

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

Members of the institute shall receive no compensation for their services, but shall be allowed, out of any appropriation or other fund made available for the purpose, such expenses for clerical and other services, travel and incidentals as the Judicial Council may authorize.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Maine Criminal Justice Sentencing Institute the sum of \$4,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	1975-76	1976-77
MAINE CRIMINAL JUSTICE SENTENCING INSTITUTE		
All Other	\$2,000	\$2,000

Effective October 1, 1975

CHAPTER 611

AN ACT Relating to Hearing for Provisional Motor Vehicle Licensee on Suspension.

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

29 MRSA § 2241, last ¶, as last amended by PL 1973, c. 361, is further amended by inserting before the last sentence the following:

Except that a hearing may be requested of the Secretary of State, and the Secretary of State shall afford said provisional licensee opportunity for hearing as soon as practicable after receipt of such request. Upon such hearing, the Secretary of State, for good cause shown, may continue, modify or rescind the suspension.

Effective October 1, 1975

CHAPTER 612

AN ACT to Improve Procedures under the State Employees Labor Relations Act.

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

Sec. 1. 26 MRSA § 979-E, as enacted by PL 1973, c. 774, is amended to read:

§ 979-E. Bargaining unit; how determined

1. 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 or his designee shall make the determination, except that anyone excepted from the definition of state employee under section 979-A may not be included in a bargaining unit. In determining whether a supervisory position should be excluded from the proposed bargaining unit, the executive director or his designee 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.

2. In order to insure to employees the fullest freedom in exercising the rights guaranteed by this chapter, to insure a clear and identifiable community of interest among employees concerned, and to avoid excessive fragmentation among bargaining units in State Government, the executive director of the board or his designee shall decide in each case the unit appropriate for purposes of collective bargaining.

Sec. 2. 26 MRSA § 979-F, sub-§ 2, ¶ A, as enacted by PL 1973, c. 774, is amended to read:

A. The executive director of the board or his designee upon signed request of a public employer alleging that one or more state employees or state employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of state employees, or upon signed petition of at least 30% of a bargaining unit of state employees that they desire to be represented by an organization, shall conduct a secret ballot election to determine whether the organization represents a majority of the members of the bargaining unit. Such an election may be conducted at suitable work locations or through the United States mail provided, nevertheless, that the procedures adopted and employed by the Public Employees Labor Relations Board shall maintain the anonymity of the voter from both the employee organizations and the management representatives involved.

Sec. 3. 26 MRSA § 979-F, sub-§ 2, ¶ E, as enacted by PL 1973, c. 774, is amended to read:

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

Sec. 4. 26 MRSA § 979-H, sub-§ 5, as enacted by PL 1973, c. 774, is amended to read:

5. If after the issuance of an order by the board requiring any party to cease and desist or to take any other affirmative action, said party fails to comply with the order of the board, then the party in whose favor the order operates or the board may file a civil action in the Superior Court in Kennebec County, to compel compliance with the order of the board. In such action to compel compliance, the Superior Court shall not review the action of the board other than to determine questions of law. If an action to review the decision of the board is pending at the time of the commencement of an action for enforcement pursuant to this subsection or is thereafter filed, the 2 actions shall be consolidated.

Sec. 5. 26 MRSA § 979-J, sub-§ 1, as enacted by PL 1973, c. 774, is amended to read:

1. The board shall annually, on or before the first day of July, make a report to the Governor and Council. The appropriation for the board and the executive director shall be included in the budget of the ~~Bureau of Labor and Industry~~ Department of Manpower Affairs and authorization for expenditures shall be the responsibility of the executive director. The board shall prepare a biennial budget for submission to the Legislature for appropriations sufficient to carry out its duties. Authorization for expenditures shall be the responsibility of the board. All expenses of the board and its staff, including all necessary travelling and subsistence expenses, shall be paid on presentation of itemized vouchers therefor approved by the board or the executive director.

Sec. 6. Appropriation. There is appropriated from the General Fund to the Public Employees Labor Relations Board the sum of \$40,400 to carry out the duties imposed under the law. The breakdown shall be as follows:

1975-76 1976-77

PUBLIC EMPLOYEES LABOR RELATIONS BOARD

Personal Services	(1) \$13,000	(1) \$13,700
All Other	8,000	5,000
Capital Expenditures	700	—
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	\$21,700	\$18,700

Effective October 1, 1975

CHAPTER 613

AN ACT Relating to Additional Roads on Indian Reservation at Indian Island.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the roads to be constructed pursuant to this Act will enable the Indian Island Penobscot Reservation Housing Authority to begin construction of the sewerage treatment plant, neighborhood facilities and units of housing as soon as possible; and