

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

J.S. McCarthy Co., Inc.
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PUBLIC LAWS
OF THE
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ten or oral waiver of this requirement is against public policy and is void. Any person in violation of this section is liable for the return of any sums unlawfully obtained from the lessee, with interest, and reasonable attorneys' fees and costs.

Sec. 5. 14 MRSA §6016, as enacted by PL 1981, c. 428, §8, is amended to read:

§6016. Rent increase limitation

Rent charged for residential estates ~~at will~~ may not be increased if the dwelling unit is in violation of the warranty of habitability. Any violation caused by the tenant, his family, guests or invitees shall not bar a rent increase. A written or oral waiver of this requirement is against public policy and is void. Any person in violation of this section shall be liable for the return of any sums unlawfully obtained from the lessee, with interest and reasonable attorneys' fees and costs.

Effective September 19, 1985.

CHAPTER 294

H.P. 957 - L.D. 1377

AN ACT to Amend the Procedures of the State Board of Arbitration and Conciliation.

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

Sec. 1. 26 MRSA c. 9, sub-c. II, as amended, is repealed.

Sec. 2. 26 MRSA c. 9, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

STATE BOARD OF ARBITRATION AND CONCILIATION

§931. Appointment and qualification; salaries and expenses; rules; reports

The State Board of Arbitration and Conciliation, in this subchapter called the "board," shall consist of 3 members appointed by the Governor, from time to

time upon the expiration of the terms of the several members, for terms of 3 years. One member shall be an employer of labor or selected from some association representing employers of labor, and another shall be an employee or selected from some bona fide trade or labor union. The 3rd member shall be chairman of the board and shall represent the public interests of the State. Vacancies occurring during a term shall be filled for the unexpired term. Members of the board shall each receive \$50 a day for their services for the time actually employed in the discharge of their official duties. They shall receive their traveling and all other necessary expenses. The costs for services rendered and expenses incurred by the State Board of Arbitration and Conciliation shall be paid by the State from an appropriation for the board which shall be included in the budget of the Maine Labor Relations Board. Authorization for services rendered and expenditures incurred by the State Board of Arbitration and Conciliation shall be the responsibility of the Executive Director of the Maine Labor Relations Board who shall, annually, on or before July 1st, make a report of the activities of the State Board of Arbitration and Conciliation to the Governor. The board shall from time to time make rules of procedure as it deems necessary.

Six alternate members, having the same qualifications as members, and 2 being from each category, shall be appointed in the same manner and for the same terms as members and shall, when serving as members of the board, have the same responsibilities and duties and be entitled to the same privileges and emoluments as members.

When, for any reason, a member of the board does not serve in any particular case, the alternate member having the same qualifications shall act as a member of the board in that case.

The board's responsibility is to further harmonious labor-management relations in this State. It may serve as a board of inquiry or as a board of conciliation in the private sector, or as a board of arbitration in either the public or private sector, provided that the parties appearing before it so agree. No member of the board may participate in any case in which he has a personal interest.

Workers shall have full freedom of association, self organization and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection, free from interference, restraint or coercion by their employers or other per-

sons. It shall be the duty of the board to endeavor to settle disputes, strikes and lockouts between employers and employees.

An employer shall not retaliate against any employee who may have petitioned or sought the assistance of the board pursuant to this subchapter or for having provided information or testimony in this subchapter.

§932. Subpoena powers

The chairman of the board or his alternate may administer oaths and require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the matter before it.

Witnesses subpoenaed by the board shall be allowed the same fees as are paid to witnesses in 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 State Controller.

§933. Notice; recess of meetings and hearings

Except in cases in which the public welfare is involved, a minimum of 3 working days' notice shall be required before the board will convene.

When the board has taken jurisdiction of a case where a dispute exists, it may, at its discretion, recess the hearings for any reasonable purpose and may call a subsequent meeting as soon as practicable at any appropriate place or time which it may designate for a continuation of the proceedings.

§934. Conciliation; notification of dispute; proceedings in settlement; report

Whenever it appears to the employer or employees concerned in a labor dispute, or when a strike or lockout is threatened, or actually occurs, he or they may request the services of the board.

If, when the request or notification is received, it appears that a substantial number of employees in the department, section or division of the business of the employer are involved, the board shall endeavor, by conciliation, to obtain an amicable settlement. If the board is unable to obtain an amicable settlement it shall endeavor to persuade the employer and employees to submit the matter to arbitration.

The board shall, upon notification, as soon as practicable, visit the place where the controversy exists or arrange a meeting of the interested parties at a convenient place, and shall make careful inquiry into the cause of the dispute or controversy, and the board may, with the consent of the Governor, conduct the inquiry beyond the limits of the State.

The board shall hear all interested persons who come before it, advise the respective parties what ought to be done by either or both to adjust the controversy, and shall make a confidential written report to the Governor and the Executive Director of the Maine Labor Relations Board. The Governor or executive director may make the report public if, after 15 days from the date of its receipt, the parties have not resolved the controversy and the public interest would be served by publication. In addition, either the Governor or the executive director may refer the report and recommendations of the board to the Attorney General or other department for appropriate action when it appears that any of the laws of this State may have been violated.

§935. Application for board of inquiry; notice of hearing

In cases of controversy, where conciliation, mediation or arbitration is refused by one of the parties or the board has deemed that those processes have been or will be ineffective, either party may request the board to make inquiry. The application for inquiry may be signed by the employer or by a substantial number of the employees in the department, section or division of the business in which the controversy exists or by their agent or representative or by both parties and, if signed by an agent or representative claiming to represent the employees, the board shall satisfy itself that he is duly authorized to do so.

Upon receipt of the application for inquiry, the chairman, or in his absence or disability the alternate chairman, through the auspices of the Maine Labor Relations Board, shall give notice of the time and place of hearing and may, at the board's discretion, give public notice by publishing in at least one newspaper the time and place of the hearing.

The board shall, upon the request of the Governor or the mayor of a city or the selectman of a town, investigate and report upon any labor controversy if, in its opinion, it threatens the public welfare.

The board, after inquiry, may make and publish a report in the matter, including its findings of fact and recommendations for settling the controversy.

§936. Submission to arbitration; decision

If the case cannot be settled through the process of conciliation, the interested parties may jointly submit the case to arbitration by filing an arbitration application with the Executive Director of the Maine Labor Relations Board.

The chairman of the board shall immediately, after the filing, give notice of the time and place of the hearing to both parties.

§937. Procedure in arbitration

The board may hear grievance arbitration matters referred to it pursuant to a collective bargaining agreement. It may hear any labor dispute jointly referred to it for resolution by arbitration by the representatives of management and labor. In cases of arbitration, the parties concerned must submit in writing to the board, the matters which they mutually agree to submit to arbitration and such other details pertinent to the issues involved as they may agree upon. When the matter is submitted to arbitration by the board, the board shall investigate the matter in controversy, shall hear all interested persons who come before it and make an award and written opinion which shall be published by the chairman of the board and shall be binding on the parties who join in the agreement.

The board may, at any time in the arbitration process, seek a stipulated settlement of the matter submitted to it for resolution provided that settlement is approved by the parties to the dispute. Except as provided in section 972, arbitration proceedings shall be subject to the review provisions of the Uniform Arbitration Act, Title 14, chapter 706.

§938. Advertising or soliciting for workers during strike or disturbance; exceptions; penalty

If any employer, 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, for employees, or by himself or his agents solicits persons to work for him to fill the places of strikers, he shall plainly and explicitly mention in the advertisements or oral or written solicitations that a strike, lockout or other labor

disturbance exists. If any employee, during the continuance of a strike, lockout or other labor trouble advertises for or solicits business for a competitor of the employers engaged in the labor dispute, he shall plainly and explicitly mention in the advertisement or oral or written solicitations that a strike, lockout or other labor disturbance exists. This section shall cease to be operative if the board determines 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 possible, upon the application of the employer. Any person, firm, association or corporation who violates this section shall be punished by a fine not less than \$250 nor more than \$500.

§939. Proceedings confidential

Any information disclosed by either party to a dispute to the board or any of its members in carrying out this subchapter shall be confidential, except as may be provided otherwise in this subchapter.

Sec. 3. Transition clause. All appointments made by the Governor to the State Board of Arbitration and Conciliation prior to the effective date of this Act shall continue in effect on the effective date of this Act. All current rules of the board shall remain in force and effect until rescinded, amended or otherwise changed by the board, except those which are contrary to the provisions of this Act.

Effective September 19, 1985.

CHAPTER 295

H.P. 1072 - L.D. 1560

AN ACT to Clarify and Make Technical Changes
in the Law Governing Boards and
Commissions.

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

Whereas, there are a number of boards and commissions omitted from the Maine Revised Statutes, Title