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No. 1555

H.P. 1071

House of Representatives, May 2, 2017

An Act To Facilitate a Statewide Teacher Contract

Submitted by the Department of Education pursuant to Joint Rule 204.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TIMBERLAKE of Turner.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §962, sub-§5-A** is enacted to read:

3 **5-A. Public education employee.** "Public education employee" means:

4 A. Any employee of a public school who fills any position that the Department of
5 Education requires be filled by a person who holds the appropriate certification or
6 license required for that position and:

7 (1) Holds appropriate certification from the Department of Education, including
8 an employee whose duties include, in addition to those for which certification is
9 required, either the setup, maintenance or upgrading of a school computer system
10 the use of which is to assist in introducing new learning to students or providing
11 school faculty orientation and training related to use of the school computer
12 system for educational purposes; or

13 (2) Holds an appropriate license issued to a professional employee by a licensing
14 agency of the State; and

15 B. Any employee of a public school who fills any position not included in paragraph
16 A, the principal function of which is to introduce new learning to students, except
17 that a coach who is employed by a public school and who is not otherwise covered by
18 the definition of "public education employee" or an employee who is employed in
19 adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not
20 otherwise covered by the definition of "public education employee" may not be
21 considered a public education employee for purposes of section 965.

22 "Public education employee" does not include any employee of a public school who fills
23 a position that is required to be filled by a person holding a certificate pursuant to Title
24 20-A, section 13019-A, 13019-B or 13019-C.

25 **Sec. 2. 26 MRSA §962, sub-§§8 and 9** are enacted to read:

26 **8. Public school.** "Public school" means:

27 A. Any public school conducted within the State under the authority and supervision
28 of a duly elected board of education, superintending school committee or school
29 directors; and

30 B. Public charter schools, as authorized by Title 20-A, chapter 112.

31 **9. State.** "State" means the State of Maine represented by the Governor or the
32 Governor's authorized representative.

33 **Sec. 3. 26 MRSA §965, sub-§1, ¶C**, as amended by PL 2009, c. 107, §5, is
34 further amended to read:

35 C. To confer and negotiate in good faith with respect to wages, hours, working
36 conditions and contract grievance arbitration, except that by such obligation neither
37 party may be compelled to agree to a proposal or be required to make a concession
38 and except that public employers of teachers shall meet and consult but not negotiate

1 with respect to educational policies; for the purpose of this paragraph, educational
2 policies may not include wages, hours, working conditions or contract grievance
3 arbitration. This paragraph does not apply to the negotiation of salary and benefits
4 for public education employees;

5 **Sec. 4. 26 MRSA §965, sub-§1-A** is enacted to read:

6 **1-A. Public education employees negotiation.** This subsection governs the
7 negotiation of salary and benefits for public education employees.

8 A. Notwithstanding any other provision of this section, solely for negotiation of
9 salary and benefits for public education employees, the State is considered the public
10 employer subject to all limitations and responsibilities provided in this chapter. It is
11 the obligation of the State and the bargaining agent representing public education
12 employees across the State to bargain collectively for salary and benefits for public
13 education employees in accordance with this subsection. For the purposes of this
14 subsection, "collective bargaining" means the mutual obligation of the State and the
15 bargaining agent representing public education employees:

16 (1) To meet at reasonable times;

17 (2) To meet within 10 days after receipt of written notice from the other party
18 requesting a meeting for collective bargaining purposes, as long as the parties
19 have not otherwise agreed in a prior written contract;

20 (3) To execute in writing any agreements arrived at. The term of any such
21 agreement is subject to negotiation but may not exceed 3 years;

22 (4) To participate in good faith in the mediation, fact-finding and arbitration
23 procedures required by this section; and

24 (5) To confer and negotiate in good faith with respect to salary and benefits.

25 B. Any cost item related to this subsection is the financial responsibility of the State.
26 The cost item must be based upon student-staff ratios established by rule adopted by
27 the Department of Education. Rules adopted pursuant to this paragraph are major
28 substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

29 A cost item related to this subsection must be submitted for inclusion in the
30 Governor's next operating budget within 10 days after the date on which the
31 agreement is ratified by the parties. If the Legislature rejects any of the cost items
32 related to this subsection submitted to the Legislature, all cost items related to this
33 subsection must be returned to the parties for further bargaining.

34 For purposes of this paragraph, "cost item" means any benefit acquired through
35 collective bargaining the implementation of which requires an appropriation by the
36 Legislature.

37 C. Any organization representing public education employees may file a request with
38 the State alleging that a majority of the public education employees across the State
39 wish to be represented for the collective bargaining purposes of this subsection
40 between the State and the organization. Such a request must describe the grouping of
41 jobs or positions that constitute the unit claimed to be appropriate and must include a

1 demonstration of majority support. The State shall grant such a request for
2 recognition unless the State desires an election, pursuant to section 967, subsection 2,
3 to determine whether the organization represents a majority of the members in the
4 bargaining unit.

5 D. Aside from the negotiation of salary and benefits under this subsection, a public
6 education employee remains an employee of the public employer.

7 E. All other matters appropriate to collective bargaining must be negotiated pursuant
8 to subsection 1 by the public employer and the bargaining agent determined under
9 section 966.

10 This subsection does not prohibit the negotiation of salary and benefits in addition to
11 what is negotiated between the State and the bargaining agent under this subsection.

12 **Sec. 5. Funding plan.** The Commissioner of Education shall develop a plan for
13 funding the implementation of this Act, including how the funding will be incorporated in
14 a new school funding formula for the 2019-2020 school year.

15 SUMMARY

16 This bill allows a public employer of teachers to designate the State as its
17 representative in collective bargaining negotiations for the purpose of encouraging
18 consistent teacher contracts statewide.