement in effect, ~~no~~ a question concerning unit or representation may
18 not be raised except during the period not more than 90 days nor less than 60 days prior
19 to the expiration date of the agreement. Unit clarification proceedings are not subject
20 to this time limitation and may be brought at any time consistent with section 979-E,
21 subsection 3.

22 E. The bargaining agent certified by the executive director ~~of the board~~ or his the
23 executive director's designee as the exclusive bargaining agent shall ~~be required to~~
24 represent all the public state employees within the unit without regard to membership
25 in the organization certified as the bargaining agent, provided except that any public
26 state employee at any time may present ~~his~~ that state employee's grievance to the public
27 employer and have ~~such~~ that grievance adjusted without the intervention of the
28 bargaining agent; if the adjustment is not inconsistent with the terms of a collective
29 bargaining agreement then in effect and if the bargaining agent's representative has
30 been given reasonable opportunity to be present at any meeting of the parties called for
31 the resolution of ~~such~~ the grievance.

32 **Sec. 2. 26 MRSA §1025**, as corrected by RR 2021, c. 2, Pt. A, §91, is amended to
33 read:

34 **§1025. Determination of bargaining agent**

35 **1. Voluntary recognition.** ~~An~~ A university, academy or community college employee
36 organization may file a request with the university, academy or community colleges
37 alleging that a majority of the university, academy or community college employees in an
38 appropriate bargaining unit as established in section 1024-A wish to be represented for the
39 purpose of collective bargaining between the university, academy or community colleges
40 and the employees' organization. ~~Such~~ The request must describe the grouping of jobs or
41 positions that constitute the unit claimed to be appropriate and must include a
42 demonstration of majority support. ~~Such~~ The request for recognition ~~must~~ may be granted
43 by the university, academy or community colleges ~~unless the university, academy or~~
44 ~~community colleges desire that an election determine whether the organization represents~~
45 ~~a majority of the members in the bargaining unit.~~ In the event that the request for

1 recognition is granted by the university, academy or community colleges, the executive
2 director shall certify the organization so recognized as the bargaining agent.

3 **1-A. Majority sign-up.** If a request by a university, academy or community college
4 employee organization for recognition pursuant to subsection 1 is not granted by the
5 university, academy or community college, the executive director or the executive
6 director's designee shall examine the demonstration of support. If the executive director or
7 the executive director's designee finds that a majority of the employees in a unit appropriate
8 for bargaining have signed valid authorizations designating the employees' organization
9 specified in the petition as their bargaining representative and that no other individual or
10 labor organization is currently certified or recognized as the exclusive representative of any
11 of the employees in the unit, the board may not direct an election but shall certify the
12 employees' organization as the representative. However, if the majority status of the
13 employees in the appropriate unit is in question, the executive director or the executive
14 director's designee shall call an election to determine whether the organization represents
15 a majority of the members in the bargaining unit.

16 **2. Elections.**

17 A. ~~The executive director of the board, upon signed request of the university, academy~~
18 ~~or community college alleging that one or more university, academy or community~~
19 ~~college employees or employee organizations have presented to it a claim to be~~
20 ~~recognized as the representative of a bargaining unit of university, academy or~~
21 ~~community college employees or the executive director's designee, pursuant to~~
22 ~~subsection 1-A, or upon signed petition of at least 30% of a bargaining unit of~~
23 ~~university, academy or community college employees that they desire to be represented~~
24 ~~by an organization, shall conduct a secret ballot election to determine whether the~~
25 ~~organization represents a majority of the members of the bargaining unit. ~~Such an~~ The~~
26 ~~election may be conducted at suitable work locations or through the United States mail,~~
27 ~~and the procedures adopted and employed must ensure that neither the employee~~
28 ~~organizations or nor the management representatives involved in the election have~~
29 ~~access to information that would identify a voter.~~

30 B. ~~The ballot shall~~ must contain the name of ~~such~~ the organization under paragraph A
31 and that of any other organization showing written proof of at least 10% representation
32 of the university, academy or community college employees within the unit, together
33 with a choice for any university, academy or community college employee to designate
34 that the employee does not desire to be represented by any bargaining agent. ~~Where~~
35 When more than one organization is on the ballot, and no one of the 3 or more choices
36 receives a majority vote of the university, academy or community college employees
37 voting, a run-off election ~~shall~~ must be held. The run-off ballot ~~shall~~ must contain the
38 2 choices ~~which~~ that received the largest and 2nd largest number of votes. When an
39 organization receives the majority of votes of those voting, the executive director or
40 the executive director's designee shall certify ~~it~~ the organization as the bargaining
41 agent. The bargaining agent certified as representing a bargaining unit ~~shall~~ must be
42 recognized by the university, academy or community colleges as the ~~sole and~~ exclusive
43 bargaining agent for all of the employees in the bargaining unit ~~unless and~~ until a
44 decertification election by secret ballot ~~shall be~~ is held and the bargaining agent
45 declared by the executive director as not representing a majority of the unit.

1 C. Whenever 30% of the employees in a bargaining unit petition for a bargaining agent
2 to be decertified, the procedures for conducting an election on the question ~~shall be of~~
3 decertification are the same as for representation as a bargaining agent hereinbefore set
4 forth as established in this subsection.

5 D. ~~No~~ A question concerning representation may not be raised within one year of a
6 certification or attempted certification. ~~Where~~ When there is a valid collective
7 bargaining agreement in effect, ~~no~~ a question concerning unit or representation may
8 not be raised except during the period not more than 90 days nor less than 60 days prior
9 to the expiration date of the agreement.

10 E. The bargaining agent certified by the executive director or a the executive director's
11 designee as the exclusive bargaining agent for a unit is required to shall represent all
12 the university, academy or community college employees within the unit without
13 regard to membership in the organization certified as the bargaining agent, except that
14 any university, academy or community college employee may present at any time that
15 employee's grievance to the ~~employer~~ university, academy or community college and
16 have that grievance adjusted without the intervention of the bargaining agent; if the
17 adjustment is not inconsistent with the terms of any collective bargaining agreement
18 then in effect and if the bargaining agent's representative has been given reasonable
19 opportunity to be present at any meeting of the parties called for the resolution of that
20 grievance.

21 **Sec. 3. 26 MRSA §1287**, as enacted by PL 1983, c. 702, is amended to read:

22 **§1287. Determination of bargaining agent**

23 **1. Voluntary recognition.** Any judicial employee organization may file a request
24 with the public employer alleging that a majority of the judicial employees in an appropriate
25 bargaining unit wish to be represented for the purpose of collective bargaining between the
26 public employer and the employees' organization. The request ~~shall~~ must describe the
27 grouping of jobs or positions ~~which~~ that constitute the unit claimed to be appropriate and
28 ~~shall~~ must include a demonstration of majority support. The request for recognition ~~shall~~
29 may be granted by the public employer; ~~unless the public employer desires that an election~~
30 ~~determine whether the organization represents a majority of the members in the bargaining~~
31 ~~unit.~~

32 **1-A. Majority sign-up.** If a request by a judicial employee organization for
33 recognition pursuant to subsection 1 is not granted by the public employer, the executive
34 director or the executive director's designee shall examine the demonstration of support. If
35 the executive director or the executive director's designee finds that a majority of the
36 employees in a unit appropriate for bargaining have signed valid authorizations designating
37 the employees' organization specified in the petition as their bargaining representative and
38 that no other individual or labor organization is currently certified or recognized as the
39 exclusive representative of any of the employees in the unit, the board may not direct an
40 election but shall certify the employees' organization as the representative. However, if the
41 majority status of the employees in the appropriate unit is in question, the executive director
42 or the executive director's designee shall call an election to determine whether the
43 organization represents a majority of the members in the bargaining unit.

44 **2. Elections.** ~~The executive director of the board, or his~~ the executive director's
45 ~~designee, upon signed request of a public employer alleging that one or more judicial~~

1 employees or judicial employee organizations have presented to it a claim to be recognized
2 as the representative of a bargaining unit of judicial employees pursuant to subsection 1-A,
3 or upon signed petition of at least 30% of a bargaining unit of judicial employees that they
4 desire to be represented by an organization, shall conduct a secret ballot election to
5 determine whether the organization represents a majority of the members of the bargaining
6 unit. ~~Such an~~ The election may be conducted at suitable work locations or through the
7 United States mail, ~~provided that~~ and the procedures adopted and employed by the board
8 ~~shall maintain the anonymity of the voter from both~~ must ensure that neither the employee
9 organizations ~~and nor~~ the management representatives involved in the election have access
10 to information that would identify a voter.

11 3. Voting.

12 A. The ballot ~~shall~~ must contain the name of the organization and that of any other
13 organization showing written proof of at least 10% representation of the judicial
14 employees within the unit, together with a choice for any judicial employee to
15 designate that ~~he~~ the judicial employee does not desire to be represented by any
16 bargaining agent. When more than one organization is on the ballot and no one of the
17 3 or more choices receives a majority vote of the judicial employees voting, a ~~run-off~~
18 run-off election ~~shall~~ must be held. The ~~run-off~~ run-off ballot ~~shall~~ must contain the 2
19 choices ~~which~~ that received the largest and 2nd largest number of votes. When an
20 organization receives the majority of votes of those voting, the executive director ~~of~~
21 ~~the board~~ or the executive director's designee shall certify ~~it~~ the organization as the
22 bargaining agent. The bargaining agent certified as representing a bargaining unit ~~shall~~
23 must be recognized by the public employer as the ~~sole and~~ exclusive bargaining agent
24 for all of the employees in the bargaining unit, ~~unless and~~ until a decertification election
25 by secret ballot ~~shall be~~ is held and the bargaining agent declared by the executive
26 director ~~of the board~~ as not representing a majority of the unit.

27 B. Whenever 30% of the employees in a certified bargaining unit petition for a
28 bargaining agent to be decertified, the procedures for conducting an election on the
29 question ~~shall be~~ of decertification are the same as for representation as a bargaining
30 agent as ~~set forth~~ established in this ~~chapter~~ section.

31 C. ~~No~~ A question concerning representation may ~~not~~ be raised within one year of a
32 certification or attempted certification. ~~Where~~ When there is a valid collective
33 bargaining agreement in effect, ~~no~~ a question concerning unit or representation may
34 not be raised, except during the period not more than 90 days nor less than 60 days
35 prior to the expiration date of the agreement. Unit clarification proceedings are not
36 subject to this time limitation and may be brought at any time consistent with section
37 1286, subsection 4.

38 D. The bargaining agent certified by the executive director ~~of the board~~ or his ~~the~~
39 executive director's designee as the exclusive bargaining agent shall ~~be required to~~
40 represent all the judicial employees within the unit without regard to membership in
41 the organization certified as the bargaining agent, ~~provided~~ except that any judicial
42 employee at any time may present ~~his~~ that judicial employee's grievance to the public
43 employer and have that grievance adjusted without the intervention of the bargaining
44 agent, if the adjustment is not inconsistent with the terms of a collective bargaining
45 agreement then in effect and if the bargaining agent's representative has been given

1 reasonable opportunity to be present at any meeting of the parties called for the
2 resolution of that grievance.

3 **SUMMARY**

4 This bill amends the labor relations laws governing state employees, judicial
5 employees and university, academy and community college employees. In current law,
6 when such employees in a collective bargaining unit file a request with their public
7 employer to be represented by a certain organization as their collective bargaining agent,
8 the public employer is authorized to request an election from the Maine Labor Relations
9 Board in order to determine whether the organization indeed represents a majority of the
10 members in the collective bargaining unit. As in the laws governing municipal employees,
11 the bill requires an election in such cases only if, after examining the demonstration of
12 majority support, the Maine Labor Relations Board finds majority support for the
13 organization to be in question.