

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1599

H. P. 1099

House of Representatives, May 22, 1957.

Reported by Mr. Tevanian from Committee on Judiciary. Printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Relating to Arbitration Pursuant to Collective Bargaining Contracts.

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

R. S., c. 30, §§ 21-A - 21-J, additional. Chapter 30 of the Revised Statutes is hereby amended by adding thereto 10 new sections to be numbered 21-A to 21-J, inclusive, to read as follows:

'Arbitration Pursuant to Collective Bargaining Contracts.

Sec. 21-A. Collective bargaining agreements to arbitrate. A written provision in any collective bargaining contract to settle by arbitration a controversy thereafter arising out of such contract or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, or refusal, herein designated in sections 21-A to 21-J, inclusive, as "a written submission agreement," shall be valid, irrevocable and enforceable, save upon such grounds, independent of the provisions for arbitration, as exist at law or in equity for the revocation of any contract.

Sec. 21-B. Stay of proceedings where issue therein referable to arbitration. If any suit or proceeding be brought in any Court upon any issue or controversy referable to arbitration under a written provision in any collective bargaining contract or under an agreement in writing for submission to arbitration of an existing controversy arising out of such collective bargaining contract, the Court in which such suit or proceeding is pending, upon being satisfied that the issue involved in such suit or proceeding is thus referable to arbitration, shall on application of one of the parties stay the trial of the suit or proceeding until such arbitration has been had in accordance with the terms of the collective bargaining contract or the written agreement for submission to arbitration, pro-

vided the applicant for the stay is not in default in proceeding with such arbitration.

Sec. 21-C. Failure to arbitrate under agreement. A party aggrieved by the alleged failure, neglect or refusal of another to arbitrate in accordance with any agreement embraced within the provisions of section 21-A may institute proceedings in any Court having jurisdiction in equity. Such proceedings shall be for an order directing that such arbitration proceed in the manner provided in the collective bargaining agreement or written submission agreement.

Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner provided by law for the service of process in equity cases. The Court shall hear the parties, and upon being satisfied that the making of the collective bargaining contract or the written submission agreement for arbitration or the failure to comply therewith is not in issue, the Court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the collective bargaining contract or the written submission agreement. If the making of the collective bargaining contract or the written submission agreement for arbitration or the failure, neglect or refusal to perform the same be in issue, the Court shall proceed summarily to the trial thereof. If no jury trial be demanded by the party alleged to be in default, the Court shall hear and determine such issue. Where such an issue is raised, the party alleged to be in default may, on or before the return day of the notice of application, demand a jury trial of such issue, and upon such demand the Court shall make an order referring the issue or issues to a jury in the manner provided by law for referring to a jury issues in an equity action or may specially call a jury for that purpose. If the jury find that no collective bargaining contract or written submission agreement for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury find that a collective bargaining contract or written submission agreement for arbitration was made and that there is a default in proceeding thereunder, the Court shall make an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof.

Sec. 21-D. Appointment of arbitrators or umpires. If in the agreement provision be made for a method of naming or appointing an arbitrator or arbitrators or an umpire, such method shall be followed; but if no method be provided therein, or if a method be provided and any party thereto shall fail to avail himself of such method, or if for any other reason there shall be a lapse in the naming of an arbitrator or arbitrators or umpire, or in filling a vacancy, then upon the application of either party to the controversy the Court shall designate and appoint an arbitrator or arbitrators or umpire, as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein; and unless otherwise provided in agreement the arbitration shall be by a single arbitrator.

Sec. 21-E. Application heard as motion. Any application to the Court under the provisions of sections 21-A to 21-J, inclusive, shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise expressly provided.

Sec. 21-F. Witnesses before arbitrators; fees; compelling attendance. The

arbitrators selected either as prescribed in sections 21-A to 21-J, inclusive, or otherwise, or a majority of them, may summon in writing any person to attend before them, or any of them, as a witness and in a proper case to bring with him or them any book, record, document or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before the Superior Court. Said summons shall issue in the name of the arbitrator or arbitrators, or a majority of them, and shall be signed by the arbitrators, or a majority of them, and shall be directed to the said person and shall be served in the same manner as subpoenas to appear and testify before the Superior Court. If any person or persons so summoned to testify shall refuse or neglect to obey said summons, upon petition, any Justice of the Superior Court may compel the attendance of such person or persons before said arbitrator or arbitrators, or punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the State of Maine.

Sec. 21-G. Award of arbitrators; confirmation; jurisdiction; procedure. If the parties in their collective bargaining contract of written submission agreement have agreed that a judgment of the Court shall be entered upon the award made pursuant to the arbitration, and shall specify the Court, then at any time within one year after the award is made any party to the arbitration may apply to the Court so specified for an order confirming the award, and thereupon the Court must grant such an order unless the award is vacated, modified or corrected as prescribed in sections 21-H and 21-I. In the absence of such provision in the collective bargaining contract or written submission agreement of the parties, such application to have judgment entered upon the award may be made to the Superior Court or Supreme Judicial Court sitting in equity in the county within which such award was made. Notice of application shall be served upon the adverse party. If the adverse party is a resident of the state, such service shall be made upon the adverse party or his attorney as prescribed by law for service of motion in an action in the same Court. If the adverse party shall be a nonresident, then the notice of the application shall be served in like manner as other process of the Court is served upon nonresidents.

Sec. 21-H. Vacation; grounds; rehearing. In any of the following cases the Superior Court or Supreme Judicial Court, sitting in equity in and for the county wherein the award was made, may make an order vacating the award upon the application of any party to the arbitration:

- I. Where the award was procured by corruption, fraud or undue means;
- II. Where there was obvious partiality or corruption in the arbitrators, or any of them;
- III. Where the arbitrators were guilty of abuse or discretion by which the rights of any party have been prejudiced;
- IV. Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made. Where an award is vacated and the time within which the agreement required the award to be made has not expired, the Court may, in its discretion, direct a rehearing by the arbitrators.

Sec. 21-I. Modification or correction; grounds; order. The Superior Court or Supreme Judicial Court, sitting in equity in and for the county wherein the award was made, may make an order modifying or correcting the award upon the application of any party to the arbitration where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the award.

Sec. 21-J. Application limited. The provisions of sections 21-A to 21-J, inclusive, shall not apply to any provision or agreement relative to arbitration contained in a collective bargaining contract entered into prior to the effective date of said sections, or to any agreement to submit to arbitration an existing controversy entered into prior to the effective date of said sections.'