

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS
OF THE
STATE OF MAINE
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Retirement Income Security Act of 1974, as amended, in computing pension or retirement benefits, provided that normal retirement age and the accrual or awarding of pension or retirement benefits shall not be used in any way to require the retirement of an employee or to deny employment to a person.

5. Federal requirements. This section shall not be construed to effect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself.

Sec. 20. Study; intent. The Maine State Planning Office, in consultation with the Maine Committee on Aging, is directed to study and evaluate proceedings to be followed for an orderly phase-in of the prohibition against mandatory retirement in the private sector and shall report its findings and recommendations to the next Legislature no later than January 31, 1979.

It is the intent of this Act that, subject to the recommendations by the State Planning Office, the final phase of prohibiting the use of mandatory retirement age, namely, the prohibition of this age, effective January 1, 1980, for employees in the private sector shall be addressed during the 109th Legislature.

Sec. 21. Effective dates; compliance. Sections 1 to 14 and 16 to 19 shall shall become effective July 1, 1978.

Sections 15 and 20 shall be effective 90 days after the adjournment of the Legislature.

Any employer who, as a result of the provisions of this Act, is required to amend an existing employee retirement pension or insurance plan, shall complete any such amendment prior to July 1, 1978. However, if such amendment needs to be made through the negotiation of a collective bargaining contract and if such contract is not scheduled for negotiation prior to July 1, 1978, then such amendment shall be made during the next scheduled negotiation after July 1, 1978.

Effective October 24, 1977

CHAPTER 581

AN ACT to Provide a Uniform Basis for Recognizing the Right of the University of Maine Employees, Maine Maritime Academy Employees, Vocational-Technical Institute Employees and State Schools for Practical Nursing Employees to Join Labor Organizations.

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

Sec. 1. 26 MRSA § 1021, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 1, is further amended to read:

§ 1021. Purpose

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of the University of Maine employees and, Maine Maritime Academy employees, vocational-technical institute employees and state schools for practical nursing employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment.

Sec. 2. 26 MRSA § 1022, sub-§ 1-C is enacted to read:

1-C. Vocational-technical institute. "Vocational-technical institute" shall mean the Maine State vocational-technical institutes and state schools for practical nursing and its activities and functions supervised by the State Board of Education or their designee. In furtherance of this chapter, the vocational-technical institutes and state schools for practical nursing shall be considered as a single employer; and employment relations, policies and practices throughout the vocational-technical institutes shall be as consistent as possible. It is the responsibility of the State Board of Education or its designee to negotiate collective bargaining agreements and administer these agreements. The State Board of Education or its designee is responsible for employer functions of the vocational-technical institutes and state schools for practical nursing under this chapter; and shall coordinate its collective bargaining activities with campuses or units on matters of vocational-technical institute concern. In addition to its responsibilities to the public generally, the vocational-technical institutes shall have the specific responsibility of considering and representing the interests and welfare of the students in any negotiations under this chapter. The State Board of Education shall utilize the Office of State Employee Relations for the purposes of this chapter.

Sec. 3. 26 MRSA § 1022, sub-§ 11, 1st ¶, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 6, is repealed and the following enacted in its place:

11. University, academy, vocational-technical institute or state schools for practical nursing employee. "University, academy, vocational-technical institute or state schools for practical nursing employee" means any regular employee of the University of Maine, the Maine Maritime Academy, vocational-technical institutes or state schools for practical nursing performing services within a campus or unit, except any person:

Sec. 4. 26 MRSA § 1023, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 617, § 7, is repealed and the following enacted in its place:

§ 1023. Right of university, academy, vocational-technical institute or state schools for practical nursing employees to join labor organizations

No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against university, academy, vocational-technical institute or state schools for practical nursing employees or a group of university, academy, vocational-technical institute or state schools for practical nursing employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

Sec. 5. 26 MRSA § 1024, sub-§ 1-B is enacted to read:

1-B. Vocational-technical institute and state schools for practical nursing units. It is the express legislative intent to foster meaningful collective bargaining for employees of the vocational-technical institutes and state schools for practical nursing. Therefore, in accordance with this policy, the bargaining units shall be structured with one unit in each of the following occupational groups:

- A. Faculty and instructors;
- B. Administrative staff; and
- C. Classified employees.

Sec. 6. 26 MRSA § 1024, sub-§ 2, as enacted by PL 1975, c. 603, § 1, and as repealed and replaced by PL 1975, c. 671, § 8, is amended to read:

2. Assignment to bargaining units. In the event of a dispute over the assignment of jobs or positions to a unit, the executive director shall examine the community of interest, including work tasks among other factors, and make an assignment to the appropriate statutory bargaining unit set forth in subsections 1 ~~or~~, 1-A or 1-B.

Sec. 7. 26 MRSA § 1024, sub-§ 3, 1st and 2nd sentences, as enacted by PL 1975, c. 603, § 1, and as repealed and replaced by PL 1975, c. 671, § 8, are amended to read:

Notwithstanding subsections 1 ~~or~~, 1-A or 1-B, the Legislature recognizes that additional or modified university system-wide units ~~or~~, academy units, vocational-technical institute units or state schools for practical nursing units may be appropriate in the future. Therefore, the employer or employee organizations may petition the executive director for the establishment of additional or modified university system-wide units ~~or~~, academy units, vocational-technical institute units or state schools for practical nursing units.

Sec. 8. 26 MRSA § 1025, sub-§ 1, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 9, is further amended to read:

1. Voluntary recognition. Any employee organization may file a request with the university ~~or~~, academy, vocational-technical institutes or state schools for practical nursing alleging that a majority of the university ~~employees or~~, academy, vocational-technical institute or state schools for practical nursing employees in an appropriate bargaining unit as established in section 1024, wish to be represented for the purpose of collective bargaining between the university ~~or~~, academy, vocational-technical institutes or state schools for practical nursing and the employees' organization. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support. Such request for recognition shall be granted by the university ~~or~~, academy, vocational-technical institutes or state schools for practical nursing unless the university ~~or~~, academy, vocational-technical institutes or state schools for practical nursing desires that an election determine whether the organization represents a majority of the members in the bargaining unit. In the event that the request for recognition is granted by the university ~~or~~, academy, vocational-technical institutes or state schools for practical nursing, the executive director shall certify the organization so recognized as the bargaining agent.

Sec. 9. 26 MRSA § 1025, sub-§ 2, ¶¶ A and B, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 10, are further amended to read:

A. The executive director of the board, upon signed request of the university ~~or~~, academy, vocational-technical institutes or state schools for practical nursing alleging that one or more university employees ~~or~~, academy, vocational-technical institutes or state schools for practical nursing employees or employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of university employ-~~ees~~ ~~or~~, academy, vocational-technical institute or state schools for practical nursing employees, or upon signed petition of at least 30% of a bargaining unit of university employees ~~or~~, academy, vocational-technical institutes' or state schools for practical nursing 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.

B. The ballot shall contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the university employees ~~or~~, academy, vocational-technical institute or state schools for practical nursing employees within the unit, together with a choice for any university employe ~~or~~, academy, vocational-technical institutes or state schools for practical nursing employe to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot, and no one of the 3 or more choices receives a majority vote of the university employees ~~or~~, academy, vocational-technical institute or state schools for practical nursing employees voting, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and 2nd largest number of votes. When an organization receives the majority of votes of those voting, the executive director shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the university ~~or by the~~, academy, vocational-technical institutes or state schools for practical nursing as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot shall be held and the bargaining agent declared by the executive director as not representing a majority of the unit.

Sec. 10. 26 MRSA § 1026, sub-§ 1, 1st ¶, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 11, is further amended to read:

It shall be the obligation of the university ~~or the~~, academy, vocational-technical institutes or state schools for practical nursing and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purpose of this chapter, their mutual obligation:

Sec. 11. 26 MRSA § 1026, sub-§ 1, as amended by PL 1975, c. 671, § 11, is further amended by adding at the end the following new paragraph:

Cost items in any collective bargaining agreement of vocational-technical institutes or state schools for practical nursing employees shall be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties. If the Legislature rejects any of the cost items submitted to it, all cost items submitted shall be returned to the parties for further bargaining. Cost items shall include salaries, pensions and insurance.

Sec. 12. 26 MRSA § 1026, sub-§ 4, ¶ C, sub-¶ (1), as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 15, is further amended to read:

(1) The interests and welfare of the students and the public and the financial ability of the university ~~or~~, academy, vocational-technical institutes or state schools for practical nursing to finance the cost items proposed by each party to the impasse;

Sec. 13. 26 MRSA § 1026, sub-§ 4, ¶ C, sub-¶¶ (5), (6) and (7), as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 16, are further amended to read:

(5) The need of the university ~~or the~~, academy, vocational-technical institutes or state schools for practical nursing for qualified employees;

(6) Conditions of employment in similar occupations outside the university ~~or the~~, academy, vocational-technical institutes or state schools for practical nursing;

(7) The need to maintain appropriate relationships between different occupations in the university ~~or the~~, academy, vocational-technical institutes or state schools for practical nursing;

Sec. 14. 26 MRSA § 1027, sub-§ 1, 1st ¶, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 17, is repealed and the following enacted in its place:

1. University, academy, vocational-technical institutes and state schools for practical nursing prohibitions. The university, its representatives and agents, the academy, its representatives and agents, the vocational-technical institutes, their representatives and agents and the state schools for practical nursing, their representatives and agents are prohibited from:

Sec. 15. 26 MRSA § 1027, sub-§ 2, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, §§ 18, 19 and 20 and by PL 1977, c. 78, § 165, is repealed and the following enacted in its place:

2. University, academy, vocational-technical institutes and state schools for practical nursing prohibitions. University employees, university employee organizations, their agents, members and bargaining agents; academy employees, academy employee organizations, their agents, members and bargaining agents; vocational-technical institute employees, vocational-technical institute employee organizations, their agents, members and bargaining agents; and state schools for practical nursing employees, state schools for practical nursing employee organizations, their agents, members and bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 1023 or the university, academy, vocational-technical institutes and state schools for practical nursing in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively with the university, academy, vocational-technical institutes and state schools for practical nursing as required by section 1026; and

C. Engaging in:

(1) A work stoppage, slowdown or strike; and

(2) The blacklisting of the university, academy, vocational-technical institutes or the state schools for practical nursing for the purpose of preventing them from filling employee vacancies.

Sec. 16. 26 MRSA § 1029, sub-§ 1, 1st sentence, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 22, is further amended to read:

The board is empowered, as provided, to prevent any person, the university, any university employee, any university employee organizations, the academy, any academy employees, any academy employee organizations, the vocational-technical institutes, any vocational-technical institute employee, any vocational-technical institute employee organizations; the state schools for practical nursing, any state schools for practical nursing employee, any state schools for practical nursing employee organizations or any bargaining agent from engaging in any of the prohibited acts enumerated in section 1027.

Sec. 17. 26 MRSA § 1029, sub-§ 2, 1st sentence, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 697, § 18, is further amended to read:

The university, any university employee, any university employee organization, the academy, any academy employee, any academy employee organization, the vocational-technical institutes, any vocational-technical institute employee, any vocational-technical institute employee organization, the state schools for practical nursing, any state school for practical nursing employee, any state school for practical nursing employee organization or any bargaining agent which believes that any person, the university, any university employee, any university employee organization, the academy, any academy employee, any academy employee organization, the vocational-technical institutes, any vocational-technical institute employee, any vocational-technical institute employee organization, the state schools for practical nursing, any state school for practical nursing employee, any state school for practical nursing employee organization or any bargaining agent has engaged in or is engaging in any such prohibited practice may file a complaint with the executive director of the board stating the charges in that regard.

Sec. 18. 26 MRSA § 1029, sub-§ 6, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 24, is repealed and the following enacted in its place:

6. Simultaneous injunctive relief. Whenever a complaint is filed with the executive director of the board alleging that the university, academy, vocational-technical institutes or state schools for practical nursing have violated section 1027, subsection 1, paragraph F, or alleging that an employee, employee organization or bargaining agent of the university, academy, vocational-technical institutes or state schools for practical nursing have violated section

1027, subsection 2, paragraph C, the party making the complaint may simultaneously seek injunctive relief from the Superior Court in the county in which the prohibited practice is alleged to have occurred pending the final adjudication of the board with respect to such matter.

Sec. 19. 26 MRSA § 1031, 1st sentence, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 26, is further amended to read:

A collective bargaining agreement between the university ~~or~~, the academy, the vocational-technical institutes or the state schools for practical nursing and a bargaining agent may provide for binding arbitration as the final step of a grievance procedure but the only grievances which may be taken to such binding arbitration shall be disputes between the parties as to the meaning or application of the specific terms of collective bargaining agreement.

Sec. 20. 26 MRSA § 1034, sub-§ 2, as enacted by PL 1975, c. 603, § 1, and as amended by PL 1975, c. 671, § 27, is further amended to read:

2. No restriction on eligibility for federal grant-in-aid or assistance programs. Nothing in this chapter or any contract negotiated pursuant to this chapter shall in any way be interpreted or allowed to restrict or impair the eligibility of the university, any of its campuses or units ~~or the~~, academy, vocational-technical institutes or state schools for practical nursing in obtaining the benefits under any federal grant-in-aid or assistance programs.

Sec. 21. Appropriation. There is appropriated from the General Fund to the Executive Department, Office of State Employee Relations, the sum of \$29,000 for the fiscal years 1977-78 and 1978-79 to carry out the purposes of this Act. The breakdown shall be as follows:

	1977-78	1978-79
EXECUTIVE DEPARTMENT		
Office of State Employee Relations		
Positions	(1)	(1)
Personal Services	\$12,000	\$17,000

Effective October 24, 1977

CHAPTER 582

AN ACT Authorizing Expenditures for Health Care Alternatives.

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

Sec. 1. 22 MRSA § 3172, sub-§ 2 is enacted to read: