

**§979-D. Obligation to bargain**

**1. Negotiations.** On and after January 1, 1975, it shall be the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purpose of this chapter, their mutual obligation:

- A. To meet at reasonable times; [PL 1973, c. 774 (NEW).]
- B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, provided the parties have not otherwise agreed in a prior written contract; [PL 1973, c. 774 (NEW).]
- C. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but shall not exceed 3 years; [PL 1987, c. 33 (AMD).]
- D. To participate in good faith in the mediation, fact finding and arbitration procedures required by this section; and [PL 1985, c. 289 (AMD).]
- E. To confer and negotiate in good faith:
  - (1) 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 be compelled to agree to a proposal or be required to make a concession. All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining, except those matters which are prescribed or controlled by public law. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by public law include but are not limited to:
    - (a) Wage and salary schedules to the extent they are inconsistent with rates prevailing in commerce and industry for comparable work within the State;
    - (b) Work schedules relating to assigned hours and days of the week;
    - (c) Use of vacation or sick leave, or both;
    - (d) General working conditions;
    - (e) Overtime practices;
    - (f) Rules for personnel administration, except the following: Rules relating to applicants for employment in state or legislative service and state classified employees in an initial probationary status, including any extensions thereof, provided such rules are not discriminatory by reason of an applicant's race, color, creed, sex or national origin;
    - (g) Compensation system for state and legislative employees, which is defined as:
      - (i) Guide charts, if any, and job evaluation factors, including factor language and factor weights, used to evaluate jobs for pay purposes;
      - (ii) Job point to pay grade conversion tables;
      - (iii) The number of and spread between pay steps within pay grades;
      - (iv) The number of and spread between pay grades within the system; and
      - (v) Temporary payment of recruitment and retention stipends, provided the stipends are allowed under Civil Service Law;
    - (h) The nature of and procedures governing appeals of the allocation or reallocation of job classifications to pay grades resulting from any revisions to the compensation system; and
    - (i) Implementation of any revisions to the compensation system.

(2) Subparagraph (1), shall not be construed to be in derogation of or contravene the spirit and intent of the merit system principles and personnel laws.

(3) Cost items shall be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties. If the Legislature rejects any of the cost items submitted to it, all cost items submitted shall be returned to the parties for further bargaining. Cost items related to a collective bargaining agreement reached under this chapter and submitted to the Legislature for its approval under this subparagraph shall not be submitted in the same legislation that contains cost items for employees exempted from the definition of "state employee" under section 979-A, subsection 6, and employees of the legislative branch, except that cost items for those employees exempted under section 979-A, subsection 6, paragraphs E and F, need not be excluded.

(4) Collective bargaining over the subjects described in subparagraph (1), divisions (g), (h) and (i), is subject to the following.

(a) Subparagraph (1), division (g), shall not be construed to authorize any more than one system for evaluating jobs of state employees in bargaining units recognized under this chapter.

(b) Either the public employer or the bargaining agents may compel the other party to bargain collectively over the subjects described in subparagraph (1), divisions (g), (h) and (i), provided that bargaining over those subjects may not be compelled by either the public employer or the bargaining agents sooner than 10 years after the parties' last agreement to revise the compensation system made pursuant to a demand to bargain.

(c) During the periods of time described in division (b), when the subjects described in subparagraph (1), divisions (g), (h) and (i), are not mandatory subjects of bargaining, they shall be permissive subjects of bargaining.

(d) Bargaining over the subjects described in subparagraph (1), divisions (g), (h) and (i), shall be conducted separately and apart from bargaining with individual bargaining agents over all other negotiable subjects and shall be conducted within a committee composed of representatives of management and of the bargaining units recognized under this chapter.

(e) The labor representatives on the committee shall consist of equal numbers of representatives from each of the bargaining units recognized under this chapter. Each bargaining unit shall have one vote, regardless of the number of representatives, on any matter addressed by the committee. The labor position on any matter addressed by the committee shall be established by majority vote of the units recognized under this chapter. A majority vote of the units is necessary to initiate bargaining over the matters described in subparagraph (1), divisions (g), (h) and (i).

(f) Notwithstanding the time frame provided in subparagraph (3), cost items resulting from revisions to the compensation system may only be submitted to the Legislature for funding after all appeals from the allocation or reallocation of job classifications under the revised system have been finally decided. The cost items relating to an individual bargaining unit shall be submitted to the Legislature for funding as part of the next legislation submitted pursuant to subparagraph (3) to fund a collective bargaining agreement between the State and that bargaining unit.

(g) Bargaining over the subjects described in subparagraph (1), divisions (g), (h) and (i), shall be subject to the dispute resolution procedures of subsections 2, 3 and 4. For purposes of subsection 4, paragraph D, controversies over the subjects described in subparagraph (1), divisions (g), (h) and (i), shall be deemed "controversies over salaries."

(5) Nothing in this chapter may be construed to exclude from the scope of collective bargaining the subjects described in subparagraph (1), divisions (g), (h) and (i). [PL 1997, c. 741, §6 (AMD); PL 1997, c. 741, §12 (AFF).]  
[PL 1997, c. 741, §6 (AMD); PL 1997, c. 741, §12 (AFF).]

## **2. Mediation.**

A. It is the declared policy of the State to provide full and adequate facilities for the settlement of disputes between the employer and employees or their representatives and other disputes subject to settlement through mediation. [PL 1975, c. 564, §32 (AMD).]

B. Mediation procedures as provided by section 965, subsection 2, shall be followed whenever either party to a controversy requests such services prior to arbitration, or at any time on motion of the Maine Labor Relations Board or its executive director. [PL 1975, c. 564, §32 (AMD).]

C. The employer, union or employees involved in collective bargaining shall notify the Executive Director of the Maine Labor Relations Board, in writing, at least 30 days prior to the expiration of a contract, or 30 days prior to entering into negotiations for a first contract between the employer and the employees, or whenever a dispute arises between the parties threatening interruption of work, or under both conditions. [PL 1975, c. 564, §32 (AMD).]

D. Any information disclosed by either party to a dispute to the panel or any of its members in the performance of this subsection shall be privileged. [PL 1973, c. 774 (NEW).]  
[PL 1975, c. 564, §32 (AMD).]

## **3. Fact-finding.**

A. If the parties, either with or without the services of a mediator, are unable to effect a settlement of their controversy, they may jointly agree either to call upon the Maine Labor Relations Board for fact-finding services with recommendations or to pursue some other mutually acceptable fact-finding procedure, including use of the Federal Mediation and Conciliation Service or the American Arbitration Association according to their respective procedures, rules and regulations. [PL 1975, c. 564, §33 (AMD).]

B. If the parties do not jointly agree to call upon the Maine Labor Relations Board or to pursue some other procedure, either party to the controversy may request the executive director to assign a fact-finding panel. If so requested, the executive director shall appoint a fact-finding panel, ordinarily of 3 members, in accordance with rules and procedures prescribed by the board for making such appointments. [PL 1975, c. 564, §34 (AMD).]

C. The fact-finding proceedings shall be as provided by section 965, subsection 3. [PL 1973, c. 774 (NEW).]  
[PL 1975, c. 564, §§33, 34 (AMD).]

## **4. Arbitration.**

A. In addition to the 30-day period referred to in section 965, subsection 3, the parties shall have 15 more days, making a total of 45 days from the submission of findings and recommendations, in which to make a good faith effort to resolve their controversy. [PL 1973, c. 774 (NEW).]

B. If the parties have not resolved their controversy by the end of said 45-day period, either party may petition the board to initiate compulsory final and binding arbitration of the negotiations impasse. On receipt of the petition, the executive director of the board shall investigate to determine if an impasse has been reached. If he so determines, he shall issue an order requiring arbitration and requesting the parties to select one or more arbitrators. If the parties within 10 days after the issuance of the order have not selected an arbitrator or a Board of Arbitration, the board shall then order each party to select one arbitrator, and if these 2 arbitrators cannot in 5 days select a 3rd neutral arbitrator, the board shall submit a list from which the parties may alternately strike names

until a single name is left, who shall be appointed by the board as arbitrator. [PL 1973, c. 774 (NEW).]

C. In reaching a decision under this paragraph, the arbitrator shall consider the following factors:

- (1) The interests and welfare of the public and the financial ability of the State Government to finance the cost items proposed by each party to the impasse;
- (2) Comparison of the wages, hours and working conditions of the employees involved in the arbitration proceeding with the wages, hours and working conditions of other employees performing similar services in public and private employment in other jurisdictions competing in the same labor market;
- (3) The over-all compensation presently received by the employees including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received;
- (4) Such other factors not confined to the foregoing, which are normally and traditionally taken into consideration in the determination of wages, hours and working conditions through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment, including the average consumer price index;
- (5) The need of State Government and the Legislature for qualified employees;
- (6) Conditions of employment in similar occupations outside State Government or the legislative branch;
- (7) The need to maintain appropriate relationships between different occupations in State Government or in the legislative branch; and
- (8) The need to establish fair and reasonable conditions in relation to job qualifications and responsibilities. [PL 1997, c. 741, §7 (AMD); PL 1997, c. 741, §12 (AFF).]

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 final and binding on the parties. [PL 1973, c. 774 (NEW).]

E. The arbitrator shall have a period of 30 days from the termination of the hearing in which to submit his report to the parties and to the board, unless the aforesaid time limitation shall be extended by the executive director. [PL 1973, c. 774 (NEW).]

[PL 1997, c. 741, §7 (AMD); PL 1997, c. 741, §12 (AFF).]

**5. Costs.** The costs for the services of the mediator, the members of the fact-finding board and of the neutral arbitrator or arbitrators including, if any, per diem expenses, and actual and necessary travel and subsistence expenses and the costs of hiring the premises where any mediation, fact-finding or arbitration proceedings are conducted, must be shared equally by the parties to the proceedings. All other costs must be assumed by the party incurring them.

[PL 1991, c. 622, Pt. O, §9 (AMD).]

#### SECTION HISTORY

PL 1973, c. 774 (NEW). PL 1975, c. 564, §§32-34 (AMD). PL 1979, c. 501, §3 (AMD). PL 1985, c. 289 (AMD). PL 1985, c. 785, §B117 (AMD). PL 1987, c. 33 (AMD). PL 1989, c. 596, §N4 (AMD). PL 1991, c. 622, §O9 (AMD). PL 1997, c. 741, §§6,7 (AMD). PL 1997, c. 741, §12 (AFF).

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