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H.P. 357

House of Representatives, February 19, 2021

An Act To Change the Compensation Structure of the Maine Labor Relations Board and the State Board of Arbitration and Conciliation

Submitted by the Maine Labor Relations Board pursuant to Joint Rule 204.

Received by the Clerk of the House on February 17, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.

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

2 **Sec. 1. 26 MRSA §931, first ¶**, as amended by PL 2007, c. 175, §1, is further
3 amended to read:

4 The State Board of Arbitration and Conciliation, in this subchapter called the "board,"
5 consists of 3 members appointed by the Governor from time to time upon the expiration of
6 the terms of the several members; for terms of 3 years. One member must be an employer
7 of labor or selected from ~~some an~~ an association representing employers of labor, and another
8 must be an employee or selected from ~~some a~~ a bona fide trade or labor union. The 3rd
9 member must represent the public interests of the State and serves as chair. Vacancies
10 occurring during a term must be filled for the unexpired term. Members When meeting to
11 deliberate or vote with respect to a matter before the board, members of the board are
12 entitled to receive \$150 a day per meeting for their services for the time actually employed
13 in the discharge of their official duties. For all other purposes, members of the board are
14 entitled to receive \$300 a day for their services for the time actually employed in the
15 discharge of their official duties. They are entitled to receive their traveling and all other
16 necessary expenses. The costs for services rendered and expenses incurred by the State
17 Board of Arbitration and Conciliation and any state allocation program charges must be
18 shared equally by the parties to the proceedings and must be paid into a special fund
19 administered by the Maine Labor Relations Board. Authorization for services rendered
20 and expenditures incurred by the State Board of Arbitration and Conciliation is the
21 responsibility of the Executive Director of the Maine Labor Relations Board. All costs
22 must be paid from that special fund. The executive director may estimate costs upon receipt
23 of a request for services and collect those costs prior to providing the services. The
24 executive director shall bill or reimburse the parties, as appropriate, for any difference
25 between the estimated costs that were collected and the actual costs of providing the
26 services. Once one party has paid its share of the estimated cost of providing the service,
27 the matter is scheduled for hearing. A party who has not paid an invoice for the estimated
28 or actual cost of providing services within 60 days of the date the invoice was issued is, in
29 the absence of good cause shown, liable for the amount of the invoice together with a
30 penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected
31 pursuant to this ~~provision~~ section remains in the special fund administered by the Maine
32 Labor Relations Board and that fund does not lapse. The executive director is authorized
33 to collect any sums due and payable pursuant to this ~~provision~~ section through civil action.
34 In such an action, the court shall allow litigation costs, including court costs and reasonable
35 attorney's fees, to be deposited in the General Fund if the executive director is the prevailing
36 party in the action. The executive director shall, annually, on or before July 1st, make a
37 report of the activities of the State Board of Arbitration and Conciliation to the Governor.
38 The board shall from time to time adopt rules of procedure as it determines necessary;
39 ~~including rules of procedure for proceedings under chapter 18.~~ Rules adopted pursuant to
40 this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

41 **Sec. 2. 26 MRSA §968, sub-§1**, as amended by PL 2019, c. 184, §1, is further
42 amended to read:

43 **1. Maine Labor Relations Board.** The Maine Labor Relations Board, established by
44 Title 5, section 12004-B, subsection 2, consists of 3 members and 6 alternates appointed
45 by the Governor, subject to review by the joint standing committee of the Legislature

1 having jurisdiction over labor matters and to confirmation by the Legislature. The
2 Governor, in making appointments, shall name one member and 2 alternates to represent
3 employees, one member and 2 alternates to represent employers and one member and 2
4 alternates to represent the public. The member and alternates representing employees may
5 not have worked in a management capacity or represented employer interests in any
6 proceedings at any time during the prior 6 years. The member and alternates representing
7 the public may not have worked in a management capacity or represented employer
8 interests in any proceedings or have worked for a labor organization or served in a
9 leadership role in a labor organization at any time during the prior 6 years. The member
10 representing the public serves as the board's chair and the alternate representing the public
11 serves as an alternate chair. Members of the board are entitled to compensation according
12 to the provisions of Title 5, chapter 379. The alternates are entitled to compensation at the
13 same per diem rate as the member that the alternate replaces. The term of each member
14 and each alternate is 4 years, except that of the members and alternates first appointed, one
15 member and 2 alternates are appointed for a term of 4 years, one member and 2 alternates
16 are appointed for a term of 3 years and one member and 2 alternates are appointed for a
17 term of 2 years. The members of the board, its alternates and its employees are entitled to
18 receive necessary expenses. Per diem and necessary expenses for members and alternates
19 of the board may be paid from the board's General Fund appropriation if, in the discretion
20 of the executive director, doing so would not create a financial hardship for the board;
21 otherwise, per diem and necessary expenses for members and alternates of the board, as
22 well as state cost allocation program charges, must be shared equally by the parties to any
23 proceeding at which the board presides and must be paid into a special fund administered
24 by the board from which all costs must be paid. The executive director may estimate costs
25 upon receipt of a request for services and collect those costs prior to providing the services.
26 The executive director shall bill or reimburse the parties, as appropriate, for any difference
27 between the estimated costs that were collected and the actual costs of providing the
28 services. Once one party has paid its share of the estimated cost of providing the service,
29 the matter is scheduled for hearing. A party who has not paid an invoice for the estimated
30 or actual cost of providing services within 60 days of the date the invoice was issued is, in
31 the absence of good cause shown, liable for the amount of the invoice together with a
32 penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected
33 pursuant to this ~~provision~~ subsection remains in the special fund administered by the Maine
34 Labor Relations Board, and that fund does not lapse. The executive director is authorized
35 to collect any sums due and payable pursuant to this ~~provision~~ subsection through civil
36 action. In such an action, the court shall allow litigation costs, including court costs and
37 reasonable attorney's fees, to be deposited in the General Fund if the executive director is
38 the prevailing party in the action. At its discretion, the board may allocate all costs to a
39 party that presents a frivolous complaint or defense or that commits a blatant violation of
40 the applicable collective bargaining law. When the board meets on administrative or other
41 matters that do not concern the interests of particular parties or when any board member
42 presides at a prehearing conference, the members' per diem and necessary expenses must
43 be paid from the board's regular appropriation for these purposes. The executive director
44 and legal or professional personnel employed by the board are members of the unclassified
45 service.

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SUMMARY

2 This bill adjusts the compensation structure for members of the State Board of
3 Arbitration and Conciliation and the Maine Labor Relations Board. For the State Board of
4 Arbitration and Conciliation, the bill changes the per diem compensation for members of
5 the board to provide that, when meeting to deliberate or vote with respect to a matter before
6 the board, members receive \$150 a day per meeting for their services for the time actually
7 employed in the discharge of their official duties and, for all other purposes, members
8 receive \$300 a day for their services for the time actually employed in the discharge of their
9 official duties. For the Maine Labor Relations Board, the bill provides the board's
10 executive director the discretion to provide the members' per diem compensation and
11 related costs from the board's General Fund appropriation, rather than requiring the parties
12 to a case to share the costs.