



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

---

Legislative Document

No. 555

---

H.P. 400

House of Representatives, February 24, 2021

### **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.

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

4 **2. Public employee prohibitions.** Public Except as provided under section 964-B,  
5 public employees, public employee organizations, their agents, members and bargaining  
6 agents are prohibited from:

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

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

13 C. Engaging in:

14 (1) A work stoppage;

15 (2) A slowdown;

16 (3) A strike; or

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

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

20 **§964-B. Authorized strikes**

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

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

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

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

39 For the purposes of this subsection, "employee whose duties include protecting public  
40 safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection  
41 5; a municipal firefighter as defined in Title 30-A, section 3151, subsection 2; an

1 emergency dispatcher; emergency medical, response or rescue personnel; and a corrections  
2 officer as defined in Title 25, section 2801-A, subsection 2 who provides direct care to  
3 inmates and detainees committed to the care of a sheriff in a jail as defined in Title 17-A,  
4 section 2, subsection 15-A.

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

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

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

16 **2. State employee and legislative employee prohibitions.** State Except as provided  
17 under section 979-V, state employees and legislative employees, employee organizations,  
18 their agents, members and bargaining agents are prohibited from:

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

23 B. Refusing to bargain collectively with the public employer as required by section  
24 979-D; or

25 C. Engaging in:

26 (1) A work stoppage;

27 (2) A slowdown;

28 (3) A strike; or

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

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

32 **§979-V. Authorized strikes**

33 **1. Authorization to engage in a strike.** A state employee or legislative employee,  
34 except for an employee whose duties include protecting public safety; a state employee or  
35 legislative employee organization; an agent of a state employee or legislative employee or  
36 state employee or legislative employee organization; a member of a state employee or  
37 legislative employee organization; or a bargaining agent of a state employee or legislative  
38 employee or state employee or legislative employee organization may engage in a strike  
39 and a state employee or legislative employee organization may authorize a strike of the  
40 members of the organization pursuant to the following procedures:

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

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

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

14           For the purposes of this subsection, "employee whose duties include protecting public  
15           safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection  
16           5; a firefighter; a military firefighter; an emergency dispatcher; emergency medical,  
17           response or rescue personnel; a corrections officer as defined in Title 25, section 2801-A,  
18           subsection 2 who provides direct care to prisoners, detainees and juveniles committed to  
19           the care of the Commissioner of Corrections; and an employee of the Department of Health  
20           and Human Services who provides direct care to persons committed to the custody of the  
21           Commissioner of Health and Human Services at a state mental health institute as defined  
22           in Title 34-B, section 3801, subsection 9 and to persons voluntarily receiving services at a  
23           state mental health institute.

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

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

33           **Sec. 5. 26 MRSA §1027, sub-§2,** as amended by PL 1989, c. 443, §72 and PL  
34           2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

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

41           A. Interfering with, restraining or coercing employees in the exercise of the rights  
42           guaranteed in section 1023 or the university, academy and community colleges in the  
43           selection of their representatives for the purposes of collective bargaining or the  
44           adjustment of grievances;

1 B. Refusing to bargain collectively with the university, academy and community  
2 colleges as required by section 1026; ~~and~~ or

3 C. Engaging in:

4 (1) A work stoppage, slowdown or strike; and

5 (2) The blacklisting of the university, academy or community colleges for the  
6 purpose of preventing them from filling employee vacancies.

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

8 **§1027-A. Authorized strikes**

9 **1. Authorization to engage in a strike.** A university, academy or community college  
10 employee, except for an employee whose duties include protecting public safety; a  
11 university, academy or community college employee organization; an agent of a university,  
12 academy or community college employee or a university, academy or community college  
13 employee organization; a member of a university, academy or community college  
14 employee organization; or a bargaining agent of a university, academy or community  
15 college employee or university, academy or community college employee organization  
16 may engage in a strike and a university, academy or community college employee  
17 organization may authorize a strike of the members of the organization pursuant to the  
18 following procedures:

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

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

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

34 For the purposes of this subsection, "employee whose duties include protecting public  
35 safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection  
36 5.

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

41 Nothing in this section prohibits a university, academy or community college  
42 employer, during a strike authorized in accordance with subsection 1, from requiring that  
43 the minimum necessary number of university, academy or community college employees  
44 report to work in order to ensure that the public health, safety and welfare are protected

1 during any event or occasional combination of circumstances that calls for immediate  
2 action or remedy. A university, academy or community college employee required to work  
3 during a strike may file a grievance.

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

6 **2. Judicial employee prohibitions.** ~~Judicial~~ Except as provided under section  
7 1284-B, judicial employees, judicial employee organizations, their agents, members and  
8 bargaining agents are prohibited from:

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

12 B. Refusing to bargain collectively with the public employer, as required by section  
13 1285; or

14 C. Engaging in:

15 (1) A work stoppage;

16 (2) A slowdown;

17 (3) A strike; or

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

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

21 **§1284-B. Authorized strikes**

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

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

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

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

1 For the purposes of this subsection, "employee whose duties include protecting public  
2 safety" includes a law enforcement officer as defined in Title 25, section 1611, subsection  
3 5.

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

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

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

17 **SUMMARY**

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