

§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. 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. The request for recognition may be granted by the public employer.

[PL 2023, c. 541, §1 (AMD).]

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.

[PL 2023, c. 541, §1 (NEW).]

2. Elections.

A. The executive director, or the executive director's designee, 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. The election may be conducted at suitable work locations or through the United States mail, and the procedures adopted and employed by the board must ensure that neither the employee organizations nor the management representatives involved in the election have access to information that would identify a voter. [PL 2023, c. 541, §1 (AMD).]

B. The ballot must contain the name of 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 the state 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 state employees voting, a run-off election must be held. The run-off ballot must contain the 2 choices 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 the organization as the bargaining agent. The bargaining agent certified as representing a bargaining unit must be recognized by the public employer as the exclusive bargaining agent for all of the employees in the bargaining unit until a decertification election by secret ballot is held and the bargaining agent declared by the executive director as not representing a majority of the unit. [PL 2023, c. 541, §1 (AMD).]

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 of decertification are the same as for representation as a bargaining agent as established in this subsection. [PL 2023, c. 541, §1 (AMD).]

D. A question concerning representation may not be raised within one year of a certification or attempted certification. When there is a valid collective bargaining agreement in effect, 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. [PL 2023, c. 541, §1 (AMD).]

E. The bargaining agent certified by the executive director or the executive director's designee as the exclusive bargaining agent shall represent all the state employees within the unit without regard to membership in the organization certified as the bargaining agent, except that any state employee at any time may present that state 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 the grievance. [PL 2023, c. 541, §1 (AMD).]

[PL 2023, c. 541, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 774 (NEW). PL 1975, c. 564, §38 (AMD). PL 1975, c. 612, §§2,3 (AMD). PL 1981, c. 277 (AMD). PL 2023, c. 541, §1 (AMD).

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