

MAINE STATE LEGISLATURE

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N I N E T I E T H L E G I S L A T U R E

Legislative Document

No. 673

S. P. 356

In Senate, February 11, 1941.

Referred to Committee on Judiciary. Sent down for concurrence and 1000 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Chamberlain of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT to Establish Labor Relations in the State of Maine.

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

Sec. 1. Definitions. The following words are hereby defined for the purposes of this chapter :

Person—Person shall mean one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

Employer—Employer includes any person acting in the interest of the employer, directly or indirectly, but shall not include the state or any political subdivision thereof, or any labor organization (other than when acting as an employer), or any one acting in the capacity of officer or agent of such labor organization.

Employee—Emp'oyee shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice by an employer, and who has not obtained any other substantial and equivalent employment; but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any person employed by his parent or spouse, nor any one whose work has ceased in violation of a valid contract.

Labor organization—means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of (work) employment, or conditions of work.

Collective bargaining includes, but is not restricted to, the process of negotiating terms and conditions of employment conducted by employers and employees through representatives, for the purpose of embodying the results of such negotiations in an agreement for a period of time.

Supervisory employees means employees who are regularly employed in supervising the work of others in a manner similar to that performed by foremen in similar factories, plants or business establishments, and who are empowered to hire and fire.

Company union means any labor organization, membership in which is limited to the employees of any one particular employer or which the employer has initiated or created or whose initiation, creation, existence or administration he has suggested, participated in, dominated, interfered with, or supervised, or which the employer maintains, finances, controls, dominates, or assists in maintaining or financing, or to which the employer donates free service, equipment, materials, office, meeting space or anything else of value for the use thereof, provided however that the term company union shall not be construed to include any labor organization or branch thereof which is affiliated with an association of labor organizations of more than 10 trades or crafts which association has been in existence for a period of three years prior to the adoption of this act.

Sec. 2. Purpose. The purpose of this act is to protect the exercise by workers of full freedom of association, self organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection, free from interference, restraint or coercion of their employers.

Sec. 3. Commission created. There is hereby created an independent administrative agency within the department of labor and industry, known as the labor relations commission, hereinafter referred to as the commission, which shall be composed of 3 members, 1 representing the public, 1 a representative of employers, and 1 who is a member of a bona fide trade or labor organization to represent employees; who shall be appointed by the governor with the advice and consent of the council. The governor, with the advice and consent of the council, shall appoint an administrator with no stated term of service.

The original members of the commission shall be appointed for a term of not more than 3 years so that the term of 1 member shall expire each succeeding year and their successor shall be appointed for 3 years. Vacancies on the commission shall be filled in the same manner except that their term shall be for the unexpired term of the member whom he is to succeed.

A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission and 2 members of the commission shall at all times constitute a quorum.

The committee shall, at the end of each fiscal year, make a report, in writing, to the governor, stating in detail the work it has done.

Sec. 4. Salaries. Each member of the commission shall be paid \$10 for each day of actual service. The reasonable and necessary traveling and other expenses of members of the commission, while actually engaged in the performance of their duties, shall be paid from the state treasury, upon the audit and warrant of the controller, upon vouchers approved by the chairman. Attorneys appointed under this act may, at the request of the commission, appear for and represent the commission in any case in court.

Nothing in this act shall be construed to authorize the commission to appoint individuals for the purpose of conciliation, mediation or arbitration, obtained from the department of labor and industry, or other departments.

Sec. 5. Rules and regulations. The commission shall have authority from time to time to make, amend, or rescind such rules and regulations as may be necessary to carry out the provisions of this act. These rules and regulations shall become effective upon publication in the manner which the commission shall prescribe.

Sec. 6. Rights of employees. Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion by the employer; providing that nothing in this act shall preclude an employer from making an agreement with a labor organization requiring as a condition of employment membership therein of all employees eligible to such membership.

Sec. 7. Unfair labor practices. It shall be an unfair labor practice for an employer to interfere with or restrain any employee directly or indi-

rectly through agents or any other person in the exercise of any right created or affirmed by this act. To discriminate in regard to hire or tenure or any term or condition of employment. To create, maintain, recognize, or bargain with any company union. To refuse to bargain with the representative or representatives designated by a majority of the employees in an appropriate bargaining unit, or to refuse to put into writing and sign an agreement when reached. To refuse to discuss grievances with such representatives.

Sec. 8. Representatives and elections. Representatives designated or elected for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purpose or by the majority of the employees voting at an election conducted pursuant to this section, shall be exclusive representatives of all the employees in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment.

The commission shall determine in each case the appropriate bargaining unit to effectuate the purpose of this act, and certify thereto in writing. Whenever it appears there is a controversy or question concerning the representation of employees, the commission shall investigate and may after appropriate notice to all known interested parties provide for an appropriate hearing and certify in writing to all persons entitled thereto the name or names of the representatives that the commission has found to be the proper bargaining unit.

The commission may conduct an election by secret ballot of employees to determine such unit if in its judgment it is desirable. Certification shall be made within 10 days unless an election by secret ballot is ordered. An election when ordered shall be held within 10 days after the close of the hearing.

No company union shall be permitted a place on any ballot.

Supervisory employees shall not be eligible to vote in any election.

Nothing in this act shall interfere with the jurisdiction of any court.

Whenever there is an appeal by any party from the certification of the commission the attorney general's department of the state shall represent the commission in any subsequent court action.

Whenever a written detailed complaint of violation of this act shall have been lodged with the commission they shall conduct a hearing of a public nature, giving due notice thereof to all interested parties, and shall within 15 days render their written findings which shall become effective, unless appeal is taken, within 10 days.

The administrator shall act as examiner for the commission, and shall be its duly authorized agent in any investigation or proceeding established hereby. He or the commission shall at all reasonable times have access to, for the purpose of examination, any evidence or records of any person being investigated.

Subject to reasonable rules and regulations, records of proceedings under this act shall be open to the public.

Sec. 9. Penalties. Any person who shall wilfully resist, prevent, impede, or interfere with any member of the commission or its agents in the performance of duties pursuant to this act shall be punished by a fine of not more than \$5000 or by imprisonment for not more than 5 years or by both such fine and imprisonment.

Nothing in this act shall be construed so as to interfere with or impede or diminish in any way the right to strike or engage in other concerted activities, or to deprive any party to a labor dispute of the rights, benefits and protection contained in the provisions of any other act, general or specific, or of any local law.

Sec. 10. Appropriation. There is hereby appropriated a sum sufficient to care for the necessary expense of administering this act to be added to the general appropriation for the department of labor and industry.