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## **An Act To Improve the Elections Process under the Maine Labor Relations Board Laws**

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

**Sec. 1. 26 MRSA §966, sub-§1**, as amended by PL 1975, c. 697, §1, is further amended to read:

**1. Bargaining unit standards and determination.** 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~~the executive director's designee shall conduct a hearing to make the determination, except that anyone excepted from the definition of public employee under section 962 may not be included in a bargaining unit. The initial hearing on the petition for election and unit determination proceedings must be scheduled to occur within 15 days of the petition filing date. All proceedings must be scheduled and conducted with the goal of completing the election within 45 days of the petition filing date. The executive director or ~~his~~the executive director's designee conducting unit determination proceedings ~~shall have the power to~~may administer oaths and ~~to~~require by subpoena the attendance and testimony of witnesses;and the production of books, records and other evidence relative or pertinent to the issues represented to them. In determining whether a supervisory position should be excluded from the proposed bargaining unit, the executive director or ~~his~~the executive director's designee shall consider, among other criteria, ~~if~~whether 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. Nothing in this chapter is intended to require the exclusion of principals, assistant principals,or other supervisory employees from school system bargaining units ~~which~~that include teachers and nurses in supervisory positions.

**Sec. 2. 26 MRSA §967**, as amended by PL 1991, c. 622, Pt. O, §7, is further amended to read:

### **§ 967. Determination of bargaining agent**

**1. Recognition of employee's organization.** ~~Any~~A public employee or public employee organization may file a request for recognition with a public employer alleging that a majority of the public employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization. ~~Such~~This request ~~shall~~must describe the grouping of jobs or positions ~~which~~that constitute the unit claimed to be appropriate and ~~shall~~must include a demonstration of majority support. ~~Such~~The request for recognition ~~shall~~must be granted by the public employer; ~~unless the public employer desires that~~shows good cause to believe that

the majority support alleged by the public employee or public employee organization was obtained by fraud or duress, in which case an election must be held to determine whether the public employee or organization represents a majority of the members in the bargaining unit.

**2. Elections.** The executive director ~~of the board~~, or a designee, upon receipt of a signed ~~request~~statement of a public employer alleging that ~~one or more than one public employees~~employee or public employee organizations haveorganization has presented to it the public employee a claim to be recognized as the representative of a bargaining unit of public employees or that the public employer has good cause to believe that the majority support alleged by the public employee or the public employee organization was obtained by fraud or duress, or upon receipt of a signed petition of at least 30% of a bargaining unit of public 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 in the bargaining unit. Such an election may be conducted at suitable work locations or through the United States mail, ~~and as long as~~ the procedures adopted and employed ~~must ensure that neither the employee organizations or the management representatives involved in the election have access to information that would identify a voter.~~

The ballot ~~shall~~must contain the name of ~~such~~each organization claiming to be recognized as the representative of a bargaining unit of state employees and that of any other organization showing written proof of at least 10% representation of the public employees within the unit, together with a choice for any public employee to designate that ~~he~~the public employee does not desire to be represented by any bargaining agent. ~~Where~~If more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the public employees voting, a run-off election ~~shall~~must be held. The run-off ballot ~~shall~~must contain the 2 choices ~~which~~that received the largest and ~~second~~2nd largest number of votes. When an organization receives the majority of votes of those voting, the executive director ~~of the board~~ shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit ~~shall~~must be recognized by the public employer 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 is declared by the executive director ~~of the board~~ as not representing a majority of the unit.

Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question ~~shall~~must be the same as for certification representation as the bargaining agent hereinbefore set forth established in this subsection.

~~No~~A question concerning representation may not be raised within one year of a certification or attempted certification. ~~Where~~If there is a valid collective bargaining agreement in effect, ~~no~~a question concerning unit or representation may not be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement. ~~The not more than 90-day nor less than 60-day~~That period prior to the expiration date of an agreement regarding unit determination and representation ~~shall~~does not apply to matters of unit clarification.

The bargaining agent certified by the executive director of the board 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 except~~ that any public employee at any time may present ~~his~~ that public employee's grievance to the public employer and have ~~such~~ that 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 a grievance.

**Sec. 3. 26 MRSA §968, sub-§4**, as amended by PL 1993, c. 90, §1, is further amended to read:

**4. Review of representation proceedings.** ~~Any party~~ A person aggrieved by ~~any~~ a ruling or determination of the executive director; or 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 is 5 working days, to the ~~Maine Labor Relations Board~~ 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 the hearing to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer issue an order to all parties to the proceedings requiring that briefs and supporting evidence from the prior proceedings be submitted to the board within 15 days. The board, for good cause shown, may grant additional time that the board determines necessary. The board shall issue its decision within a reasonable time. The decision of the board is final, except that a party contesting the legality of the decision may raise that issue in defense of a subsequent claim that the party refused to bargain in good faith. If the board determines it necessary to ensure the right of employees to a prompt election, the board may order that the election be held and impound the ballots while the appeal is pending. These hearings proceedings 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 that must include findings of fact and either affirm or modify the ruling or determination of the executive director and specify the reasons for that action. A copy of that decision 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 are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 972, provided the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested.~~

**Sec. 4. 26 MRSA §979-E, sub-§1**, as amended by PL 1975, c. 697, §8, is further amended to read:

**1. Determination of bargaining unit.** 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~~ the executive director's 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. The initial hearing on the petition for election and unit determination proceedings must be scheduled to occur within 15 days of the petition filing date. All proceedings must be scheduled and conducted with the goal of completing the election within 45 days of the petition filing date. The executive director or ~~his~~ the executive director's designee conducting unit determination proceedings shall ~~have the power to~~ may administer oaths and ~~to~~ require by subpoena the attendance and testimony of witnesses, ~~and~~ the production of books, records and other evidence relative or pertinent to the issues represented to them. In determining whether a supervisory position should be excluded from the proposed bargaining unit, the executive director or ~~his~~ the executive director's designee shall consider, among other criteria, ~~if~~ whether 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.

**Sec. 5. 26 MRSA §979-F**, as amended by PL 1981, c. 277, is further amended to read:

## **§ 979-F. Determination of bargaining agent**

**1. Recognition of state employee organization.** ~~Any~~ A state employee organization may file a request for recognition with the public employer alleging that a majority of the state employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization. ~~Such~~ This request shall ~~must~~ describe the grouping of jobs or positions ~~which~~ that constitute the unit claimed to be appropriate and shall ~~must~~ include a demonstration of majority support. ~~Such~~ The request for recognition shall ~~must~~ be granted by the public employer unless the public employer ~~desires that~~ shows good cause to believe that the majority support alleged by the public employee organization was obtained by fraud or duress, in which case an election must be held to determine whether the organization represents a majority of the members in the bargaining unit.

**2. Elections.** The determination and election of the representative of a bargaining unit of state employees must be conducted pursuant to this subsection.

A. ~~The executive director of the board or his~~ the executive director's designee, upon receipt of a signed request ~~statement~~ of a public employer alleging that ~~one or more~~ than one state employee ~~employee~~ or state employee organization ~~has~~ organization has presented to it ~~the public employer~~ a claim to be recognized as the representative of a bargaining unit of state employees ~~or that the employer has good cause to believe that the majority support alleged by the state employee or state employee organization was obtained by fraud or duress,~~ or upon receipt of a 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~~ as long as the procedures adopted and employed by the ~~Maine Labor Relations Board shall~~ board maintain the anonymity of the voter from both the employee organizations and the management representatives involved.

B. The ballot ~~shall~~ must contain the name of ~~such~~ each organization claiming to be recognized as the representative of a bargaining unit of state employees and that of any other organization showing written proof of at least 10% representation of the state employees within the unit, together with a choice for any state employee to designate that ~~he~~ the employee does not desire to be represented by any bargaining agent. ~~Where~~ If more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the state employees voting, a run-off election ~~shall~~ must be held. The run-off ballot ~~shall~~ must contain the 2 choices ~~which~~ that received the largest and 2nd largest number of votes. When an organization receives the majority of votes of those voting, the executive director ~~of the board~~ shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit ~~shall~~ must be recognized by the public employer 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~~ is held and the bargaining agent is declared by the executive director ~~of the board~~ as not representing a majority of the unit.

C. Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question ~~shall~~ must be the same as for certification representation as the bargaining agent hereinbefore set forth ~~established in this subsection.~~

D. ~~No~~ A question concerning representation may not be raised within one year of a certification or attempted certification. ~~Where~~ If there is a valid collective bargaining agreement in effect, ~~no~~ a question concerning unit or representation may not be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement. Unit clarification proceedings are not subject to this time limitation and may be brought at any time consistent with section 979-E, subsection 3.

E. The bargaining agent certified by the executive director ~~of the board~~ or ~~his~~ the executive director's 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~~ except that any public employee at any time may present ~~his~~ that public employee's grievance to the public employer and have ~~such~~ that 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 a grievance.

**Sec. 6. 26 MRSA §979-G, sub-§2,** as amended by PL 1993, c. 90, §4, is further amended to read:

**2. Review of representation proceedings.** ~~Any~~ A person aggrieved by ~~any~~ a 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 is 5 working days, to the ~~Maine Labor Relations~~

~~Boardboard.~~ 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. ~~The hearings and the procedures established in furtherance thereof must be in accordance with section 968. Decisions of the board made pursuant to this subsection are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 972, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. issue an order to all parties to the proceedings requiring that briefs and supporting evidence from the prior proceedings be submitted to the board within 15 days. The board, for good cause shown, may grant additional time that the board determines necessary. The board shall issue its decision within a reasonable time. The decision of the board is final, except that a party contesting the legality of the decision may raise that issue in defense of a subsequent claim that the party refused to bargain in good faith. If the board determines it necessary to ensure the right of public employees to a prompt election, the board may order that the election be held and impound the ballots while the appeal is pending.~~

**Sec. 7. 26 MRSA §1024-A, sub-§4,** as enacted by PL 1979, c. 541, Pt. B, §31, is amended to read:

**4. Assignment to bargaining units.** In the event of a dispute over the assignment of jobs or positions to a unit, the executive director or the executive director's designee shall conduct a hearing to examine the community of interest, including work tasks among other factors, and make an assignment to the appropriate statutory bargaining unit set forth in subsection 1, 2 or 3. The initial hearing on the petition for election and unit determination proceedings must be scheduled to occur within 15 days of the petition filing date. All proceedings must be scheduled and conducted with the goal of completing the election within 45 days of the petition filing date.

**Sec. 8. 26 MRSA §1025,** as amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

## **§ 1025. Determination of bargaining agent**

**1. Recognition of employee's organization.** ~~Any~~An employee organization may file a request for recognition with the university, academy or community colleges alleging that a majority of the university, academy or community college employees in an appropriate bargaining unit as established in section ~~1024~~1024-A, wish to be represented for the purpose of collective bargaining between the university, academy or community colleges and the employees' organization. ~~Such~~This request ~~shall~~must describe the grouping of jobs or positions ~~which~~that constitute the unit claimed to be appropriate and ~~shall~~must include a demonstration of majority support. ~~Such~~The request for recognition ~~shall~~must be granted by the university, academy or community colleges unless the university, academy or community colleges ~~desire that~~show good cause to believe that the majority support alleged by the university, academy or community college employee organization was obtained by fraud or duress, in which case an election must be held to 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~~ If the university, academy or community colleges do not show good cause to believe that the majority support was obtained by fraud or duress, the executive director shall certify the organization so recognized as the bargaining agent.

**2. Elections.** The determination and election of the representative of a bargaining unit of university, academy or community college employees must be conducted pursuant to this subsection.

A. ~~The executive director of the board, upon receipt of a signed request~~ statement of the university, academy or community college ~~colleges alleging that one or more than one university, academy or community college employees~~ employee or employee organizations have organization has presented to ~~it~~ the university, academy or community colleges a claim to be recognized as the representative of a bargaining unit of university, academy or community college employees or that the employer has good cause to believe that the majority support alleged by the university, academy or community college employee or employee organization was obtained by fraud or duress, or upon receipt of a signed petition of at least 30% of a bargaining unit of university, academy or community college 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, ~~and as long as the procedures adopted and employed must ensure that neither the employee organizations or the management representatives involved in the election have access to information that would identify a voter.~~

B. The ballot ~~shall~~ must contain the name of ~~such~~ each organization claiming to be recognized as the representative of a bargaining unit of university, academy or community college employees and that of any other organization showing written proof of at least 10% representation of the university, academy or community college employees within the unit, together with a choice for any university, academy or community college employee to designate that the employee does not desire to be represented by any bargaining agent. ~~Where~~ If more than one organization is on the ballot, and no one of the 3 or more choices receives a majority vote of the university, academy or community college employees voting, a run-off election ~~shall~~ must be held. The run-off ballot ~~shall~~ must contain the 2 choices ~~which~~ that 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~~ must be recognized by the university, academy or community colleges 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~~ is held and the bargaining agent is declared by the executive director as not representing a majority of the unit.

C. Whenever 30% of the employees in a bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question ~~shall~~ must be the same as for certification representation as the bargaining agent hereinbefore set forth established in this subsection.

D. ~~No~~A question concerning representation may not be raised within one year of a certification or attempted certification. ~~Where~~If there is a valid collective bargaining agreement in effect, ~~no~~a question concerning unit or representation may not be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement.

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

**Sec. 9. 26 MRSA §1028, sub-§2**, as amended by PL 1993, c. 90, §6, is further amended to read:

**2. Review of representation proceedings.** ~~Any~~A person aggrieved by ~~any~~a 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 is 5 working days, to the ~~Maine Labor Relations Board~~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 the hearings 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 must be in accordance with section 968. Decisions of the board made pursuant to this subsection are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 972, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested.~~issue an order to all parties to the proceedings requiring that briefs and supporting evidence from the prior proceedings be submitted to the board within 15 days. The board, for good cause shown, may grant additional time that the board determines necessary. The board shall issue its decision within a reasonable time. The decision of the board is final, except that a party contesting the legality of the decision may raise that issue in defense of a subsequent claim that the party refused to bargain in good faith. If the board determines it necessary to ensure the right of university, academy or community college employees to a prompt election, the board may order that the election be held and impound the ballots while the appeal is pending.

**Sec. 10. 26 MRSA §1286, sub-§1**, as enacted by PL 1983, c. 702, is amended to read:

**1. Unit determination.** In the event of a dispute between the public employer and an employee or employees over the appropriateness of a unit for purposes of collective bargaining or between the public employer and an employee or employees over whether a supervisory or other position is included in the bargaining unit, the executive director or ~~his~~the executive director's designee shall make the determination, except that anyone excepted from the definition of judicial employee under section 1282 may not be included in a bargaining unit. The initial hearing on the petition for election and unit



determination proceedings must be scheduled to occur within 15 days of the petition filing date. All proceedings must be scheduled and conducted with the goal of completing the election within 45 days of the petition filing date. The executive director or ~~his~~the executive director's designee conducting unit determination proceedings may administer oaths and require by subpoena the attendance and testimony of witnesses;and the production of books, records and other evidence relative or pertinent to the issues represented to them.

**Sec. 11. 26 MRSA §1287**, as enacted by PL 1983, c. 702, is amended to read:

## **§ 1287. Determination of bargaining agent**

**1. Recognition of judicial employee organization.** ~~Any~~A judicial employee organization may file a request for recognition with the public employer alleging that a majority of the judicial employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the judicial employees' organization. The request ~~shall~~must describe the grouping of jobs or positions ~~which~~that constitute the unit claimed to be appropriate and ~~shall~~must include a demonstration of majority support. The request for recognition ~~shall~~must be granted by the public employer; ~~unless the public employer desires that~~shows good cause to believe that the majority support alleged by the judicial employee organization was obtained by fraud or duress, in which case an election must be held to determine whether the organization represents a majority of the members in the bargaining unit.

**2. Elections.** The executive director ~~of the board or his~~the executive director's designee, upon receipt of a signed ~~request~~statement of a public employer alleging that ~~one or more than one~~ one or more than one judicial employees~~employee~~ or judicial employee organizations ~~have~~organization has presented to itthe public employer a claim to be recognized as the representative of a bargaining unit of judicial employees or that the public employer has good cause to believe that the majority support alleged by the judicial employee or judicial employee organization was obtained by fraud or duress, or upon receipt of a signed petition of at least 30% of a bargaining unit of judicial 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 that as long as the procedures adopted and employed by the board shall maintain the anonymity of the voter from both the employee organizations and the management representatives involved.

**3. Voting.** The election of the representative of a bargaining unit of judicial employees must be conducted pursuant to this subsection.

A. The ballot ~~shall~~must contain the name of the organization and that of any other organization showing written proof of at least 10% representation of the judicial employees within the unit, together with a choice for any judicial employee to designate that ~~he~~the employee does not desire to be represented by any bargaining agent. When more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the judicial employees voting, a ~~runoff~~run-off election ~~shall~~must be held. The ~~runoff~~run-off ballot ~~shall~~must contain the 2 choices ~~which~~that received the largest and 2nd largest number of votes. When an organization receives the majority of

votes of those voting, the executive director of the board shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall must be recognized by the public employer 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 is declared by the executive director of the board as not representing a majority of the unit.

B. Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question shall must be the same as for certification representation as a bargaining agent as set forth in this chapter.

C. ~~No~~A question concerning representation may not be raised within one year of a certification or attempted certification. ~~Where~~If there is a valid collective bargaining agreement in effect, ~~no~~a question concerning unit or representation may not be raised; except during the period not more than 90 days nor less than 60 days prior to the expiration date of the agreement. Unit clarification proceedings are not subject to this time limitation and may be brought at any time consistent with section 1286, subsection 4.

D. The bargaining agent certified by the executive director of the board or his the executive director's designee as the exclusive bargaining agent shall ~~be required to~~ represent all the judicial employees within the unit without regard to membership in the organization certified as bargaining agent, ~~provided except~~ that any judicial employee at any time may present his that employee's grievance to the public employer and have that 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 that grievance.

**Sec. 12. 26 MRSA §1288, sub-§2,** as amended by PL 1993, c. 90, §8, is further amended to read:

**2. Review of representation proceedings.** ~~Any~~A person aggrieved by ~~any~~a 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 is 5 working days, to the ~~Maine Labor Relations Board~~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 must be in accordance with section 968. Decisions of the board made pursuant to this subsection are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 1292, provided the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested.~~ issue an order to all parties to the proceedings requiring that briefs and supporting evidence from the prior proceedings be submitted to the board within 15 days. The board, for good cause shown, may grant additional time that the board determines necessary. The board shall issue its decision within a reasonable time. The decision of the board is final, except that a party contesting the legality of the decision may raise that issue in

defense of a subsequent claim that the party refused to bargain in good faith. If the board determines it necessary to ensure the right of public employees to a prompt election, the board may order that the election be held and impound the ballots while the appeal is pending.

## SUMMARY

This bill amends the labor relations laws for municipal public employees, state employees, judicial employees, and employees of the University of Maine System, the Maine Maritime Academy and the Maine Community College System to:

1. Require the Executive Director of the Maine Labor Relations Board to conduct a hearing in the event of a dispute over the appropriateness of the composition of the proposed bargaining unit. The hearing must be scheduled to occur within 15 days of the filing of the petition, with the goal of completing the election within 45 days;

2. Require an employer to recognize an employee organization that demonstrates majority support by the bargaining unit employees. Current law allows an employer to voluntarily recognize an employee organization or to ask for an election. Under this bill, unless the employer shows good cause to the board to believe that the majority support was obtained by fraud or duress, the employer must recognize the employee organization; and

3. Make final the review by the Maine Labor Relations Board of a decision of the executive director. Current law allows a party to appeal the board's decision to the Superior Court. This bill removes that right and also removes the procedural specifications for how the board is to issue its decision.

The bill also standardizes the language of these labor relations laws, amending the laws to bring them into conformity with current drafting standards.