

STATE BOARD OF ARBITRATION AND CONCILIATION

ANNUAL REPORT

FISCAL YEAR 2014

This report is made pursuant to 26 M.R.S.A. § 931 (2007 and Supp. 2013).

There were no changes in the complement of the Board this year. The primary members of the Board are Chair Shari B. Broder, an attorney from Freeport whose practice is concentrated in the area of alternative dispute resolution; Employee Representative Robert F. Bourgault, a Labor Consultant from Biddeford; and Employer Representative Harry R. Courtois of Biddeford, Labor Relations Officer (retired) for the City of Bangor and a former Chief of Police in Biddeford. The alternate members are Alternate Chair Sheila Mayberry, Esq., of Cape Elizabeth, who practices as a private arbitrator, and Rebekah J. Smith, Esq., of Union, who practices as a neutral decision maker; Alternate Employee Representatives Chester G. ("Chuck") Hillier of Monmouth, Assistant Negotiator (retired) with the Maine State Employees Association, and Shawn C. Keenan, Esq., of Bath, General Counsel of the Maine Education Association; and Alternate Employer Representatives Donald H. Gerrish, of Brunswick, who retired after almost 20 years of service as Town Manager in Brunswick and served as Interim Town Manager in Auburn and Wiscasset; and Robert W. Bower, Jr., Esq., of Cumberland, an attorney with the firm of Norman, Hanson and DeTroy, who represents management.

The competence of the Board's membership remains high, consisting of able neutrals and partisan members known throughout the Maine labor relations community. Roger Putnam of the Maine Labor Relations Board (MLRB) staff coordinated the Board's activities and served as the primary liaison with the client community. MLRB Executive Director Marc P. Ayotte served as the Board's general administrator and legal advisor.

Activities of the Board. The 12 total cases filed this year compares with 18 total filings in the previous fiscal year. During the last twenty years, the year with the greatest

number of filings (57) was FY 1994, and the fewest cases (11) were filed in FY 2008. During that period an average of 23 cases were filed each year.

Grievance arbitration is almost universally accepted as a means for resolving disputes arising under a bargaining agreement. Despite the best of good faith and honesty of purpose, reasonable people can and often do disagree about the meaning and application of the terms of the collective bargaining agreements they have negotiated. A grievance procedure is the usual mechanism for resolving such disputes. Typically, the objecting party lodges its complaint at the lowest level possible in the employer's organizational structure. If the grievance is denied or the solution offered is unacceptable, the process becomes more formal and it works its way up the management chain of command to the highest level. If the grievance remains unresolved, the negotiated grievance procedure usually provides that the dispute will be resolved in final and binding arbitration by a neutral selected by the parties, often this Board.

In the past several years, the bulk of the Board's case load has involved hearing and resolving grievance disputes. Of the 12 requests for services received this year, 10 involved grievance arbitration matters. Two requests for interest arbitration were also filed. Of the 25 cases filed or carried over into this year, 10 decisions were issued, 5 cases were withdrawn by the parties prior to hearing, and 6 cases are pending. Three cases were settled on the day of hearing without Board participation. The grievance arbitration cases filed this year were as follows:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Issue</u>
IAMAW DL 4 Local S-89	City of Bath	Position Elimination/ Reassignment/Rate of Pay
National Correctional Employees Union	Cumberland Cty.	Discipline

Sanford Regional Comm. Assn. (MAP)	City of Sanford	Termination
Teamsters Local 340	Cumberland Cty.	Banking of Holidays
Teamsters Local 340	Town of Dixfield	Discrimination
Teamsters Local 340	Town of Dixfield	Subcontracting
Teamsters Local 340	Town of Fort Kent	Personal Days
Teamsters Local 340	Hancock County	Termination
Teamsters Local 340	Town of Norway	Vacation Days
Teamsters Local 340	City of Presque Isle	Starting Wage

Conciliation is a process during which the partisan members of the assigned Board panel, the Employee and Employer Representatives, meet with "their" respective party, assess that party's real needs and concerns in the matter at issue, and help the party to determine the relative strengths and weaknesses of their position. The partisan members then caucus to ascertain whether an agreed-to resolution is possible and, if so, work with the parties in achieving settlement. The Board believes that having parties resolve their dispute through mutual understanding and accord is far preferable to having a solution be imposed by fiat of a third party; accordingly, we attempt to conciliate every case presented to us. No cases were conciliated this year.

Fact finding is the second of the three statutory dispute resolution procedures in public sector collective bargaining. If the parties are unable to reach accord on their collective bargaining agreement through direct negotiations and mediation, either of them can request fact finding. In that process, the parties present evidence and arguments in support of their respective positions on the unresolved issues. The fact finding panel may consider a variety of factors such as wages, hours and working conditions for comparable

parties in the labor market, the financial ability of the employer, changes in the consumer price index since the last round of negotiations, and the labor market conditions in general. After the close of the record, fact finders issue their recommendations for resolution of the controversy. The report is confidential for 30 days and it remains confidential if the parties are able to resolve the dispute within that time. If not, the report becomes a public document and may be used by either party to attempt to sway public opinion to mount political pressure for resolution. Although, there were no fact-finding requests filed in FY 2014, two requests for fact-finding services were carried over from FY 2013. In one instance a hearing was held and a report issued. In the other case, the parties decided to forego fact finding and went directly to interest arbitration. The following employee organization was involved in requests for fact-finding services:

AFSCME Council 93

(Bangor Airport Ramp Attendants and Shift Leads Unit)

(Bangor Airport Customer Service Representatives and Part-time Ramp Attendants Unit)

Interest arbitration is procedurally similar to fact finding, except that the arbitrators' award is binding on all issues except for those concerning wages, pensions and insurance. There are few interest arbitration proceedings in Maine in any given year and in some years there are none at all. The Board received 2 requests for interest arbitration this fiscal year. The significance of these filings is apparent when one considers that the Board has received only 10 requests for interest arbitration services in the last 20 years. Of this year's cases, 1 was settled on the arbitration hearing date without Board participation, and 1 went to hearing and a decision was issued. The following parties were involved in the requests for interest arbitration services this year:

AFSCME Council 93 and the City of Bangor

(Airport Ramp Attendants)

AFSCME Council 93 and Town of Winthrop

(Police Department)

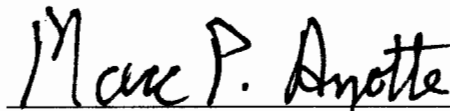
Legislative Developments. One Bill, L.D. 1821, An Act To Implement Recommendations of the Right To Know Advisory Committee, one section of which

affected the Board, was adopted by the Legislature this year. Section A-3 of the bill applied to a conciliation process through which the Board, upon request of the parties, attempts to resolve collective bargaining disputes. This process is rarely used (last employed in 1997) and is distinct from the Board's statutory role under Maine's public sector collective bargaining laws. If settlement is not reached during the conciliation, the Board makes a confidential report to the Governor and the Executive Director of the Maine Labor Relations Board. Current law provides that if the parties have not resolved the dispute within 15 days after receipt of the report, either the Governor or the executive director may make the report public. The bill would have required release of the report after the 15-day period. The Governor vetoed the over-all measure on broad policy grounds and the veto was upheld.

The Board of Arbitration and Conciliation is pleased with its achievements, particularly with its reputation for fairness in the labor relations community. The Board's mission is to improve the labor management climate in the public sector by providing high quality, professional services to our client community, helping in the resolution of their disputes.

Dated at Augusta, Maine, this 1st day of July 2014.

Respectfully submitted,



Marc P. Ayotte, Executive Director,
Maine Labor Relations Board & Clerk,
State Board of Arbitration and Conciliation