

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
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NON-EMERGENCY LAWS IS
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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
1997

CHAPTER 741

H.P. 1497 - L.D. 2096

An Act to Give Collective Bargaining Rights to Legislative Employees

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

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

§979. 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 the State of Maine and its employees and between the Legislature and its employees by providing a uniform basis for recognizing the right of state or legislative 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 §979-A, sub-§4-A is enacted to read:

4-A. Legislative employee. "Legislative employee" means any employee of the Legislature performing services within the legislative branch, except any person:

- A. Who is elected by popular vote;
- B. Who is appointed to office pursuant to law by the Governor or the Legislature for a specific term;
- C. Who is employed in the office of the President of the Senate, the office of the Speaker of the House, the office of the Secretary of the Senate, the office of the Clerk of the House of Representatives or the majority or minority offices of the Senate or the House of Representatives;
- D. Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship with respect to matters subject to collective bargaining, as between that person and the Legislative Council;
- E. Who is a temporary, on-call employee; or
- F. Who has been employed less than 30 days.

Sec. 3. 26 MRSA §979-A, sub-§5, as amended by PL 1991, c. 780, Pt. Y, §121, is further amended to read:

5. Public employer. "Public employer" means, with respect to the executive branch, all the departments, agencies and commissions of the executive branch of the State of Maine, represented by the Governor or his the Governor's designee. In the furtherance of this chapter, the State shall be is considered as a single employer and employment relations, policies and practices throughout the state service shall must be as consistent as practicable. ~~It~~ With respect to state employees, it is the responsibility of the executive branch to negotiate collective bargaining agreements and to administer such agreements. To coordinate the employer position in the negotiation of agreements, the Legislative Council or its designee shall maintain close liaison with the Governor or his the Governor's designee representing the executive branch relative to the negotiation of cost items in any proposed agreement. The Governor is responsible for the employer functions of the executive branch under this chapter, and shall coordinate its collective bargaining activities with operating agencies on matters of agency concern. It is the responsibility of the legislative branch to act upon those portions of tentative agreements negotiated by the executive branch which that require legislative action.

"Public employer" means, with respect to the legislative branch, all offices or agencies of the Legislature represented by the Legislative Council or its designee. With respect to legislative employees, the Legislative Council shall negotiate and administer collective bargaining agreements. The Legislative Council or its designee is responsible for the employer functions of the legislative branch under this chapter.

The With respect to the executive branch, the Bureau of Employee Relations, through the Commissioner of Administrative and Financial Services, shall act as directed by the Governor to:

- A. Develop and execute employee relations' policies, objectives and strategies consistent with the overall objectives of the Governor;
- B. Conduct negotiations with certified and recognized bargaining agents under applicable statutes;
- C. Administer and interpret collective bargaining agreements, and coordinate and direct agency activities as necessary to promote consistent policies and practices;
- D. Represent the State in all bargaining unit determinations, elections, prohibited practice complaints and any other proceedings growing out of employee relations and collective bargaining activities;

E. Coordinate the compilation of all data and information needed for the development and evaluation of employee relations' programs and in the conduct of negotiations;

F. Coordinate the ~~state's~~ State's resources as needed to represent the State in negotiations, mediation, ~~fact-finding~~ fact-finding, arbitration and other proceedings; and

G. Provide staff advice on employee relations to the various departments and agencies of State Government, including providing for necessary supervisory and managerial training.

All state departments and agencies shall provide such assistance, services and information as required by the Governor's office, or the Bureau of Employee Relations, and shall take such administrative or other action as may be necessary to implement and administer the provisions of any binding agreement between the State and employee organizations entered into under law.

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

§979-B. Right of state employees or legislative employees to join labor organizations

~~No one shall~~ A person may not directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against state or legislative employees or a group of state 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 §979-C, sub-§2, as enacted by PL 1973, c. 774, is amended to read:

2. State and legislative employee prohibitions. State and legislative employees, ~~State~~ 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 979-B or the public employer in the selection of its representative for purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively with the public employer as required by section 979-D;

C. Engaging in:

- (1) A work stoppage;

- (2) A slowdown;

- (3) A strike; or

- (4) The blacklisting of the public employer for the purpose of preventing it from filling employee vacancies.

Sec. 6. 26 MRSA §979-D, sub-§1, ¶E, as amended by PL 1989, c. 596, Pt. N, §4, is further amended by amending subparagraphs (f) and (g) to read:

(f) Rules for personnel administration, except the following: Rules relating to applicants for employment in state or legislative service and state classified employees in an initial probationary status, including any extensions thereof, provided such rules are not discriminatory by reason of an applicant's race, color, creed, sex or national origin;

(g) Compensation system for state and legislative employees, which is defined as:

- (i) Guide charts, if any, and job evaluation factors, including factor language and factor weights, used to evaluate jobs for pay purposes;

- (ii) Job point to pay grade conversion tables;

- (iii) The number of and spread between pay steps within pay grades;

- (iv) The number of and spread between pay grades within the system; and

- (v) Temporary payment of recruitment and retention stipends, provided the stipends are allowed under Civil Service Law;

Sec. 7. 26 MRSA §979-D, sub-§4, ¶C, as enacted by PL 1973, c. 774, is amended to read:

C. In reaching a decision under this paragraph, the arbitrator shall consider the following factors:

- (1) The interests and welfare of the public and the financial ability of the State Government to finance the cost items proposed by each party to the impasse;

(2) Comparison of the wages, hours and working conditions of the employees involved in the arbitration proceeding with the wages, hours and working conditions of other employees performing similar services in public and private employment in other jurisdictions competing in the same labor market;

(3) The over-all compensation presently received by the employees including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received;

(4) Such other factors not confined to the foregoing, which are normally and traditionally taken into consideration in the determination of wages, hours and working conditions through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment, including the average consumer price index;

(5) The need of State Government and the Legislature for qualified employees;

(6) Conditions of employment in similar occupations outside State Government or the legislative branch;

(7) The need to maintain appropriate relationships between different occupations in State Government or in the legislative branch; and

(8) The need to establish fair and reasonable conditions in relation to job qualifications and responsibilities.

Sec. 8. 26 MRSA §979-H, sub-§1, as enacted by PL 1973, c. 774, is amended to read:

1. The board is empowered, as provided, to prevent any person, the public employer, any state employee, any legislative employee, any ~~state~~ employee organization or any bargaining agent from engaging in any of the prohibited acts enumerated in section 979-C. This power ~~shall~~ may not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law or otherwise.

Sec. 9. 26 MRSA §979-H, sub-§2, as amended by PL 1975, c. 697, §11, is further amended to read:

2. The public employer, any state employee, any legislative employee, any ~~state~~ employee organization or any bargaining agent ~~which that~~ believes that any person, the public employer, any state employee, any legislative employee, any ~~state~~ 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. ~~No such~~ A complaint ~~shall~~ may not be filed with the executive director until the complaining party ~~shall have~~ has served a copy thereof upon the party complained of. Upon receipt of such complaint, the executive director or ~~his~~ the executive director's designee shall review the charge to determine whether the facts as alleged may constitute a prohibited act. If it is determined that the facts do not, as a matter of law, constitute a violation, the charge ~~shall~~ must be dismissed by the executive director, subject to review by the board. If a formal hearing is ~~deemed~~ considered necessary by the executive director or by the board, the executive director shall serve upon the parties to the complaint a notice of the prehearing conference and of the hearing before the board, ~~that~~. The notice to ~~to~~ must designate the time and place of hearing for the prehearing conference or the hearing, as appropriate, provided that no hearing ~~shall~~ may be held based upon any alleged prohibited practice occurring more than 6 months prior to the filing of the complaint with the executive director. The party complained of ~~shall have the right to~~ may file a written answer to the complaint and ~~to~~ may appear in person or otherwise and give testimony at the place and time fixed for the hearing. In the discretion of the board, any other person or organization may be allowed to intervene in that proceeding and to present testimony. ~~Nothing in this~~ This subsection shall does not restrict the right of the board to require the executive director or ~~his~~ the executive director's designee to hold a prehearing conference on any prohibited practice complaint prior to the hearing before the board and taking whatever action, including dismissal, attempting to resolve disagreements between the parties or recommending an order to the board, as ~~he may deem~~ the executive director or the executive director's designee considers appropriate, subject to review by the board.

Sec. 10. 26 MRSA §979-H, sub-§6, as enacted by PL 1973, c. 774, is amended to read:

6. Whenever a complaint is filed with the executive director of the board, alleging that the public employer has violated section 979-C, subsection 1, paragraph F or alleging that a state employee, a legislative employee or ~~state~~ employee organization or bargaining agent has violated section 979-C, 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. 11. Expenses. Any positions or expenditures necessary to carry out this Act may not be filled or incurred unless the legislative employees elect to collectively bargain.

Sec. 12. Effective date. This Act takes effect July 1, 1999.

Effective July 1, 1999.

CHAPTER 742

H.P. 1532 - L.D. 2159

An Act to Establish an Advisory Commission on Women Veterans

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

Sec. 1. 5 MRSA §12004-I, sub-§5-B is enacted to read:

<u>5-B.</u> <u>Defense,</u> <u>Veterans and</u> <u>Emergency</u> <u>Management</u>	<u>Advisory</u> <u>Commission</u> <u>on Women</u> <u>Veterans</u>	<u>Expenses</u> <u>Only</u>	<u>37-B</u> <u>MRSA</u> <u>§1151</u>
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Sec. 2. 37-B MRSA c. 25 is enacted to read:

CHAPTER 25

WOMEN VETERANS

§1151. Advisory Commission on Women Veterans

1. Establishment. The Advisory Commission on Women Veterans, as established by Title 5, section 12004-I, subsection 5-B and referred to in this section as the "commission," shall act as an advisory commission to the Department of Defense, Veterans and Emergency Management on issues affecting women veterans. The commission shall also serve as a liaison between women veterans and the Department of Veterans Affairs Medical and Regional Office Center at Togus.

2. Membership. The commission is composed of no fewer than 3 and no more than 5 members, all of whom must be women veterans, to be appointed by the Adjutant General.

3. Chair. The commission shall elect a chair from among its members.

4. Terms of office. The term of office of a member is 3 years.

5. Compensation. Members of the commission are entitled to be reimbursed for their expenses.

6. Staff assistance. The Department of Defense, Veterans and Emergency Management shall provide assistance to the commission in the conduct of its business.

7. Meetings. The commission shall meet at least 3 times a year.

8. Duties. The duties of the commission are to:

A. Advise the Department of Defense, Veterans and Emergency Management on issues affecting women veterans; and

B. Serve as a liaison between women veterans and the Department of Veterans Affairs Medical and Regional Office Center at Togus.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF

Veterans Services

All Other \$1,200

Provides funds for the reimbursement of expenses for members of the Advisory Commission on Women Veterans.

See title page for effective date.

CHAPTER 743

S.P. 708 - L.D. 1956

An Act to Extend the Prevailing Wage Laws to the Maine Turnpike Authority

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

Sec. 1. 23 MRSA §1966, sub-§2, as amended by PL 1991, c. 435, §1, is further amended to read: