

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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

J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 143

H.P. 925 - L.D. 1322

An Act to Clarify Appellate Procedures under the Public Sector Labor Laws

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

Sec. 1. 26 MRSA §968, sub-§4, as amended by PL 1975, c. 697, §3, is further amended to read:

4. Review of representative proceedings. Any party aggrieved by any ruling or determination of the executive director, or ~~his~~ the executive director's designee, under sections 966 and 967 may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of objections to the conduct of an election or challenged ballots the time period ~~shall be~~ is 5 working days, to the Maine Labor Relations Board.

Upon receipt of such an appeal, the board shall within a reasonable time hold a hearing having first caused 7 days notice in writing of the time and place of such hearing to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. ~~Such~~ These hearings ~~shall~~ must be conducted in the manner provided in subsection 5, paragraph B. Within a reasonable time after the conclusion of any hearing the board shall make a written decision ~~which shall~~ that must include findings of fact and ~~shall~~ either affirm or modify the ruling or determination of the executive director and specify the reasons for ~~such~~ that action. A copy of ~~such~~ that decision ~~shall~~ must be mailed to the labor organization or bargaining agent or its attorney or other designated representative and the public employer. Decisions of the board made pursuant to this subsection ~~shall be~~ are subject to review by the Superior Court in the manner specified in section 972, provided the complaint is filed within 15 days of the date of issuance of the decision.

Sec. 2. 26 MRSA §968, sub-§5, ¶F, as amended by PL 1977, c. 479, §7, is further amended to read:

F. Either party may seek a review by the Superior Court of Kennebec County or of the county in which the prohibited practice is alleged to have occurred of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule ~~80B~~ 80C, provided the complaint ~~shall be~~ is filed within 15 days of the effective date of issuance of the decision. Upon the filing of the complaint, the court shall set the complaint down for hearing at the earliest possible time and shall cause all interested parties and the board to be notified. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it deems just and proper; provided that the board's decision ~~shall~~ is not be stayed except ~~where~~ when it is clearly

shown to the satisfaction of the court that substantial and irreparable injury ~~shall~~ will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record ~~shall~~ must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which shall~~ that must be held not less than 7 days after notice thereof, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the findings of the board on questions of fact ~~shall be~~ are final unless shown to be clearly erroneous. Any appeal to the ~~law~~ court shall Law Court must be the same as an appeal from an interlocutory order under section 6.

Sec. 3. 26 MRSA §972, first ¶, as amended by PL 1971, c. 609, §11, is further amended to read:

Either party may seek a review by the Superior Court of a binding determination by an arbitration panel. ~~Such~~ For interest arbitrations, the review shall must be sought in accordance with ~~Rule 80-B~~ of the Maine Rules of Civil Procedure, Rule 80C.

Sec. 4. 26 MRSA §979-G, sub-§2, as amended by PL 1975, c. 697, §10, is further amended to read:

2. Review of representation proceedings. Any person aggrieved by any ruling or determination of the executive director under sections 979-E and 979-F may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of objections to the conduct of an election or challenged ballots the time period ~~shall be~~ is 5 working days, to the Maine Labor Relations Board. Upon receipt of such an appeal, the board shall, within a reasonable time, hold a hearing, having first caused 7 days' notice in writing of the time and place of such hearing to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. Such hearings and the procedures established in furtherance thereof ~~shall~~ must be in accordance with section 968. Decisions of the board made pursuant to this subsection ~~shall be~~ are subject to review by the Superior Court in the manner specified in section 972, provided the complaint is filed within 15 days of the issuance of the decision.

Sec. 5. 26 MRSA §979-H, sub-§7, as amended by PL 1975, c. 697, §12, is further amended to read:

7. Court review. Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with Rule ~~80B~~ 80C of the Maine Rules of Civil Procedure, provided the complaint ~~shall be~~ is filed within 15 days of the effective date of issuance of the decision. Upon the filing of the complaint, the court shall set the complaint down for hearing at the earliest

possible time and shall cause all interested parties and the board to be notified. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it deems just and proper; provided that the board's decision or order ~~shall~~ is not be stayed, except where when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record ~~shall~~ must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which shall that must~~ be held not less than 7 days after notice thereof, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact shall be are final unless shown to be clearly erroneous. Any appeal to the ~~law court shall~~ Law Court must be the same as an appeal from an interlocutory order under section 6.

Sec. 6. 26 MRSA §1028, sub-§2, as amended by PL 1975, c. 770, §115, is further amended to read:

2. Review of representation proceedings. Any person aggrieved by any ruling or determination of the executive director under sections 1024 and 1025 may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of objections to the conduct of an election or challenged ballots the time period ~~shall be~~ is 5 working days, to the Maine Labor Relations Board. Upon receipt of such an appeal, the board shall within a reasonable time, hold a hearing, having first caused 7 days' notice, in writing, of the time and place of such hearings to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. Such hearings and the procedures established in furtherance thereof ~~shall~~ must be in accordance with section 968. Decisions of the board made pursuant to this subsection ~~shall be~~ are subject to review by the Superior Court in the manner specified in section 972, provided the complaint is filed within 15 days of the date of issuance of the decision.

Sec. 7. 26 MRSA §1029, sub-§7, as enacted by PL 1979, c. 541, Pt. A, §173, is amended to read:

7. Court review. Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule ~~80B~~ 80C, provided the complaint ~~shall~~ be is filed within 15 days of the effective date of issuance of the decision. Upon the filing of the complaint, the court shall set the complaint down for hearing at the earliest possible time and shall cause all interested parties and the board to be notified. Pending review and upon application of any part in interest, the court may grant such temporary

relief or restraining order and may impose such terms and conditions as it deems just and proper; provided that the board's decision or order ~~shall~~ is not be stayed, except where when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record ~~shall~~ must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which shall that must~~ be held not less than 7 days after notice thereof, the court may enforce, modify, enforce as so modified, or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact shall be are final unless shown to be clearly erroneous. Any appeal to the ~~law court shall~~ Law Court must be the same as an appeal from an interlocutory order under subsection 6.

Sec. 8. 26 MRSA §1288, sub-§2, as enacted by PL 1983, c. 702, is amended to read:

2. Review of representation proceedings. Any person aggrieved by any ruling or determination of the executive director under sections 1286 and 1287 may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of objections to the conduct of an election or challenged ballots the time period ~~shall be~~ is 5 working days, to the Maine Labor Relations Board. Upon receipt of such an appeal, the board shall, within a reasonable time, hold a hearing, having first caused 7 days' notice in writing of the time and place of that hearing to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. The hearings and the procedures established in furtherance thereof ~~shall~~ must be in accordance with section 968. Decisions of the board made pursuant to this subsection ~~shall be~~ are subject to review by the Superior Court in the manner specified in section 1292, provided the complaint is filed within 15 days of the date of issuance of the decision.

Sec. 9. 26 MRSA §1289, sub-§7, as enacted by PL 1983, c. 702, is amended to read:

7. Court review. Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, provided that the complaint ~~shall~~ must be filed within 15 days of the effective date of issuance of the decision. Upon the filing of the complaint, the court shall set the complaint down for hearing at the earliest possible time and shall cause all interested parties and the board to be notified. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it deems just and proper; provided that the board's decision or order ~~shall~~ is not be stayed, except where when it is clearly shown to the satisfaction of the court that substantial and irreparable

injury will be sustained or that there is a substantial risk of danger to the public health, safety or welfare or interference with the exercise of the judicial power. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record ~~shall~~ must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which shall~~ that must be held not less than 7 days after notice thereof, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact ~~shall~~ must be final unless shown to be clearly erroneous. Any appeal to the Law Court ~~shall~~ must be expedited in the same manner as an appeal from an interlocutory order under section 6.

Sec. 10. 26 MRSA §1292, sub-§1, as enacted by PL 1983, c. 702, is amended to read:

1. Review by Superior Court. Either party may seek a review by the Superior Court of a binding determination by an arbitration panel. ~~The For interest arbitrations, the review shall~~ must be sought in accordance with the Maine Rules of Civil Procedure, Rule 80C.

See title page for effective date.

CHAPTER 144

H.P. 724 - L.D. 1028

An Act to Clarify the Provisions for Temporary and Conditional Psychologists' Licenses

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

Sec. 1. 32 MRSA §3824, sub-§5, as enacted by PL 1985, c. 481, Pt. A, §60, is amended to read:

5. Temporary licensure. The board shall provide ~~in~~ rules for the granting of a temporary license to enable psychologists to practice in this State under supervision prior to full licensure by the board. An applicant who fulfills all the requirements for licensure, except the written examination, may apply to the board for a temporary license. Upon receiving a completed application and fee and upon the applicant's successful completion of an oral examination, the board shall issue a temporary license ~~which that~~ entitles the applicant to practice as a psychologist or psychological examiner under supervision while completing the requirements for permanent licensure. The temporary license ~~shall be~~ is effective for one year.

Sec. 2. 32 MRSA §3836, as repealed and replaced by PL 1983, c. 816, Pt. A, §35, is amended to read:

§3836. Conditional licensure

The board may, at any time at its discretion, grant a license without an assembled examination to any person who at the time of application is licensed or certified by a similar board of another state whose standards, in the opinion of the board, are equivalent to those required by this chapter. The board, at its discretion, may issue a ~~temporary conditional~~ license, at the appropriate level, to applicants for a permanent license upon payment of a fee, to be established by the board, ~~and successful completion of an oral examination, that license to be valid until results are received from the next written examination.~~ The conditional license is effective for one year and requires that the licensee practice only under supervision. An oral examination must be taken and passed during the term of the conditional license. Failure to pass the written examination will terminate the temporary license.

See title page for effective date.

CHAPTER 145

H.P. 412 - L.D. 595

An Act to Continue Support for the Maine Hospice Council and to Change Certain Provisions of the Law Necessary to the Proper Operations of the Maine Hospice Council

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

22 MRSA §8614, first ¶, as enacted by PL 1989, c. 596, Pt. F, §2, is amended to read:

The council shall prepare and adopt a biennial budget for presentation to the Governor and the Legislature as a request for appropriations sufficient to carry out its statutory responsibilities. The council may accept contributions of any type from any source to assist it in carrying out its responsibilities and to make arrangements regarding the administration of these funds as may be required as a condition precedent to the receipt of these funds by the Federal Government or any other source.

See title page for effective date.

CHAPTER 146

H.P. 198 - L.D. 289

An Act Concerning Postsecondary Student Immunization Requirements

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

Whereas, the Department of Human Services must adopt rules to implement this legislation; and