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An Act To Clarify the Right of Public School Employees To Engage in Collective Bargaining

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

Whereas, this legislation clarifies the ability of public school employees to engage in collective bargaining prior to July 1, 2009; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 20-A MRSA §1461-A, sub-§3, as enacted by PL 2007, c. 668, §5, is amended to read:

3. Authorization. The regional school unit board is authorized to take all other actions provided under state law to prepare the regional school unit to become operational on July 1st for the first operational year, including the authority to open and maintain accounts, to incur expenses to be allocated among the regional school unit's member school administrative units in accordance with the reorganization plan for the regional school unit and to file applications for school construction projects and revolving renovation fund loans and other available funding.

Prior to the operational date of the regional school unit, the board for that regional school unit may participate in the activities authorized and required pursuant to Title 26, chapter 9-A only for the negotiation and execution of a successor collective bargaining agreement that will take effect on or after the operational date of the regional school unit. Until the operational date of the regional school unit, each participating school administrative unit retains all other authority, duties and obligations of the public employer of the employees of the school administrative unit pursuant to Title 26, chapter 9-A. Prior to the election of the initial regional school unit board, each school board of a participating school administrative unit retains all authority, duties and obligations of the public employer of the employees of the school administrative unit pursuant to Title 26, chapter 9-A, including the authority, duty and obligation to negotiate and execute successor collective bargaining agreements that take effect on or after the operational date of an approved regional school unit of which the school administrative unit becomes a part.

Sec. 2. 26 MRSA §965, sub-§1, as amended by PL 1985, c. 46, is further amended to read:

1. Negotiations. It shall be the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purposes of this chapter, their mutual obligation:

A. To meet at reasonable times;

B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, provided as long as the parties have not otherwise agreed in a prior written contract;

C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party ~~shall~~may be compelled to agree to a proposal or be required to make a concession and except that public employers of teachers shall meet and consult but not negotiate with respect to educational policies; for the purpose of this paragraph, educational policies ~~shall~~may not include wages, hours, working conditions or contract grievance arbitration;

D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but ~~shall~~may not exceed 3 years; and

E. To participate in good faith in the mediation, fact-finding and arbitration procedures required by this section.

Whenever wages, rates of pay or any other matter requiring appropriation of money by any municipality or county are included as a matter of collective bargaining conducted pursuant to this chapter, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the public employer at least 120 days before the conclusion of the current fiscal operating budget, except that this requirement is waived in the event that a bargaining agent of a newly formed bargaining unit is recognized or certified during the period not more than 120 days nor less than 30 days prior to the end of the fiscal period. The 120-day notice requirement is also waived with respect to regional school units formed pursuant to Title 20-A, chapter 103-A, subchapter 2 prior to and during their 1st year of operation.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill prohibits a regional school unit board from participating in labor relations activities prior to the operational date of the regional school unit except for the negotiation and execution of a collective bargaining agreement that takes effect on or after the operational date of the regional school unit. Prior to the operational date, each participating school administrative unit retains the authority and duties specified in the Maine Revised Statutes, Title 26, chapter 9-A. This bill also waives the 120-day notice requirement for submission of fiscal matters by the bargaining unit of a regional school unit prior to and during its 1st year of operation.