An Act To Expand the Rights of Public Sector Employees

Received by the Clerk of the House on February 22, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Presented by Representative SYLVESTER of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §964, sub-§2, as enacted by PL 1969, c. 424, §1, is amended to read:

2. Public employee prohibitions. Public employees, public employee organizations, their agents, members and bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963 or a public employer in the selection of his representative for purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively with a public employer as required by section 965; or

C. Engaging in:

   (1) A work stoppage;

   (2) A slowdown;

   (3) A strike; or

   (4) The blacklisting of any public employer for the purpose of preventing it from filling employee vacancies.

Sec. 2. 26 MRSA §964-B is enacted to read:

§964-B. Authorized strikes

1. Authorization to engage in a strike. A public employee, except for an employee whose duties include protecting public safety; a public employee organization; an agent of a public employee or public employee organization; a member of a public employee organization; or a bargaining agent of a public employee or public employee organization may engage in a strike and a public employee organization may authorize a strike of the members of the organization pursuant to the following procedures:

A. The membership of a public employee organization or unit of a public employee organization that is affected by the issue for which the strike is called must conduct a vote of a majority of members;

B. Upon an affirmative vote in paragraph A, the public employee organization or unit of the public employee organization shall deliver to the public employer of the employees voting to strike in paragraph A or the employer's agent a notice of the intent to strike and state the date upon which the strike will begin and the date upon which the strike will end; and

C. The public employee organization or unit of the public employee organization sending notice of a strike or the public employer receiving notice of a strike under paragraph B may call for emergency bargaining within 3 days prior to the date upon which the strike is intended to start.

For the purposes of this subsection, "employee whose duties include protecting public safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection 5; a municipal firefighter as defined in Title 30-A, section 3151, subsection 2; an
emergency dispatcher; emergency medical, response or rescue personnel; and a corrections officer as defined in Title 25, section 2801-A, subsection 2 who provides direct care to inmates and detainees committed to the care of a sheriff in a jail as defined in Title 17-A, section 2, subsection 15-A.

2. Prohibited employer conduct. A public employer may not permanently replace a public employee who engages in a strike in accordance with subsection 1 because that employee engaged in a strike.

Nothing in this section prohibits a public employer, during a strike authorized in accordance with subsection 1, from requiring that the minimum necessary number of public employees report to work in order to ensure that the public health, safety and welfare are protected during any event or occasional combination of circumstances that calls for immediate action or remedy. A public employee required to work during a strike may file a grievance.

Sec. 3. 26 MRSA §979-C, sub-§2, as amended by PL 1997, c. 741, §5 and affected by §12, is further amended to read:

2. State employee and legislative employee prohibitions. State employees and legislative employees, employee organizations, their agents, members and bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 979-B or the public employer in the selection of its employer's representative for purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively with the public employer as required by section 979-D; or

C. Engaging in:

(1) A work stoppage;

(2) A slowdown;

(3) A strike; or

(4) The blacklisting of the public employer for the purpose of preventing it from filling employee vacancies.

Sec. 4. 26 MRSA §979-V is enacted to read:

§979-V. Authorized strikes

1. Authorization to engage in a strike. A state employee or legislative employee, except for an employee whose duties include protecting public safety; a state employee or legislative employee organization; an agent of a state employee or legislative employee or state employee or legislative employee organization; a member of a state employee or legislative employee organization; or a bargaining agent of a state employee or legislative employee or state employee or legislative employee organization may engage in a strike and a state employee or legislative employee organization may authorize a strike of the members of the organization pursuant to the following procedures:
A. The membership of a state employee or legislative employee organization or unit of a state employee or legislative employee organization that is affected by the issue for which the strike is called must conduct a vote of a majority of members;

B. Upon an affirmative vote in paragraph A, the state employee or legislative employee organization or unit of the state employee or legislative employee organization shall deliver to the state employer or legislative employer of the employees voting to strike in paragraph A or the employer's agent a notice of the intent to strike and state the date upon which the strike will begin and the date upon which the strike will end; and

C. The state employee or legislative employee organization or unit of the state employee or legislative employee organization sending notice of a strike or the state employer or legislative employer receiving notice of a strike under paragraph B may call for emergency bargaining within 3 days prior to the date upon which the strike is intended to start.

For the purposes of this subsection, "employee whose duties include protecting public safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection 5; a firefighter; a military firefighter; an emergency dispatcher; emergency medical, response or rescue personnel; a corrections officer as defined in Title 25, section 2801-A, subsection 2 who provides direct care to prisoners, detainees and juveniles committed to the care of the Commissioner of Corrections; and an employee of the Department of Health and Human Services who provides direct care to persons committed to the custody of the Commissioner of Health and Human Services at a state mental health institute as defined in Title 34-B, section 3801, subsection 9 and to persons voluntarily receiving services at a state mental health institute.

2. Prohibited employer conduct. A state employer or legislative employer may not permanently replace a state employee or legislative employee who engages in a strike in accordance with subsection 1 because that employee engaged in a strike.

Nothing in this section prohibits a state employer or legislative employer, during a strike authorized in accordance with subsection 1, from requiring that the minimum necessary number of state employees or legislative employees report to work in order to ensure that the public health, safety and welfare are protected during any event or occasional combination of circumstances that calls for immediate action or remedy. A state employee or legislative employee required to work during a strike may file a grievance.

Sec. 5. 26 MRSA §1027, sub-§2, as amended by PL 1989, c. 443, §72 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

2. University, academy, community colleges; prohibitions. University Except as provided under section 1027-A, university employees, university employee organizations, their agents, members and bargaining agents; academy employees, academy employee organizations, their agents, members and bargaining agents; and community college employees, community college employee organizations, their agents, members and bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 1023 or the university, academy and community colleges in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances;
B. Refusing to bargain collectively with the university, academy and community colleges as required by section 1026; and or

C. Engaging in:
   (1) A work stoppage, slowdown or strike; and
   (2) The blacklisting of the university, academy or community colleges for the purpose of preventing them from filling employee vacancies.

Sec. 6. 26 MRSA §1027-A is enacted to read:

§1027-A. Authorized strikes

1. Authorization to engage in a strike. A university, academy or community college employee, except for an employee whose duties include protecting public safety; a university, academy or community college employee organization; an agent of a university, academy or community college employee organization; a member of a university, academy or community college employee organization; or a bargaining agent of a university, academy or community college employee organization may engage in a strike and a university, academy or community college employee organization may authorize a strike of the members of the organization pursuant to the following procedures:

   A. The membership of a university, academy or community college employee organization or unit of a university, academy or community college employee organization that is affected by the issue for which the strike is called must conduct a vote of a majority of members;

   B. Upon an affirmative vote in paragraph A, the university, academy or community college employee organization or unit of the university, academy or community college employee organization shall deliver to the university, academy or community college employer of the employees voting to strike in paragraph A or the employer's agent a notice of the intent to strike and state the date upon which the strike will begin and the date upon which the strike will end; and

   C. The university, academy or community college employee organization or unit of the university, academy or community college employee organization sending notice of a strike or the university, academy or community college employee receiving notice of a strike under paragraph B may call for emergency bargaining within 3 days prior to the date upon which the strike is intended to start.

For the purposes of this subsection, "employee whose duties include protecting public safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection 5.

2. Prohibited employer conduct. A university, academy or community college employer may not permanently replace a university, academy or community college employee who engages in a strike in accordance with subsection 1 because that employee engaged in a strike.

Nothing in this section prohibits a university, academy or community college employer, during a strike authorized in accordance with subsection 1, from requiring that the minimum necessary number of university, academy or community college employees report to work in order to ensure that the public health, safety and welfare are protected.
during any event or occasional combination of circumstances that calls for immediate
action or remedy. A university, academy or community college employee required to work
during a strike may file a grievance.

Sec. 7. 26 MRSA §1284, sub-§2, as enacted by PL 1983, c. 702, is amended to read:

2. Judicial employee prohibitions. Judicial Except as provided under section
1284-B, judicial employees, judicial employee organizations, their agents, members and
bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights
guaranteed in section 1283 or the public employer in the selection of its representative
for purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively with the public employer, as required by section
1285; or

C. Engaging in:

(1) A work stoppage;

(2) A slowdown;

(3) A strike; or

(4) The blacklisting of the public employer for the purpose of preventing it the
public employer from filling employee vacancies.

Sec. 8. 26 MRSA §1284-B is enacted to read:

§1284-B. Authorized strikes

1. Authorization to engage in a strike. A judicial employee, except for an employee
whose duties include protecting public safety or an employee whose duties ensure an
individual's procedural due process rights are not denied; a judicial employee organization;
an agent of a judicial employee or judicial employee organization; a member of a judicial
employee organization; or a bargaining agent of a judicial employee or judicial employee
organization may engage in a strike and a judicial employee organization may authorize a
strike of the members of the organization pursuant to the following procedures:

A. The membership of a judicial employee organization or unit of a judicial employee
organization that is affected by the issue for which the strike is called must conduct a
vote of a majority of members;

B. Upon an affirmative vote in paragraph A, the judicial employee organization or unit
of the judicial employee organization shall deliver to the public employer of the
employees voting to strike in paragraph A or the employer's agent a notice of the intent
to strike and state the date upon which the strike will begin and the date upon which
the strike will end; and

C. The judicial employee organization or unit of the judicial employee organization
sending notice of a strike or the public employer receiving notice of a strike under
paragraph B may call for emergency bargaining within 3 days prior to the date upon
which the strike is intended to start.
For the purposes of this subsection, "employee whose duties include protecting public safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection 5.

For the purposes of this subsection, "employee whose duties ensure an individual's procedural due process rights are not denied" includes a judicial employee who carries out the basic functions that are necessary for a court to operate to allow an individual access to the justice system.

2. Prohibited employer conduct. A public employer may not permanently replace a judicial employee who engages in a strike in accordance with subsection 1 because that employee engaged in a strike.

Nothing in this section prohibits a public employer, during a strike authorized in accordance with subsection 1, from requiring that the minimum necessary number of judicial employees report to work in order to ensure that the public health, safety and welfare are protected during any event or occasional combination of circumstances that calls for immediate action or remedy. A judicial employee required to work during a strike may file a grievance.

SUMMARY

This bill allows public employees, including municipal and county employees, state employees and legislative employees, university, academy and community college employees and judicial employees, but not including employees whose duties include protecting public safety or judicial employees whose duties ensure an individual's procedural due process rights are not denied, to strike. The bill requires that notice be given to the public employer stating the dates upon which the strike will begin and end. The bill provides that the employee organization or public employer may call for emergency bargaining within 3 days prior to the intended start of the strike. The bill prohibits a public employer from permanently replacing an employee because that employee engaged in a strike.