§968. Maine Labor Relations Board; powers and duties

1. Maine Labor Relations Board. The Maine Labor Relations Board, established by Title 5, section 12004-B, subsection 2, consists of 3 members and 6 alternates appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over labor matters and to confirmation by the Legislature. The Governor, in making appointments, shall name one member and 2 alternates to represent employees, one member and 2 alternates to represent employers and one member and 2 alternates to represent the public. The member and alternates representing employees may not have worked in a management capacity or represented employer interests in any proceedings at any time during the prior 6 years. The member and alternates representing the public may not have worked in a management capacity or represented employer interests in any proceedings or have worked for a labor organization or served in a leadership role in a labor organization at any time during the prior 6 years. The member representing the public serves as the board's chair and the alternate representing the public serves as an alternate chair. Members of the board are entitled to compensation according to the provisions of Title 5, chapter 379. The alternates are entitled to compensation at the same per diem rate as the member that the alternate replaces. The term of each member and each alternate is 4 years, except that of the members and alternates first appointed, one member and 2 alternates are appointed for a term of 4 years, one member and 2 alternates are appointed for a term of 3 years and one member and 2 alternates are appointed for a term of 2 years. The members of the board, its alternates and its employees are entitled to receive necessary expenses. Per diem and necessary expenses for members and alternates of the board may be paid from the board's General Fund appropriation if, in the discretion of the executive director, doing so would not create a financial hardship for the board; otherwise, per diem and necessary expenses for members and alternates of the board, as well as state cost allocation program charges, must be shared equally by the parties to any proceeding at which the board presides and must be paid into a special fund administered by the board from which all costs must be paid. The executive director may estimate costs upon receipt of a request for services and collect those costs prior to providing the services. The executive director shall bill or reimburse the parties, as appropriate, for any difference between the estimated costs that were collected and the actual costs of providing the services. Once one party has paid its share of the estimated cost of providing the service, the matter is scheduled for hearing. A party who has not paid an invoice for the estimated or actual cost of providing services within 60 days of the date the invoice was issued is, in the absence of good cause shown, liable for the amount of the invoice together with a penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected pursuant to this subsection remains in the special fund administered by the Maine Labor Relations Board, and that fund does not lapse. The executive director is authorized to collect any sums due and payable pursuant to this subsection through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action. At its discretion, the board may allocate all costs to a party that presents a frivolous complaint or defense or that commits a blatant violation of the applicable collective bargaining law. When the board meets on administrative or other matters that do not concern the interests of particular parties or when any board member presides at a prehearing conference, the members' per diem and necessary expenses must be paid from the board's regular appropriation for these purposes. The executive director and legal or professional personnel employed by the board are members of the unclassified service.

[PL 2021, c. 421, §2 (AMD).]

2. Executive director. The Executive Director of the Maine Labor Relations Board must be appointed by the board to serve at the board's will and pleasure. The person appointed must be experienced in the field of labor relations. The executive director shall perform the duties designated by statute and such other duties as may from time to time be assigned to the executive director by the board. The executive director shall serve as secretary of the board and shall maintain a record of all proceedings before the board. A board member may not serve as executive director.

The salary of the executive director must be established by the board within salary range 86 and may be adjusted periodically by the board within the limits for salary review procedures established in Title 2, section 6.
[PL 2025, c. 390, Pt. A, §46 (AMD).]

3. Rule-making power. The board may, after a public hearing, from time to time, adopt such rules of procedure as it deems necessary for the orderly conduct of its business and for carrying out the purposes of this chapter. Such rules shall be published and made available to all interested parties. The board shall also, upon its own initiative or upon request, issue interpretative rules interpreting the provisions of this chapter. Such interpretative rules shall be advisory only and shall not be binding upon any court. Such interpretative rules must be in writing and available to any person interested therein.
[PL 1975, c. 564, §24 (AMD).]

4. Review of representative proceedings. Any party aggrieved by any ruling or determination of the executive director, or the executive director's designee, under sections 966 and 967 may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of objections to the conduct of an election or challenged ballots the time period is 5 working days, to the Maine Labor Relations Board.

Upon receipt of such an appeal, the board shall within a reasonable time hold a hearing having first caused 7 days notice in writing of the time and place of the hearing to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. These hearings must be conducted in the manner provided in subsection 5, paragraph B. Within a reasonable time after the conclusion of any hearing the board shall make a written decision that must include findings of fact and either affirm or modify the ruling or determination of the executive director and specify the reasons for that action. A copy of that decision must be mailed to the labor organization or bargaining agent or its attorney or other designated representative and the public employer. Decisions of the board made pursuant to this subsection are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 972, provided the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested.
[PL 1993, c. 90, §1 (AMD).]

5. Prevention of prohibited acts.

A. The board is empowered, as provided, to prevent any person, any public employer, any public employee, any public employee organization or any bargaining agent from engaging in any of the prohibited acts enumerated in section 964. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law or otherwise. [PL 1971, c. 609, §9 (NEW).]

B. A public employer, public employee, public employee organization or bargaining agent that believes that any person, any public employer, any public employee, any public employee organization or any bargaining agent has engaged in or is engaging in such a prohibited practice may file a complaint with the executive director of the board stating the charges in that regard. A complaint may not be filed with the executive director until the complaining party has served a copy of the complaint upon the party complained of. Upon receipt of the complaint, the executive director or the executive director's designee shall review the charge to determine whether the facts as alleged constitute a prohibited act. If it is determined that the facts do not, as a matter of law, constitute a violation, the charge must be dismissed by the executive director, subject to review by the board. If a formal hearing is determined necessary by the executive director or by the board, the executive director shall serve upon the parties to the complaint a notice of the prehearing conference and of the hearing before the board, and that notice must designate the time and place

of hearing for the prehearing conference or the hearing, as appropriate, except that a hearing may not be held based upon any alleged prohibited practice occurring more than 6 months prior to the filing of the complaint with the executive director. The party complained of has the right to file a written answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed for the hearing. In the discretion of the board, any other person or organization may be allowed to intervene in the proceeding and to present testimony. This paragraph does not restrict the right of the board to require the executive director or the executive director's designee to hold a prehearing conference on any prohibited practice complaint prior to the hearing before the board and to take whatever action, including dismissal, attempting to resolve disagreements between the parties or recommending an order to the board, as the executive director determines appropriate, subject to review by the board. [RR 2023, c. 2, Pt. E, §57 (COR).]

C. After hearing and argument, if, upon a preponderance of the evidence received, the board is of the opinion that any party named in the complaint has engaged in or is engaging in such a prohibited practice, the board shall in writing state its findings of fact and the reasons for its conclusions and shall issue and cause to be served upon the party an order requiring the party to cease and desist from the prohibited practice and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter. An order of the board may not require the reinstatement of an individual as an employee who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.

After hearing and argument, if, upon a preponderance of the evidence received, the board is not of the opinion that the party named in the complaint has engaged in or is engaging in such a prohibited practice, the board shall in writing state its findings of fact and the reasons for its conclusions and shall issue an order dismissing the complaint. [RR 2023, c. 2, Pt. E, §58 (COR).]

D. If after the issuance of an order by the board requiring any party to cease and desist or to take any other affirmative action, said party fails to comply with the order of the board then the party in whose favor the order operates or the board may file a civil action in the Superior Court of Kennebec County, or the county in which the prohibited practice has occurred, to compel compliance with the order of the board. Upon application of any party in interest or the board, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it deems just and proper; provided that the board's decision shall not be stayed except where it is clearly shown to the satisfaction of the court that substantial and irreparable injury shall be sustained or that there is a substantial risk of danger to the public health or safety. In such action to compel compliance the Superior Court shall not review the action of the board other than to determine whether the board has acted in excess of its jurisdiction. If an action to review the decision of the board is pending at the time of the commencement of an action for enforcement pursuant to this subsection or is thereafter filed, the 2 actions shall be consolidated. [PL 1977, c. 479, §6 (AMD).]

E. Whenever a complaint is filed with the executive director of the board, alleging that a public employer has violated section 964, subsection 1, paragraph F or alleging that a public employee or public employee organization or bargaining agent has violated section 964, subsection 2, paragraph C the party making the complaint may simultaneously seek injunctive relief from the Superior Court in the county in which the prohibited practice is alleged to have occurred pending the final adjudication of the board with respect to such matter. [PL 1971, c. 609, §9 (NEW).]

F. Either party may seek a review by the Superior Court of Kennebec County or of the county in which the prohibited practice is alleged to have occurred of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return

receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the findings of the board on questions of fact are final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6. [PL 2011, c. 559, Pt. A, §26 (AMD).]

G. In any judicial proceeding authorized by this subsection in which injunctive relief is sought, sections 5 and 6 shall apply, except that neither an allegation nor proof of unavoidable substantial and irreparable injury to the complainant's property shall be required to obtain a temporary restraining order or injunction. [PL 1973, c. 788, §120-A (AMD).]

[RR 2023, c. 2, Pt. E, §§57, 58 (COR).]

6. Hearings. The hearings conducted by the board pursuant to this section shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other evidence deemed relevant by the board may be received.

The chair has the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the presentation of books, records and other evidence relative or pertinent to the issues presented to the board for determination. Witnesses subpoenaed by the board must be allowed the same fees as are paid to witnesses in the Superior Court. These fees, together with all necessary expenses of the board, must be paid by the Treasurer of State on warrants drawn by the State Controller.

[RR 2023, c. 2, Pt. E, §59 (COR).]

7. Reports. The board shall annually, on or before the first day of July, make a report to the Governor. The appropriation for the board and the executive director shall be included in the bureau's budget and authorization for expenditures shall be the responsibility of the director.

The board shall have the authority to recommend to the Legislature changes or additions to this chapter or to related enactments of law.

[PL 1977, c. 78, §164 (AMD).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1969, c. 578, §§5-A,6,6-A (AMD). PL 1971, c. 609, §9 (RPR). PL 1971, c. 620, §13 (AMD). PL 1973, c. 458, §10 (AMD). PL 1973, c. 533, §§1,2 (AMD). PL 1973, c. 610, §1 (AMD). PL 1973, c. 788, §§120,120-A (AMD). PL 1975, c. 564, §§22-28 (AMD). PL 1975, c. 697, §§3-7 (AMD). PL 1975, c. 771, §§281-283 (AMD). PL 1975, c. 776, §2 (AMD). PL 1977, c. 78, §164 (AMD). PL 1977, c. 479, §§6,7 (AMD). PL 1977, c. 553, §§2,3 (AMD). PL 1977, c. 674, §24 (AMD). PL 1979, c. 501, §2 (AMD). PL 1979, c. 663, §160 (AMD). PL 1983, c. 812, §162 (AMD). PL 1989, c. 503, §B109 (AMD). PL 1991, c. 143, §§1,2 (AMD). PL 1991, c. 622, §O8 (AMD). PL 1991, c. 798, §6 (AMD). PL 1993, c. 90, §§1,2 (AMD). PL 2011, c. 559, Pt. A, §26 (AMD). PL 2019, c. 184, §1 (AMD). PL 2021, c. 421, §2 (AMD). RR 2023, c. 2, Pt. E, §§56-59 (COR). PL 2025, c. 390, Pt. A, §46 (AMD).

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