

MAINE STATE LEGISLATURE

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PROPOSED NEW DRAFT

N I N E T Y - T H I R D L E G I S L A T U R E

Legislative Document

No. 1368

April 3, 1947.
PROPOSED NEW DRAFT OF H. P. 1625, L. D. 1299

STATE OF MAINE

**IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN**

**AN ACT to Protect the Public Interest in and to Facilitate the Settlement
of Controversies Between Employers and Employees.**

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

Sec. 1. R. S., c. 25-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 25-A, to read as follows:

'CHAPTER 25-A

MAINE LABOR RELATIONS ACT

Sections 1-7 Policy, Definitions, Shore Title, Board and Administration.

Sections 8-14 Rights, Duties and Unfair Labor Practices.

Sections 15-29 Jurisdiction of Board, Mediation, Arbitration, and Investigations.

Sections 30-36 Miscellaneous.

Policy, Definitions, Short Title, Board and Administration.

Sec. 1. Declaration of policy. Industrial liberty like civil liberty must rest upon a sound foundation of law and the responsibility for exercise of such liberty must be shared by employer and employee alike. Avoidance of interruption and delay in the production and distribution of goods and services necessary to the public interest is paramount and to that end it is the duty of both employers and employees to bargain in good faith, recognizing the rights of the general public. The purposes of this chapter are

to confirm the right of employees to organize for purposes of collective bargaining through representatives of their own free choice, to protect the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing; to recognize and uphold the right of employers to exercise the normal and reasonable powers of management essential to the fulfillment of management's obligations to employees, consumers, investors and the public; to protect all citizens in the right of free choice of action and the right of private property; to facilitate and provide state settlement procedures for the prompt, peaceful and just settlement of all disputes between employers and employees; and to enact provisions rendering employees and labor organizations responsible before the law in the degree and to the extent now provided for partnerships, corporations and associations.

Sec. 2. Definitions. As used in this chapter:

I. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

II. The term "employer" includes any person or persons acting as agent of an employer in his relations with his employees.

III. The term "employee" includes any employee and shall not be limited to employees of a particular employer and shall include any individual who has not engaged in an unfair labor practice and whose work has ceased as a consequence of or in connection with any current labor dispute or because of any unfair labor practice on the part of the employer and who has not obtained any other regular and substantially equivalent employment; but shall not include any individual employed as an agricultural laborer or in the domestic service of any family.

IV. The term "representative" includes any individual or labor organization.

V. The term "labor organization" means any organization of any kind or any agency or employee representation committee or plan, in which employees participate and associate for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

VI. The term "unfair labor practice" means any unfair labor practice listed in sections 11 and 12 of this chapter.

VII. The term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the associa-

tion or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment.

VIII. The term "mass picketing" means concentration of pickets in numbers beyond those necessary to inform the public of the existence and nature of a labor dispute at a location so as to cause or threaten to cause a public disturbance or injury or damage to persons or property.

IX. The term "board" means the Maine labor relations board.

X. The term "commissioner" means the commissioner of labor and industry and state factory inspector.

XI. The term "public emergency" means an emergency existing when transportation, public utility or communications services essential to the public health or safety, or supplies of articles or commodities essential to the public health or safety have been suspended or substantially curtailed as a result of a labor dispute within the state, whether or not a labor dispute to which persons furnishing or employed in furnishing such services, articles or commodities are parties.

XII. The term "public utility" means every common carrier, gas company, electric company, telephone company, telegraph company, water company and public heating company subject to the jurisdiction, control, and regulation of the public utility commission, as those terms are defined in section 15 of chapter 40 of the revised statutes.

Sec. 3. Short title. This chapter and all acts amendatory thereof shall be known and may be cited as the "Maine Labor Relations Act."

Sec. 4. Maine labor relations board. Appointment and qualifications of: The Maine labor relations board shall consist of 3 members and 9 alternates appointed by the governor with the advice and consent of the council. One of the original members and 3 alternates shall be appointed for a term of 1 year; one and 3 alternates for a term of 3 years and one and 3 alternates for a term of 5 years, but their successors shall be appointed for terms of 5 years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. All considerations by the board shall be tripartite. Any member of the board may designate an alternate to represent him on the board. The board shall have an official seal which shall be judicially noticed. One member and 3 alternates of the board shall be employers of labor or selected from some association representing employers of labor, and another and 3 alternates shall be employees selected from some bona

vide trade or labor organization and not employers of labor. The 3rd member shall be chairman of the board and shall represent the public interest of the state, and may at his pleasure, be represented by one of three public alternates.

Sec. 5. Powers and duties of the board. The board shall decide in each case whether in order to insure to employees the full benefit of their right to self-organize and to collective bargaining and otherwise to effect policies of this chapter, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit or subdivision thereof. Whenever a question arises within the state concerning the representation of employees, and either makes a written request, the board shall investigate such controversy and certify to the parties in writing the name or names of representatives that have been designated or selected. In any such investigation the board shall provide for an appropriate hearing, upon due notice either in conjunction with a proceeding involving unfair labor practice, or otherwise, and shall take a secret ballot of employees or utilize any other suitable method to ascertain such representatives. It shall be the duty of the board to endeavor to settle disputes, strikes and lockouts between employers and employees by conciliation, mediation, or arbitration. The commissioner shall be an agent of the board and answerable to the board on all matters relating to labor disputes within the scope of this chapter.

Sec. 6. Salaries; officers and employees of the board; termination of old board; payment of expenses. The chairman of the board shall receive a salary of \$6,000 a year and shall not engage in any other business, vocation or employment; the other members of the board shall each receive \$35 a day for the time actually employed in the discharge of their official duties. All members of the board shall also receive their traveling and all other necessary expenses, and shall be eligible for re-appointment. The board shall appoint from its membership a secretary, and may appoint such other officers, agents and employees as it may find necessary for the proper performance of its duties and fix their compensation. The board may establish or make use of such regional, local or other agencies and utilize such voluntary non-compensated services as may from time to time be needed. Upon the appointment of the original members of the board and alternates the present state board of arbitration and conciliation shall cease to exist and section 10 of chapter 25 of the revised statutes is hereby repealed, effective at such time. All records, papers and property of the state board of arbitration and conciliation shall become the records, papers and property of the board and all unexpended funds and

appropriations for the use and maintenance of the old board shall become funds and appropriations available to be expended by the board in the exercise of its authority, power and duties conferred on it by this chapter or by the provisions of chapter 25 of the revised statutes.

Sec. 7. Office; meetings, regulations of the board and annual report. The principal office of the board shall be at Augusta, but it may meet and exercise its powers in any other place within the state. The board shall meet on call of the chairman or on the written request of a majority of the board filed with the secretary. The board shall have power in conformity with the provisions of this chapter from time to time, to make, amend and rescind regulations providing for appropriate procedures for carrying out the powers vested in it and the provisions of this chapter. Annually on or before the 1st day of July the board shall make a report to the governor and council which shall be incorporated with and printed in the biennial report of the department of labor and industry.

Rights, Duties and Unfair Labor Practices

Sec. 8. Rights of employers. Employers shall have the right to exercise all the normal and reasonable powers of management which are essential to the fulfillment of management's obligations to employees, consumers, investors, to the public and under the laws of this state. Such rights shall include the right of free speech within the limits of the constitution and the law of this state; and the right to petition the board for elections to determine who is entitled to represent the employees and the right to conduct a lockout not in violation of the provisions of this chapter.

Sec. 9. Duties of employers. Employers shall participate in collective bargaining in good faith, shall maintain and be responsible for agreements made as to wages, hours and other conditions of employment, shall be liable for actual damages caused to the other party to a labor dispute resulting from the violation of any of the provisions of this chapter and shall attempt in good faith to effect prompt, peaceful and just settlement of disputes between employers and employees, their agents and representatives. If the board has not assumed jurisdiction of a dispute, pending the exhaustion of all reasonable efforts at settlement, in accordance with the terms of this chapter, the employer shall make no use of any unilateral, arbitrary or coercive methods or compulsory processes to end the controversy or to obtain an advantage in its final determination. Except by agreement of the parties or with the approval of the board, the employer shall make no change in the conditions out of which the controversy arose. It shall be the duty of employers to refrain from conduct-

ing lockouts until after the expiration of 5 days from the date on which such employers or their representatives have given written notice to the chairman of the board of their intention so to do, containing a statement of their reasons for such intended lockout and if the board within such 5 days assumes jurisdiction of such dispute, it shall be the duty of employers to refrain from conducting the indicated lockout, pending consideration of the dispute by the board. It shall be the duty of employers to withhold giving notices provided for in this section until after other available conciliation and mediation procedures have been attempted and the notices shall state what has been tried.

Sec. 10. Rights of employees. Employees shall have the right to organize, to form, join, or assist labor organizations, to bargain collectively, through representatives of their own choice, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection. Such rights shall include the right to petition the board for elections to determine who is entitled to represent the employees; the right of free speech within the limits of the constitution and the law of this state, and the right to conduct authorized strikes and peaceful picketing at the place of their employment; provided that employees of the state, its political subdivisions and agencies shall as a condition of such employment waive in writing the right to strike. Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment provided that individual employees or a group of employees shall have the right at any time to present grievances to their employers.

Sec. 11. Duties of employees. Employees shall participate in collective bargaining in good faith, shall maintain and be responsible for agreements made as to wages, hours and other conditions of employment, shall be liable for actual damages caused to the other party to a labor dispute resulting from the violation of any of the provisions of this chapter and shall attempt in good faith to effect prompt, peaceful and just settlement of disputes between employers and employees, their agents and representatives. If the board has not assumed jurisdiction of a dispute, pending the exhaustion of all reasonable efforts at settlement, in accordance with the terms of this chapter, employees shall make no use of any unilateral, arbitrary or coercive methods or compulsory processes to end the controversy or to obtain an advantage in its final determination. Except by

agreement of the parties or with the approval of the board, employees shall make no change in the conditions out of which the controversy arose. Strikes shall be authorized only by the affirmative vote in secret ballot of a majority of employees entitled to vote, in an election conducted by the board. It shall be the duty of employees of an employer to refrain from striking until after the expiration of 5 days from the date on which they or their representatives have given to the chairman of the board written notice of their intention so to do, containing a statement of their reasons for such intended strike and if within such 5 days the board assumes jurisdiction of the dispute, it shall be the duty of the employees to refrain from striking, pending consideration of the dispute by the board. It shall be the duty of employees to withhold giving the notices provided for in this section until after other available conciliation and mediation procedures have been attempted and the notices shall state what has been tried.

Sec. 12. Binding effect of collective bargaining agreement. All collective bargaining agreements shall be mutually and equally binding upon and enforceable against each of the parties thereto either at law or in equity in the manner hereinafter provided. In the event of claim being made of breach of any agreement or any provision contained in said agreement by either party thereto, the party claiming such breach shall give to the other party written notice, specifying in detail the nature of the breach claimed and making demand upon the other party that the claim of breach be settled or cured in accordance with the procedures for settlement of disputes set forth in said agreement, and if, within the period of five days thereafter such other party shall not have cured said claimed breach of said agreement or agreed in writing to follow and be bound by the procedures for settlement of disputes set forth in said agreement or shall, for five days, fail to fully comply with a final decision made in accordance with said procedures, then in addition to any other remedy or remedies existing either at law or equity, a suit for damages for such breach or for injunctive relief in equity may be maintained by the party or parties aggrieved in the superior court or the supreme judicial court of the state. If the defendant against whom action is sought to be commenced and maintained is a labor organization, such action may be filed in the superior court or in the supreme judicial court of any county wherein it has a place of business or in which any officer of such labor organization resides or may be found.

Sec. 13. Unfair labor practices by employers. It shall be an unfair labor practice for employers:

I. To interfere with, restrain or coerce employees in the exercise of their rights guaranteed in section 10 of this chapter.

II. To dominate or interfere with the formation or administration of any labor organization or to contribute financial or other support to it or to its welfare fund; provided that financial or other support shall not be unfair if in accordance with the terms of an agreement between employer and labor organization.

III. To induce or coerce employees to join or not to join any labor organization or to encourage or discourage membership therein by discrimination in favor of members or non members or in regard to hire or tenure of employment thereof; to induce employees to join by making membership a condition of employment, or to enforce or to assist in the collection of dues or other financial obligations to such organization; provided that it shall be lawful for an employer and representatives of his employees to make, maintain or continue in force an agreement requiring membership in a labor organization as a condition of continued employment, and to provide for employer's aid in enforcing the financial obligations of membership to such labor organization on the following conditions:

A. That the labor organization shall be the freely chosen representative of and include in its membership a majority of the employees included in the bargaining unit.

B. That the agreement shall be ratified by the affirmative vote of a majority of all employees in the bargaining unit as evidenced by a vote cast by secret ballot cast under conditions which the board shall prescribe.

C. That ratification shall be accorded each renewal of the agreement as well as initially in the manner specified.

D. That any person employed shall be admitted to membership in such labor organization on terms and with advantages enjoyed by a majority of the membership and shall have full access to the financial records and other records of the union.

E. No member of such labor organization shall be deprived of membership thereby losing his employment, except on written charges and after a fair hearing before such labor organization according to procedures clearly set forth in the labor organization constitution and by-laws or articles of agreement to which the member assented in writing when he joined, or as prescribed by the board.

IV. To refuse to meet at reasonable times and places within the state or to bargain collectively with the representatives of his employees or to refuse to participate in the settlement of controversies as provided by this chapter, but refusal to grant any demand made in meeting shall not be construed to refuse to bargain collectively.

V. To participate in any cessation, interruption or variation of employment relations in violation of an existing written labor agreement or of a provision of this chapter.

VI. To bribe or otherwise pay or reward secretly or improperly any employee, labor organization or their agents or representatives.

VII. To discriminate against his employees, labor organizations, or their agents or representatives because of any lawful activity in support of their interests including filing charges with the board, giving testimony or otherwise exercising rights under law.

Sec. 14. Unfair labor practices by employees. It shall be an unfair labor practice for employees:

I. To interfere with, restrain, or coerce employers in the exercise of their rights guaranteed in section 8 of this chapter.

II. To interfere with the functioning of an employer's management organization by interrupting, disorganizing or delaying the performance of work by employees or by interfering with the employer's dealers, customers or consumers in order to compel the adjustment of alleged grievances concerning matters incident to the normal and reasonable powers of management or to compel managerial acts or to prohibit the enforcement of managerial directions or policies, or otherwise to interfere with or coerce an employer, his representatives or supervisory employees in exercising the normal and reasonable powers of management; provided, however, that nothing herein shall be construed to affect, interfere with, or diminish, in any manner, the rights guaranteed to employees by section 10 of this chapter.

III. To refuse to meet at reasonable times and places within the state or to bargain collectively with an employer or his representatives, or to refuse to participate in the settlement of controversies as provided by this chapter, but refusal to grant any demand made in meeting shall not be construed to refuse to bargain collectively.

IV. To participate in any cessation, interruption or variation of em-

ployment relations in violation of an existing written labor agreement or of a provision of this chapter.

V. To institute, encourage or engage in strikes in violation of the terms of this chapter, or by the use of force or violence or threats thereof to prevent or to attempt to prevent any individual from quitting or continuing in the employment of or from accepting or refusing employment by an employer, or from entering or leaving any place of such employer, and the board shall determine in each instance whether or not mass picketing is unfair.

VI. To picket against, withhold labor from or refuse to handle, use or work on particular products of employers or persons not a party to the labor dispute.

VII. To refuse to accept employees in a labor organization; to coerce or discriminate against employees exercising their right of free choice with respect to membership in a labor organization; to suspend or expel member employees from such organization without just cause; to charge exorbitant and unreasonable dues or initiation fees or unreasonable assessments as conditions of membership in such organization; or to make unfair or unreasonable use of work permits as determined by the board, to create or make unnecessary work or to create, encourage or participate in a monopoly by any labor organization.

VIII. To bribe or otherwise pay or reward secretly or improperly any officer, supervisory employee, agent or representative of an employer.

IX. To discriminate against an employer, his officers, supervisory employees, agents and representatives because of any lawful activity in support of their interests, including filing charges with the board, giving testimony or otherwise exercising rights under law.

Jurisdiction of Board, Mediation, Arbitration, and Investigations

Sec. 15. Jurisdiction of the board; disputes. The board shall determine in the case of any labor dispute within the state involving 8 or more employees whether such labor dispute comes within the provisions of this chapter and is one which imminently and substantially affects the public interest and cannot be speedily adjusted by collective bargaining. If the determination is affirmative, the board shall assume jurisdiction of the dispute and shall notify the employer and employees concerned. Disputes between the state, its political subdivisions and agencies and their employees and between public utilities and their employees shall come within the jurisdiction of the board. Whenever it appears to the mayor or any

municipal officer of a city or the selectmen of a town or any citizen of the state directly involved or about to be involved therein, that a strike is seriously threatened, or a strike actually occurs, he or they shall at once notify the board and such notification may also be given by the employer or employees actually concerned in the dispute, strike or lockout, or by any labor organization. In the event that notice shall be given to the board that any unfair labor practice as defined in sections 13 and 14 has occurred, the board shall assume jurisdiction upon the application of the employer, employees or labor organization and may assume jurisdiction upon its own initiative.

Sec. 16. Procedure for mediation; compensation of mediators. After the board has assumed jurisdiction of a dispute the board under the direction of the chairman shall make every reasonable effort to assist the parties to adjust and settle the dispute and make agreements for that purpose. To such end the board may utilize and the chairman may designate a mediation panel consisting of one or more persons representative of employers, a like number representative of employees and a like number of disinterested persons representative of the public. The persons designated may be members of the board or other persons named by the board. The chairman, mediation panel, or mediator may at any time request the parties to a dispute to negotiate by collective bargaining or to meet with any representatives of the board. Mediators appointed to such mediation panels and individual mediators shall be entitled to receive not more than \$35 for each day of actual service and their necessary expenses to be paid by the treasurer of state on a warrant drawn by the comptroller.

Sec. 17. Authority of the board; investigations; decisions. The board shall have authority to subpoena all parties to a labor dispute. If the matter be submitted and the parties involved in the dispute, strike, or lockout or their proper representatives agree to abide by the decision of the board, mediation panel, or mediator so appointed, or upon application as hereinafter provided, the board shall investigate such dispute, visit the place where the controversy exists, ascertain the facts and the board may with the consent of the governor conduct such inquiry beyond the limits of the state. The board shall hear all persons interested who come before it and shall make and publish its decision which shall be open to public inspection and shall be recorded by the secretary of the board. Such decision shall for 6 months be binding upon the parties who join in the agreement. Such notice may be given to the employees by posting it in 3 conspicuous places in the shop, factory, yard or other place where they work. The board shall upon request of the governor investigate and report upon any

dispute if in his opinion it threatens to affect the public health, safety or welfare.

Sec. 18. Application for inquiry; secretary to give notice of time and place of hearing. The application for an investigation under the preceding section may be signed by the employer or by a majority of the employees in the department of the business in which the controversy exists or by their duly authorized agent or by both parties, and, if signed by an agent claiming to represent a majority of the employees, the board shall satisfy itself that he is duly authorized to do so. The application shall contain a statement of the matter in controversy and a promise to continue in business or at work without any strike or lockout until the decision of the board, if such decision is made within 30 days after the date of filing the applications. The secretary of the board shall forthwith after such filing cause public notice to be given of the time and place of hearing on the application, unless both parties join in the application and present therewith the written request that no public notice shall be given. If such request is made, notice shall be given to the parties in such a manner as the board shall order, and the board may give public notice notwithstanding such request.

Sec. 19. Voluntary arbitration. In the event that a dispute is not settled by collective bargaining, or by mediation under sections 16, 17 and 18, the chairman, the mediation panel or mediator shall endeavor to induce the parties to the dispute voluntarily to submit their differences to arbitration by the board or by a special board of arbitration as hereinafter designated. If the parties consent to such arbitration, they shall file with the board a notice of their agreement to arbitrate the dispute. The award of the arbitrators shall be filed with the board and shall be binding upon all parties consenting to such arbitration.

Sec. 20. Maintenance of existing conditions. After the board has taken jurisdiction of a dispute as herein provided, excepting, however, a dispute involving an unfair labor practice and which does not imminently and substantially affect the public interest, the chairman, in order to effectuate the provisions of this chapter shall have power to issue an order requiring any person, employee, labor organization, agent or representative to refrain or cease and desist from calling or assisting in any manner a strike arising out of such dispute or requiring any employer who is involved in the dispute to refrain or cease and desist from practices which change the situation existing at the time the dispute arose, or from changing an existing situation which led to the dispute, and which the chairman

deems shall be prejudicial to the prompt settlement of the dispute. No order of the chairman or process of the board shall require an individual employee or an employer to render labor or services without his consent, nor shall any provision of such order or process be construed to make the refusal to work of an individual employee or the refusal on the part of an employer to operate a violation of such order or process, or otherwise an illegal act. Such orders shall be effective for such period as the chairman shall determine but shall in no event be effective for a longer period than 30 days from the date on which the board took jurisdiction.

If, in a dispute which involves a claim of an unfair labor practice committed by an employer and which does not imminently and substantially affect the public interest, employees assist, or participate in, a strike, and it is finally determined by a majority of the board that no unfair labor practice was committed by the employer, such employees shall not be entitled, as of right, to reinstatement in their jobs.

If, in a dispute which involves a claim of an unfair labor practice committed by employees and which does not imminently and substantially affect the public interest, an employer makes use of practices which change the situation existing at the time the dispute arose, or changes an existing situation which led to the dispute, and it is finally determined by a majority of the board that no unfair labor practice was committed by the employees, said employer shall be subject to such affirmative action by the board, including reinstatement of employees with or without back pay, and awarding of damages against the employer to the employees for any loss actually suffered, as will effectuate the policies of this chapter.

Sec. 21. Public emergencies; strikes by state and public utility employees. In the event of a strike or imminent threat of a strike by employees of the state, its political subdivisions or agencies or by the employees of a public utility, the governor may declare a public emergency after due hearing. Such declaration shall prohibit the calling or authorizing of a strike or lockout and shall provide that work shall continue under existing conditions until new conditions of employment shall be determined by mediation and voluntary arbitration as provided by this chapter, except that such prohibition shall not be effective for a longer period than 90 days from the date of such declaration of public emergency. In such event labor organizations shall rescind any strike or work stoppage orders theretofore issued and order back to work any of those members who fail to live up to their obligations under existing agreements or conditions of employment. Labor organization members who fail to obey the

order to return to work and officials thereof who refuse to rescind strike or other work stoppage orders or to order their men to resume work shall be disciplined by the labor organization in accordance with its by-laws and rules. A labor organization which fails to order its members back to work or fails to discipline its members for violating those orders may be required by the board to show cause why it should not be deprived of its representative rights in the affected locations until such time as it shows that it has become a responsible organization. Similar obligations shall apply to employers in case the interruptions to essential services are caused by a lockout.

Sec. 22. Enforcement proceedings. The attorney general, at the request of the governor after a declaration of public emergency under the preceding section or at the request of the chairman of the board under section 20 hereof, shall petition the superior court or the supreme judicial court of the state within the jurisdiction of which any person affected by the governor's declaration or to whom an order is directed by the chairman, resides, transacts business or is found, for the enforcement of such declaration of public emergency or order or for appropriate temporary relief or restraining order. Upon the filing of such petition the court shall have jurisdiction of the proceedings and shall have power to grant such temporary relief or restraining order as it deems just and proper and shall make and enter a decree carrying out the purpose of the declaration of public emergency or enforcing the order of the chairman of the board. Notice or process of the court under this section may be served in any county either personally or by leaving a copy thereof at the residence or principal office or place of business of the person to be served. Petitions filed under this section shall be heard with all possible expedition. The judgment and decree of the court shall be subject to review by the appropriate courts of the state and of the United States.

Sec. 23. Authority to summon witnesses and require production of books. The board may summon as witnesses any person who keeps the record of wages earned in the department of business in which the controversy exists and may require the production of books which contain the record of wages so paid and any correspondence or agreements between the parties to the dispute. Summonses may be signed, witnesses examined, evidence received and oaths administered by any member of the board or its agents. Witnesses summoned by the board shall be allowed the same fees as are paid to witnesses in the superior court; these fees together with all necessary expenses of the board shall be paid by the treasurer of state on warrants drawn by the comptroller. Such attendance of

witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing. In case of refusal to obey a summons issued to any person, any superior court or the supreme judicial court within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of refusal to obey is found or resides or transacts business, upon application by the board shall have jurisdiction to order such person to appear before the board, its member or agent and to produce evidence if so ordered or there to give testimony concerning the matter under investigation or in question and any refusal to obey such order of the court may be punished by said court as a contempt thereof.

Sec. 24. Privilege of witnesses; process, service and return. No person shall be excused from attending and testifying or from producing books, relating to wages, correspondence and agreements as provided in the foregoing section in obedience to the summons of the board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying, shall not be exempt from prosecution and punishment for perjury committed in so testifying. Complaints, orders, and other process and papers of the board, its member or agent may be served either personally or by registered mail. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt therefor when registered and mailed as aforesaid shall be proof of service of the same. All processes of any court to which application may be made under this chapter may be served in the county wherein the defendant required to be served resides, has a place of business or may be found. The several departments and agencies of the state when directed by the governor shall furnish the board upon its request all records, papers and information in their possession relating to any matter before the board.

Sec. 25. Arbitration board; decision. The parties to any dispute consenting to arbitration shall submit such dispute to the board as a board of arbitration, or to a special board of arbitration, which may either be mutually agreed upon or may be composed of three persons one of whom shall be designated by the employer, one by the employees or their duly authorized agent or representative, and the third, who shall be chairman,

named by the other two and in the event of failure within 3 days after their appointment to agree upon such chairman, the board shall appoint a disinterested person as chairman. Such special boards of arbitration shall have all the powers with respect to arbitration as may be exercised by the board and their decision shall have the same effect as that of the board. The decision of the board or of any special board of arbitration shall be rendered within 10 days after the close of any hearing held by them and shall at once be filed with the clerk of the municipality where the dispute arose, and a copy thereof shall be filed with the secretary of the board. The award shall be binding upon both parties and may be enforced in the superior court or supreme judicial court. Arbitrators appointed to such special boards of arbitration shall be entitled to receive \$35 not to exceed for each day of actual service and their necessary expenses to be paid by the treasurer of state on a warrant drawn by the comptroller.

Sec. 26. Advertising or solicitation during strike or disturbance, regulated; exceptions; penalty. If an employer or his agents during the continuance of a strike among his employees or during the continuance of a lockout or other labor trouble among his employees, publicly advertises in newspapers, or by posters or otherwise, solicits persons to work for him to fill the places of strikers, he shall plainly and explicitly mention in such advertisements or oral or written solicitations that a strike, lockout, or other labor disturbance exists. The provisions of this section shall cease to be operative when the board shall determine either (1) that the strike or labor disturbance was caused by an unfair labor practice on the part of an employee or (2) that the business of the employer in respect to which the strike or other labor trouble occurred, is being carried on in the normal and usual manner and to the normal and usual extent. The board shall determine this question as soon as may be, upon application of the employer. Any person, firm, association or corporation who violates the provisions of this section shall be punished by a fine of not less than \$25, nor more than \$50.

Sec. 27. Prevention of unfair labor practices; complaint and notice; findings and orders. The board is empowered as hereinafter provided, to prevent any person from engaging in any unfair labor practice as hereinbefore defined. Whenever it is charged by a party in interest that any person has engaged in or is engaging in an unfair labor practice and the board determines that there is reasonable ground for investigating said charge, the board shall have power to issue and cause to be served upon such person a complaint setting forth the charges in that respect and containing a notice of hearing before the board or member thereof or before

a designated agent at a place therein fixed not less than 5 days after the serving of said complaint. Any such complaint may be amended by the member or agent conducting the hearing or the board at its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. At the discretion of the member or agent conducting the hearing or the board any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding rules of evidence prevailing in courts of law or equity shall not be controlling. The testimony taken by such member, agent or the board shall be reduced to writing and filed with the board. Thereafter, in its discretion, the board upon notice may take further testimony or hear argument. If upon all the testimony taken the board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice. The board shall have further power to take such affirmative action, including reinstatement of employees with or without back pay, awarding of damages to employees or employer against the person or organization named in the complaint in the amount of the loss actually suffered, suspension or revocation of privileges conferred upon persons or organizations by this chapter and enforcement of its rules as will effectuate the policies of this chapter. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon all the testimony taken the board shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing the said complaint.

Sec. 28. Modification of findings or orders; petition to court for enforcement; proceedings and review. Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it. The board shall have power to petition the superior court or the supreme judicial court within the county wherein the unfair labor practice occurred, or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary

relief or restraining order and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony on which such order was entered and the findings and order of the board. Upon such filing the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceedings and the question determined therein and shall have power to review the law, to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified or setting aside in whole or in part the order of the board. No objection that has not been urged before the board, its members or agents shall be considered by the court unless the failure or neglect to urge such objections shall be excused because of extraordinary circumstances. The findings of the board as to the facts shall be final.

Sec. 29. Review of final order of board, on petition to court. Any person aggrieved by a final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in the superior court or in the supreme judicial court in the county wherein the unfair labor practice in question was alleged to have been engaged in, or wherein such person resides or transacts business, by filing in such court within 10 days after the decision of the board a written petition praying that the order of the board be modified or set aside. A copy of such petition shall be forthwith served upon the board and the aggrieved party shall file in the court within such time as the court shall order a transcript of the entire record of the proceedings certified by the board, including the pleading and testimony on which the order complained of was entered and the findings and order of the board. Upon such filing the court shall proceed in the same manner and with the same powers as in the case of an application by the board under section 28. The commencement of proceedings under section 28 or section 29 shall not, unless specifically ordered by the court, operate as a stay of the board's order.

Miscellaneous

Sec. 30. Constitution and by-laws of labor organizations; copies of agreements. Every labor organization organized under the laws of this state, or representing employees within the state, shall file initially with the board within such time as the board may determine a copy of its constitution, by-laws, and a list of its officers with their addresses, at local levels, and shall file with the board on or before June 1 in each year there-

after a statement of changes therein. An executed copy of each written agreement resulting from collective bargaining shall be filed with the board by the employer within 20 days after execution thereof. Failure to file the constitution and by-laws or otherwise to comply with this section or the filing of the constitution and by-laws of any labor organization which do not provide for a fair and impartial hearing to member employees, with right of appeal with respect to charges against such employee member or which provide for exorbitant and unreasonable dues or initiation fees or assessments as conditions of membership in such organizations, or which encourage participation in a monopoly by such labor organization shall subject labor organizations and the officers thereof to suspension or revocation of the right of such labor organizations to represent employees in this state and of the benefits of this chapter.

Sec. 31. Loss of reinstatement rights by employees. Whenever it shall be made to appear by competent evidence before the board or any court of this state having jurisdiction, that an employee has engaged in violence, intimidation or unlawful destruction of property in connection with a labor dispute involving his employer or in connection with any organizational activities of a labor organization among employees of his employer, such employee shall not be entitled to reinstatement by or any back pay from such employer, and may be punished by a fine of not more than \$100, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Sec. 32. Offenses against the board. Any person who shall wilfully resist, prevent, impede or interfere with any member of the board or any of its agents in the performance of duties pursuant to this chapter shall be punished by a fine of not more than \$300, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Sec. 33. Anti-injunction laws not applicable. The provisions of section 36 of chapter 95 of the revised statutes shall not apply to the enforcement of the provisions of this chapter.

Sec. 34. Separability clause. If any provision of this chapter or the application of such provision to any person or circumstance shall be held invalid, the remainder of this chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Sec. 35. Repealing clause. Sections 11 to 16 inclusive, of chapter 25 of the revised statutes, as amended, are hereby repealed.

Sec. 36. Appropriation. There is hereby appropriated to carry out the provisions of this chapter the sum of \$25,000 for the period commencing July 1, 1947 to June 30, 1948 and the sum of \$35,000 for the period commencing July 1, 1948 to June 30, 1949.