

# MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
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under, then the department is authorized to issue either a temporary license for a specified period not to exceed 90 days, during which time corrections specified by the department shall be made by said facility for compliance with this section and departmental regulations thereunder, if in the judgment of the commissioner the best interest of the public will be so served, or a conditional license setting forth conditions which must be met by the agency to the satisfaction of the department or the department may refuse to issue any license. Failure of said agency to meet any of such conditions shall immediately void such conditional license by written notice thereof by the department to the conditional licensee or if the said licensee cannot be reached for personal service by notice thereof left at the licensed premises. The fee for such temporary or conditional license for agencies shall be \$10. A new application for a regular license may be considered by the department if, when and after the conditions set forth by the department at the time of issuance of such temporary or conditional license have been met and satisfactory evidence of this fact has been furnished to the department. When the department believes a license should be suspended or revoked it shall file a statement or complaint with the Administrative Hearing Commissioner designated in Title 5, chapters 301 to 307. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with said Administrative Hearing Commissioner.

The term "agency for the provision of mental health services" as used in this section shall mean any agency maintained and operated by any person, firm, association or corporation for the purpose of providing out-patient counselling and other psychological and psychiatric, diagnostic or therapeutic services and other allied services. The term "agency for the provision of mental health services" shall not mean the individual or corporate professional practice of any one or more psychologists or any one or more psychiatrists.

Whoever violates this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than 60 days.

Sec. 4. R. S., T. 34, §§ 2053, 2054, 2055, 2056, repealed. Sections 2053, 2054, 2055 and 2056 of Title 34 of the Revised Statutes, as amended, are repealed.

Effective October 3, 1973

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## CHAPTER 458

### AN ACT to Clarify Procedures under the Municipal Public Employees Labor Relation Act.

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

Sec. 1. R. S., T. 26, § 962, sub-§ 2, amended. Subsection 2 of section 962 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as amended by section 13 of chapter 620 of the public laws of 1971, is further amended to read as follows:

2. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association

which has as its primary purpose the representation of employees in their employment relations with employers, and which has been determined by the public employer or ~~the director~~ **by the executive director of the board** to be the choice of the majority of the unit as their representative.

**Sec. 2. R. S., T. 26, § 962, sub-§ 4-B, additional.** Section 962 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as amended, is further amended by adding a new subsection 4-B to read as follows:

**4-B. Executive director.** "Executive director" means the Executive Director of the Public Employees Labor Relations Board.

**Sec. 3. R. S., T. 26, § 962, sub-§ 6, ¶ C, amended.** Paragraph C of subsection 6 of section 962 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

**C.** Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head, body, department head or division head ~~of the applicable bargaining unit~~; or

**Sec. 4. R. S., T. 26, § 965, sub-§ 3, amended.** The last 2 sentences of the 2nd paragraph of subsection 3 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969 and as amended by section 3 of chapter 609 of the public laws of 1971, are further amended to read as follows:

It may request statistical data and reports on its own initiative in addition to the data regularly maintained ~~by the commissioner~~ **by the Bureau of Labor and Industry**. The members of the fact-finding panel shall submit their findings and recommendations ~~only~~ to the parties ~~only~~ and to the **Executive Director of the Public Employees Labor Relations Board**.

**Sec. 5. R. S., T. 26, § 965, sub-§ 3, amended.** The 3rd paragraph of subsection 3 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

The parties shall have a period of 30 days, after the ~~receipt~~ **submission** of findings and recommendations from the fact finders, in which to make a good faith effort to resolve their controversy. If the parties have not resolved their controversy by the end of said period, either party ~~or the Executive Director of the Public Employees Labor Relations Board~~ may, but not until the end of said period unless the parties otherwise jointly agree, make the fact-finding and recommendations public.

**Sec. 6. R. S., T. 26, § 965, sub-§ 4, amended.** The first paragraph of subsection 4 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

In addition to the 30-day period referred to in subsection 3, the parties shall have 15 more days, making a total period of 45 days from the ~~receipt~~ **submission** of findings and recommendations, in which to make a good faith effort to resolve their controversy.

Sec. 7. R. S., T. 26, § 965, sub-§ 4, amended. The last paragraph of subsection 4 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969 and as amended, is further amended by adding at the end 2 new sentences to read as follows:

The results of all arbitration proceedings, recommendations and awards conducted under this section shall be filed with the Public Employees Labor Relations Board at the offices of its executive director simultaneously with the submission of the recommendations and award to the parties. In the event the parties settle their dispute during the arbitration proceeding, the arbitrator or the chairman of the arbitration panel will submit a report of his activities to the Executive Director of the Public Employees Labor Relations Board not more than 5 days after the arbitration proceeding has terminated.

Sec. 8. R. S., T. 26, § 965, sub-§ 5, amended. The first sentence of subsection 5 of section 965 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, is amended to read as follows:

The costs for the services of the mediator, the members of the fact-finding board and of the neutral arbitrator including, if any, per diem expenses, and actual and necessary travel and subsistence expenses and the costs of hiring the premises where any mediation, fact-finding or arbitration proceedings are conducted, will be shared equally by the parties to the ~~arbitration~~ proceedings.

Sec. 9. R. S., T. 26, § 966, amended. The first paragraph of section 966 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as amended, is further amended to read as follows:

In the event of a dispute between the public employer and an employee or employees as to the appropriateness of a unit for purposes of collective bargaining or between the public employer and an employee or employees as to whether a supervisory or other position is included in the bargaining unit, the executive director ~~of the board~~ shall make the determination, except that anyone excepted from the definition of public employee under section 962 may not be included in a bargaining unit. In determining whether a supervisory position should be excluded from ~~coverage under this chapter~~ the proposed bargaining unit, the executive director ~~of the board~~ shall consider, among other criteria, if the principal functions of the position are characterized by performing such management control duties as scheduling, assigning, overseeing and reviewing the work of subordinate employees, or performing such duties as are distinct and dissimilar from those performed by the employees supervised, or exercising judgment in adjusting grievances, applying other established personnel policies and procedures and in enforcing a collective bargaining agreement or establishing or participating in the establishment of performance standards for subordinate employees and taking corrective measures to implement those standards. Nothing in this chapter is intended to require the exclusion of principals, assistant principals, other supervisory employees from school system bargaining units which include teachers and nurses in supervisory positions.

Sec. 10. R. S., T. 26, § 968, sub-§ 1, amended. The last sentence of subsection 1 of section 968 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969, and as repealed and re-

placed by section 9 of chapter 609 of the public laws of 1971, and as amended, is further amended to read as follows:

The members of the board shall receive necessary expenses on the approval of the ~~director~~ Director of the Bureau of Labor and Industry.

Effective October 3, 1973

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## CHAPTER 459

### AN ACT to Allow Coastal Wardens to Inspect Holders of Licenses or Permits.

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

Sec. 1. R. S., T. 12, § 3751, sub-§ 8, additional. Section 3751 of Title 12 of the Revised Statutes, as amended by section 2 of chapter 33 of the public laws of 1965, is further amended by adding a new subsection 8, to read as follows:

8. License holder consents to inspection. Whoever applies for and is issued any license or permit by the commissioner shall be deemed to have given consent to the inspection and search of all his boats, vehicles and buildings, and any box, bag, barrel, car or other container found in his possession and which may be used in connection with the business, act or activity covered by the license or permit, and shall be deemed to have given consent to the seizure of any contraband and evidence therein found. No dwelling house may be searched without a search warrant, and then only in the daytime.

If a person refuses, upon the request of a law enforcement officer, to permit the inspection and search as provided above, then the commissioner, upon the receipt of a written statement under oath of the law enforcement officer stating that such person had refused to permit such inspection and search, shall immediately notify the person, in writing, by registered or certified mail, return receipt requested, that his license or permit have been suspended. Such suspension shall be for a period of the remainder of the license period and one additional year.

If such person desires a hearing, he may notify the commissioner within 10 days of the receipt of notice of his revocation, in writing, of such desire. Any suspension shall remain in effect pending the outcome of such hearing. The scope of such a hearing shall cover whether the individual was the holder of a license or permit issued by the commissioner and whether he refused to permit inspection and search upon the request of a law enforcement officer. If it is determined after hearing that such person did not refuse to permit inspection and search, any suspension in effect shall be removed immediately. Such person shall have a right of appeal to the Superior Court in the county where he resides to review the order of suspension by the commissioner if such appeal is filed within 10 days of the commissioner's decision. Any suspension shall remain in effect pending the outcome of such appeal.

Sec. 2. R. S., T. 12, § 4551, sub-§ 1, ¶ A, additional. Subsection 1 of section 4551 of Title 12 of the Revised Statutes, as last repealed and replaced by chapter 301 of the public laws of 1971, is amended by adding a new paragraph A, to read as follows: