

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
S.P. 860 - L.D. 2032

An Act to Improve Maine's Labor Laws by Changing the Laws Governing Elections of Collective Bargaining Agents for Certain Public Employees

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

Sec. 1. 26 MRSA §979-F, as amended by PL 1981, c. 277, is further amended to read:

§979-F. Determination of bargaining agent

1. Voluntary recognition. Any state employee organization may file a request 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~~ 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. ~~Such~~ The request for recognition ~~shall~~ may be granted by the public employer ~~unless the public employer desires that an election determine whether the organization represents a majority of the members in the bargaining unit.~~

1-A. Majority sign-up. If a request by a state employee organization for recognition pursuant to subsection 1 is not granted by the public employer, the executive director or the executive director's designee shall examine the demonstration of support. If the executive director or the executive director's designee finds that a majority of the employees in a unit appropriate for bargaining have signed valid authorizations designating the employees' organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board may not direct an election but shall certify the employees' organization as the representative. However, if the majority status of the employees in the appropriate unit is in question, the executive director or the executive director's designee shall call an election to determine whether the organization represents a majority of the members in the bargaining unit.

2. Elections.

A. ~~The executive director of the board, or his the executive director's designee upon signed request of a public employer alleging that one or more state employees or state employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of state employees, pursuant to subsection 1-A, or upon 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~~ The election may be conducted at suitable work locations or through the United States mail provided, nevertheless, that and the procedures adopted and employed by the Maine Labor Relations Board shall maintain the anonymity of the voter from both board must ensure that neither the employee organizations and nor 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~~ the organization under paragraph A 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 state employee does not desire to be represented by any bargaining agent. ~~Where~~ When 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 or the executive director's designee~~ shall certify ~~it~~ the organization 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 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 be~~ of decertification are the same as for representation as a bargaining agent ~~hereinbefore set forth~~ as established in this subsection.

D. ~~No~~ A question concerning representation may not be raised within one year of a certification or attempted certification. ~~Where~~ When 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 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~~ state employees within the unit without regard to membership in the organization certified as the bargaining agent, ~~provided~~ except that any ~~public~~ state employee at any time may present ~~his~~ that state 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~~ the grievance.

Sec. 2. 26 MRSA §1025, as corrected by RR 2021, c. 2, Pt. A, §91, is amended to read:

§1025. Determination of bargaining agent

1. Voluntary recognition. ~~An~~ A university, academy or community college employee organization may file a request 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-A wish to be represented for the purpose of collective bargaining between the university, academy or community colleges and the employees' organization. ~~Such~~ The request must describe the grouping of jobs or positions that constitute the unit claimed to be appropriate and must include a demonstration of majority support. ~~Such~~ The request for recognition ~~must~~ may be granted by the university, academy or community colleges ~~unless the university, academy or community colleges desire that an election 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 the university, academy or community colleges, the executive director shall certify the organization so recognized as the bargaining agent.

1-A. Majority sign-up. If a request by a university, academy or community college employee organization for recognition pursuant to subsection 1 is not granted by the university, academy or community college, the executive director or the executive director's designee shall examine the demonstration of support. If the executive director or the executive director's designee finds that a majority of the employees in a unit appropriate for bargaining have signed valid authorizations designating the employees' organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board may not direct an election but shall certify the employees' organization as the representative. However, if the majority status of the employees in the appropriate unit is in question, the executive director or the executive director's designee shall call an election to determine whether the organization represents a majority of the members in the bargaining unit.

2. Elections.

A. ~~The executive director of the board, upon signed request of the university, academy or community college alleging that one or more university, academy or community college employees or employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of university, academy or community college employees or the executive director's designee, pursuant to subsection 1-A, or upon 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~~ The election may be conducted at suitable work locations or through the United States mail, and the procedures adopted and employed must ensure that neither the employee~~

organizations ~~or~~ nor 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~~ the organization under paragraph A 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~~ When 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 or the executive director's designee shall certify ~~it~~ the organization 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 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 be of~~ decertification are the same as for representation as a bargaining agent ~~hereinbefore set forth~~ as established in this subsection.

D. ~~No~~ A question concerning representation may not be raised within one year of a certification or attempted certification. ~~Where~~ When 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.

E. The bargaining agent certified by the executive director or a the executive director's 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 the bargaining agent, except that any university, academy or community college employee may present at any time that employee's grievance to the ~~employer~~ university, academy or community college 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 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. 3. 26 MRSA §1287, as enacted by PL 1983, c. 702, is amended to read:

§1287. Determination of bargaining agent

1. Voluntary recognition. Any judicial employee organization may file a request 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 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~~ may be granted by the public employer, ~~unless the public employer desires that an election determine whether the organization represents a majority of the members in the bargaining unit.~~

1-A. Majority sign-up. ~~If a request by a judicial employee organization for recognition pursuant to subsection 1 is not granted by the public employer, the executive director or the executive director's designee shall examine the demonstration of support. If the executive director or the executive director's designee finds that a majority of the employees in a unit appropriate for bargaining have signed valid authorizations designating the employees' organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board may not direct an election but shall certify the employees' organization as the representative. However, if the majority status of the employees in the appropriate unit is in question, the executive director or the executive director's designee shall call an election 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 signed request of a public employer alleging that one or more judicial employees or judicial employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of judicial employees pursuant to subsection 1-A, or upon 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~~ The election may be conducted at suitable work locations or through the United States mail, provided that and the procedures adopted and employed by the board shall maintain the anonymity of the voter from both ~~must ensure that neither the employee organizations and nor the management representatives involved in the election have access to information that would identify a voter.~~

3. Voting.

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 judicial 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 ~~run-off~~ run-off election ~~shall~~ must be held. The ~~run-off~~ 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 or the executive director's designee~~ shall certify ~~it~~ the organization 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 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 be~~ of decertification are the same as for representation as a bargaining agent as ~~set forth~~ established in this ~~chapter~~ section.

C. ~~No~~ A question concerning representation may not be raised within one year of a certification or attempted certification. ~~Where~~ When 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 the bargaining agent, ~~provided~~ except that any judicial employee at any time may present his that judicial 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.