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An Act To Incorporate Binding Arbitration for Monetary Issues in Collective Bargaining for All State, County and Municipal Employees

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

Sec. 1. 26 MRSA §964, sub-§1, as enacted by PL 1969, c. 424, §1, is amended to read:

1. Public employer prohibitions. Public employers, their representatives and their agents are prohibited from:

- A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963;
- B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any term or condition of employment;
- C. Dominating or interfering with the formation, existence or administration of any employee organization;
- D. Discharging or otherwise discriminating against an employee because ~~he~~the employee has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
- E. Refusing to bargain collectively with the bargaining agent of its employees as required by section 965;
- F. Blacklisting of any employee organization or its members for the purpose of denying them employment.;
- G. Invoking a lockout;
- H. Failing to comply with the provisions of this chapter or any rule adopted by the board pursuant to this chapter;
- I. Breaching a collective bargaining agreement; and
- J. Enacting any law or adopting any rule relative to the terms and conditions of employment that would invalidate a portion of an agreement entered into by the public employer, its representative or its agent enacting the law or adopting the rule.

Sec. 2. 26 MRSA §965, sub-§4, as amended by PL 1975, c. 564, §18, is further amended to read:

4. Arbitration. In addition to the 30-day period referred to in subsection 3, the parties shall have 15 more days, making a total period of 45 days, from the submission of findings and recommendations; in which to make a good faith effort to resolve their controversy.

If the parties have not resolved their controversy by the end of said 45-day period, they may jointly agree to an arbitration procedure ~~which will~~that must result in a binding determination of their controversy. Such determinations ~~will be~~are subject to review by the Superior Court in the manner specified by section 972.

If they do not jointly agree to such an arbitration procedure within 10 days after the end of said 45-day period, then either party may, by written notice to the other, request that their differences be submitted to a board of 3 arbitrators. The bargaining agent and the public employer shall within 5 days of such request each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The 2 arbitrators so selected and named shall, within 10 days from such request, agree upon and select and name a neutral arbitrator. If either party ~~shall~~does not select its arbitrator or if the 2 arbitrators ~~shall~~ fail to agree upon, select and name a neutral arbitrator within said 10 days, either party may request the American Arbitration Association to utilize its procedures for the selection of the neutral arbitrator. As soon as possible after receipt of such request, the neutral arbitrator ~~will~~must be selected in accordance with rules and procedures prescribed by the American Arbitration Association for making such selection. The neutral arbitrator so selected ~~will~~may not, without the consent of both parties, be the same person who was selected as mediator pursuant to subsection 2 nor any member of the fact-finding board selected pursuant to subsection 3. As soon as possible after the selection of the neutral arbitrator, the 3 arbitrators or, if either party ~~shall~~has not have selected its arbitrator, the 2 arbitrators, as the case may be, shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, make inquiries and investigations, hold hearings, or take such other steps as they ~~deem~~consider appropriate. If the neutral arbitrator is selected by utilizing the procedures of the American Arbitration Association, the arbitration proceedings ~~will~~must be conducted in accordance with the rules and procedures of the American Arbitration Association. The hearing ~~shall~~must be informal, and the rules of evidence prevailing in judicial proceedings ~~shall~~are not be binding. Any ~~and all~~ documentary evidence and other data ~~deemed~~considered relevant by the arbitrators may be received in evidence. The arbitrators ~~shall~~ have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them for determination.

If the controversy is not resolved by the parties themselves, the arbitrators shall ~~proceed as follows: With respect to a controversy over salaries, pensions and insurance, the arbitrators will recommend terms of settlement and may make findings of fact; such recommendations and findings will be advisory only and will be made, if reasonably possible, within 30 days after the selection of the neutral arbitrator; the arbitrators may in their discretion, make such recommendations and findings public, and either party may make such recommendations and findings public if agreement is not reached with respect to such findings and recommendations within 10 days after their receipt from the arbitrators; with respect to a controversy over subjects other than salaries, pensions and insurance, the arbitrators shall make determinations with respect thereto~~ the controversy if reasonably possible within 30 days after the selection of the neutral arbitrator; such determinations may be made public by the arbitrators or either party; and, if made by a majority of the arbitrators, such determinations ~~will be~~are binding on both parties, and the parties ~~will~~must enter an agreement or take whatever other action that may be appropriate to carry out and effectuate such binding determinations; and such determinations ~~will be~~are subject to review by the Superior Court in the

manner specified by section 972. The results of all arbitration proceedings, recommendations and awards conducted under this section ~~shall~~must be filed with the Maine Labor Relations Board at the offices of its executive director simultaneously with the submission of the recommendations and award to the parties. In the event the parties settle their dispute during the arbitration proceeding, the arbitrator or the ~~chairman~~chair of the arbitration panel ~~will~~shall submit a report of his activities to the Executive Director of the Maine Labor Relations Board not more than 5 days after the arbitration proceeding has terminated.

Sec. 3. 26 MRSA §979-C, sub-§1, as enacted by PL 1973, c. 774, is amended to read:

1. Public employer prohibitions. The public employer, its representatives and its agents are prohibited from:

- A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 979-B;
- B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any term or condition of employment;
- C. Dominating or interfering with the formation, existence or administration of any employee organization;
- D. Discharging or otherwise discriminating against an employee because ~~he~~the employee has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
- E. Refusing to bargain collectively with the bargaining agent of its employees as required by section 979-D;
- F. Blacklisting of any employee organization or its members for the purpose of denying them employment;
- G. Invoking a lockout;
- H. Failing to comply with the provisions of this chapter or any rule adopted by the board pursuant to this chapter;
- I. Breaching a collective bargaining agreement; and
- J. Enacting any law or adopting any rule relative to the terms and conditions of employment that would invalidate a portion of an agreement entered into by the public employer, its representative or its agent enacting the law or adopting the rule.

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

~~D. With respect to controversies over salaries, pensions and insurance, the arbitrator will recommend terms of settlement and may make findings of fact. Such recommendations and findings shall be advisory and shall not be binding upon the parties. The determination by the arbitrator on all other issues shall be~~is final and binding on the parties.

SUMMARY

This bill makes a determination on a salary, pension and insurance issue by an arbitrator in collective bargaining with state or municipal employees binding and prohibits certain practices by a public employer of state and municipal employees including:

1. Invoking a lockout;
2. Failing to comply with the provisions of the municipal public employees labor relations laws or the state employees labor relations laws or any rule adopted by the Maine Labor Relations Board pursuant to these laws;
3. Breaching a collective bargaining agreement; or
4. Enacting any law or adopting any rule relative to the terms and conditions of employment that would invalidate a portion of an agreement entered into by the public employer enacting the law or adopting the rule.