

## **Proposed Amendment to Maine Public Sector Union Recognition Laws Would Dramatically Alter the Public Employment Landscape**

By [Matthew Tarasevich, Esq.](#), and [Linda D. McGill, Esq.](#) | January 10, 2008

A new bill proposed in the Maine Legislature, supported by the state's largest unions, would dramatically change the method by which public employee unions are formed in Maine and could result in marked increases in public sector union membership throughout Maine.

Under current labor laws governing unionization in municipalities, counties, municipal districts, and other governmental entities, employees who want to be represented by a union must file a petition with the Maine Labor Relations Board (MLRB). While there is a process for voluntary recognition of a union by a public employer, the law provides for a secret ballot election so that each employee may vote privately on whether he or she wishes to be represented by a union or not. In order for a union to be elected as a bargaining agent, more than 50 percent of the voting employees in the unit must vote to unionize. Ballots are cast in secret in an election supervised by the MLRB.

Under proposed LD2055, "An Act to Improve the Elections Process under the Maine Labor Relations Board Laws," a public employee or union could simply file a request for recognition with the public employer alleging that a majority of the employees in the proposed unit wish to be represented by the proposed bargaining agent. Under LD 2055, the request for recognition must be granted by a public employer unless the employer can show "good cause to believe" that the majority support for a union was obtained by "fraud or duress" – a virtually impossible standard.

The impact of LD 2055 on municipal, county, and other governmental employers cannot be overstated. In effect, public employees would be able to unionize by simply reporting that a majority of the employees desire representation. The proposed law would remove important traditional safeguards that currently apply before unions can be recognized, would leave employees unprotected from aggressive union organizing tactics and coercion, and, for the most part, would do away with secret ballot elections. The bill would deprive public employers of the opportunity to communicate to their employees about the consequences of unionization, although a union would remain free to make promises about the benefits of unionizing. Based on this demonstration of interest, public employers would be required to enter into collective bargaining with the newly formed units and incur the increased costs and limitations that typically flow from unionization.

One of the key supporters of LD2055 is the Maine State Employees Association (MSEA), an SEIU affiliate that represents about 8,000 state employees as well as employees in larger quasi-state agencies and a few municipalities and counties. In the fall of 2007, MSEA sent out so-called “public records requests” to many municipalities, public utility districts, and counties, seeking information about employees, degree of unionization, terms and conditions of employment and the like. This information collection effort by MSEA may have been geared toward future organizing campaigns. If LD 2055 is passed, it will make it significantly easier for MSEA (or any other union) to organize municipal and county employees.

We urge you to mobilize and contact your Legislators to express concern about LD 2055. Legislators should understand that this bill would deprive public employees of the right to vote on the question of whether to unionize, a right which has existed for more than sixty years in the private sector under the National Labor Relations Act and has been recognized in Maine since public employees got the right to choose to be represented by unions in the 1970s. The Maine Labor Relations Board has reported no problems with the conduct of union elections under the law as it exists. Hopefully legislators understand the importance of a democratic process and want to honor it. The bill will be heard by the Labor Committee in the near future.

If you have any questions regarding LD 2055 and its potential impact on your operations, please contact Linda McGill ([lmcgill@bernsteinshur.com](mailto:lmcgill@bernsteinshur.com), 207 228-7226), Matt Tarasevich ([mtarasevich@bernsteinshur.com](mailto:mtarasevich@bernsteinshur.com), 207 228-7158) or any member of our [labor and employment law group](#).

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