

7-1-2008

Maine Labor Relations Board Annual Report, Fiscal Year 2008

Maine Labor Relations Board

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ANNUAL REPORT
MAINE LABOR RELATIONS BOARD

Fiscal Year 2008

This report is submitted pursuant to 26 M.R.S.A. §§ 968(7) and 979-J(1) (2007).

Introduction

The mission of the Maine Labor Relations Board and its affiliated organizations, the Panel of Mediators and the State Board of Arbitration and Conciliation, is to foster and improve the relationship between public employees and their employers. The Maine Labor Relations Board ("Board") protects the rights and enforces the responsibilities established by the four separate labor relations statutes covering Maine's public sector employees. The Board does this by creating bargaining units, conducting secret ballot elections to certify, change or decertify bargaining agents, and processing prohibited practice complaints. The Panel of Mediators and the State Board of Arbitration and Conciliation provide dispute resolution procedures to assist parties in negotiating initial or successor collective bargaining agreements and in resolving contract grievance issues. The focus of this report is the activity of the Labor Board during the fiscal year.

During the past year, the Board had requests for services from most segments of the public sector that have statutorily conferred collective bargaining rights. As will be noted, demand for the Board's services was generally lower than in the previous year. A pervasive concern in the reporting period was the high degree of uncertainty in both the local and the national economy. In addition, the future structure of K-12 education was unclear through most of the year, with several proposals under consideration by the Legislature. These questions were of concern to both labor and management and, while negotiating in good faith, parties on both sides seemed very cautious about reaching agreement in such uncertain times.

Members of the Board are appointed by the Governor, confirmed by the Legislature, and serve four-year terms, with the term of office of each primary member expiring on September 30 of successive years. The terms of the alternate members expire at the same time as that of their respective primary member. The terms of office of the Members of the Board had expired and the incumbents continued to serve as hold-over appointees. On March 21 of this year, Governor Baldacci nominated all Members of the

Board who wished to continue serving for re-appointment and the appointments were confirmed by the Legislature. Public Chair Peter T. Dawson of Hallowell, Employee Representative Carol B. Gilmore of Charleston, Employer Representative Karl Dornish, Jr., of Winslow, Alternate Employee Representatives Wayne W. Whitney of Brunswick, and Robert L. Piccone of Portland, and Alternate Employer Representative Richard L. Hornbeck of Bowdoinham were re-appointed to the Board. Since the length of the Members' terms and expiration dates are set by law, the Members were re-appointed to a full term or to serve the balance of unexpired terms in order to return their respective terms to the original statutory schedule. Alternate Chairs Jared S. des Rosiers of Falmouth and Pamela D. Chute of Brewer did not seek re-appointment; however, they will continue to serve until their successors are qualified for service. In addition, an Alternate Employer Representative position on the Board is currently vacant.

A major administrative development this year was the completion of a study of union service fee dispute resolution commissioned by the Legislature. As mentioned in last year's report, a law enacted in the First Regular Session of the 123d Legislature, An Act to Protect Fair Share Workers from Termination, ch. 415, P.L. 2007, directed the Maine Labor Relations Board to study the current system for resolving disputes concerning the percentage of union dues that may be lawfully charged to non-member service fee payers and to report to the Joint Standing Committee on Labor, "with recommendations and necessary implementing legislation to provide for the resolution of such disputes in a fair and impartial manner by the Maine Labor Relations Board or the State Board of Arbitration and Conciliation." In undertaking this study, Board staff solicited input from state employees and union officials who had participated in agency fee dispute resolution processes in Maine. Board staff also researched the constitutional issues raised in these matters and the mechanisms adopted by other states regarding agency service fee issues.

The Labor Board found that the issues raised by state employees who were dissatisfied with the system of arbitrating service fee disputes using private arbitrators chosen by the American Arbitration Association resulted from the employees' lack of legal representation and that the issues would have arisen regardless of the forum. The Labor Board concluded that "[n]one of the specific issues raised to the Board by the fee

challengers would have been resolved by having the dispute heard by a state agency” and recommended that the current system not be changed. The study was submitted to the Legislature’s Labor Committee which took no further action regarding the service fee arbitration process.

As in past years, the staff of the Board handled a great many inquiries from public employers and employees or their representatives, the media, and members of the public. The staff is the primary source of information for persons interested in the operations and procedures of Maine's public sector labor laws. In instances that involved matters over which the Board has no jurisdiction, the staff continued the policy of providing some orientation for the inquirer, suggesting other agencies or organizations that might be of help, and making appropriate referrals.

The Board’s web site continued to be the prime source for research of Board precedent. The site is equipped with a search engine and contains an extensive database of the Board’s prohibited practice and representation appeals decisions, as well as Superior and Supreme Judicial Court opinions reviewing the Board’s decisions. Access to this case law helps public employers, employees and bargaining agents to know the parameters of required or permitted conduct and to use such information to avoid violating the law. The web site also includes links to the statutes administered by the Board, the complete text of the Board’s Rules and Procedures, the Board’s forms, a bulletin board of current activities, and links to other state and federal labor relations agency sites. Since its inception the web site has been maintained and updated by Board staff. This year, the Board completed a project in collaboration with the Office of the Chief Information Officer to redesign the web site in order to bring it into compliance with the State accessibility standards. Over the years, the web site has been highly praised by the labor-management community. At the moment, there is some question as to whether the current search function receiving such praise will be continued, after the server upon which the website resides is retired.

Legislative Matters

This year, the most significant substantive issue before the Legislature with an impact on the Board’s jurisdiction was the on-going consideration of the reorganization of K-12 public school systems. While the Board had no position regarding the merits of

such proposals, the post-reorganization employer organizational structures may have significant impact on collective bargaining by and for school employees. The State biennial budget enacted in 2007 required the merger of existing school administrative units to result in regional school units ("RSU's"), each serving a student population of at least 2,500 students. A number of problems arose regarding the implementation of the new law, particularly surrounding cost-sharing within the contemplated RSU's.

Several bills were introduced this year regarding the administrative structure of the schools. These measures ranged from repealing the school reorganization law to addressing particular limited concerns, and numerous amendments to each bill were considered. With respect to the structure of the schools, the bill adopted by the Legislature that became law, Chapter 668, P.L. 2007, not only addressed the cost-sharing issues within RSU's but also authorized the creation of alternative organizational structures ("AOS's") in lieu of RSU's. Rather than mandating the merger of similar bargaining units of employees from the constituent school administrative units, the law requires that an AOS adopt consistent school policies and calendar and "a plan for consistent collective bargaining agreements." It is unclear how this requirement will be met; however, the Board will continue working with the parties to facilitate compliance with the law.

The school reorganization law enacted in the spring of 2007 requires the merger of similar bargaining units of employees of the constituent school administrative units into regional school unit-wide units and provides an election process for resolving questions concerning representation for the new units. The ultimate result is that the RSU and the employee organization that serves as the bargaining agent for each of the regional school-unit-wide bargaining units will negotiate a collective bargaining agreement that will determine the wages, hours, and terms and conditions of employment for the unit employees. Any disparities in the terms and conditions of employment within each job classification in the bargaining unit will eventually be addressed in collective bargaining.

One bill before the Legislature this year was focused on the collective bargaining provisions of the school reorganization law. L.D. 1931, An Act To Protect Employee Choice of Collective Bargaining Agents in the Educational Unit Consolidation Process, intended to maintain stability in the collective bargaining relationship by requiring the

new RSU's to continue to recognize and negotiate with all of the bargaining agents who represented any unit of employees of the constituent former school administrative units. The bill provided that there would be no mandated restructuring of the bargaining units, all collective bargaining agreements in existence on the effective date of the RSU would remain in effect until their expiration, and the RSU would be required to negotiate separate successor agreements with all the existing bargaining agents. Any restructuring of bargaining units or change of bargaining agents would be up to the employees, using the long-standing statutory procedures for unit determinations and bargaining agent elections. Representatives of the several bargaining agents and the public educational employers achieved consensus on an amendment to this bill that provided that, for those RSU's where bargaining units represented by different bargaining agents must be merged into a single regional school unit-wide bargaining unit, a petition for election may not be filed with the Board more than 90 days prior to August 31, 2012. The existing law had tied the filing of the election petition to the latest expiring collective bargaining agreement, which could have occurred any time between the operational date of the RSU and three years after that date. The amended bill was enacted and became law. Chapter 566, P.L. 2007.

Two other bills introduced this year had significant potential impact on the Board's jurisdiction. L.D. 2029 was a concept draft that proposed merging the administration of county jails and state correctional facilities into a single state agency. An alternative proposal, establishing the State Board of Corrections and coordinating the delivery of state and county correctional services through that Board, was enacted and became law. Chapter 653, P.L. 2007. While restructuring the delivery of correctional services into a single enterprise would have had a profound impact on collective bargaining, the new law does not change the employment status or the existing collective bargaining relationships of corrections employees.

A second bill, An Act to Improve the Elections Process under the Maine Labor Relations Board Laws, L.D. 2055, would have amended all four public sector labor relations laws by: significantly shortening the time between the filing of a unit determination petition and conclusion of the bargaining agent election, requiring the employer to recognize the union unless the employer could show good cause to believe that majority support was obtained by "fraud or duress," changing the procedures in

Board appeals in all representation matters, and providing that Board decisions in such cases would be final and not appealable to the Superior Court. A party contesting the legality of the decision in a representation matter could raise that issue in defense of a subsequent claim that the party had refused to bargain in good faith as is the practice before the National Labor Relations Board. The bill was killed in committee at the request of its sponsor.

Three bills enacted into law this year had minor impact on the Board's jurisdiction. As drafted, L.D. 2095, An Act To Ensure the Freedom of Family Child Care Providers to Jointly Negotiate with the State, would have extended coverage of the Municipal Public Employees Labor Relations Law ("MPELRL") to family child care providers with the Governor as the employer for purposes of collective bargaining. The bill established a single bargaining unit of all family child care providers, required the Board to certify a certain organization as the bargaining agent and provided a statutory duty to bargain over certain specific subjects, enforceable through the Board's prohibited practice complaint process. The bill permitted parties to agree that union service fees be deducted from the subsidy payments made to family child care providers. The law that was ultimately enacted, Chapter 672, P.L. 2007, established a separate and independent collective bargaining process and the Board's only role is to conduct an election, upon request of at least 30% of the family child care providers, to determine whether family child care providers wished to be represented by a different organization or not to be represented for the purposes of collective bargaining.

Chapter 307, P.L. 2007, enacted in the First Regular Session of the 123d Legislature provided that, for a transitional period from July 1, 2006, to June 30, 2008, the State intermediate educational unit within the Department of Education would be the public employer under the MPELRL for the employees of the Child Development Services System ("CDS"). L.D. 2062 considered this year and enacted as Chapter 572, P.L. 2007, eliminated the sunset on the transition period, thereby continuing the collective bargaining relationship for CDS employees established last year. Finally, the routine "errors and inconsistencies bill," L.D. 2252, enacted as Chapter 695, P.L. 2007, corrected a cross-reference in the University of Maine System Labor Relations Act.

Bargaining Unit and Election Matters

During fiscal year 2008, the Board received 24 voluntary agreements or joint filings for the establishment of or change in collective bargaining units. There were 16 of these filings in FY 07, 24 in FY 06, 21 in FY 05, 24 in FY 04, and 23 in FY 03. Of the 24 FY 08 filings, 12 were for municipal or county government units, 6 were for State Executive Branch employees, 5 were for K-12 educational units, and 1 concerned Maine Maritime Academy employees. The unit agreements were filed by the following employee organizations:

| | |
|---|---------------|
| <u>Maine State Employees Association</u> | 12 agreements |
| (Waldo County Support Staff Unit) | |
| (Waldo County Correctional Officers Unit) | |
| (Waldo County Correctional Officers Supervisory Unit) | |
| (Maine Maritime Academy Staff, Support & Professional Unit) | |
| (State of Maine OMS & Supervisory Units) | |
| (State of Maine Pro-Tech & Supervisory Units) (3) | |
| (Maine Military Authority OMS Unit) | |
| (Maine Public Employees Retirement System Admin. Services Unit) | |
| (State of Maine Pro-Tech Unit) (2) | |
| <u>Teamsters Union Local 340</u> | 4 |
| (Somerset County Courthouse Employees Unit) | |
| (Town of Kittery Professional Employees Unit) | |
| (Town of Wells General Government Unit) | |
| (Town of Windham Public Works Unit) | |
| <u>Maine Education Association/NEA</u> | 3 |
| (Saco School Secretaries Unit) | |
| (Saco School Bus Drivers Unit) | |
| (Machias Educational Support Personnel Unit) | |
| <u>AFSCME Council 93</u> | 2 |
| (City of South Portland City Bus Drivers Unit) | |
| (Lewiston Housing Authority Non-Managerial Employees Unit) | |
| <u>AFT-Maine</u> | 1 |
| (Jefferson School Support Staff Unit) | |
| <u>Jay Cafeteria Workers Association</u> | 1 |
| (Jay Cafeteria Workers Unit) | |
| <u>Richmond Employees Association</u> | 1 |
| (Town of Richmond Municipal Employees Unit) | |

Of the 24 filings, 8 were for new units and 16 were for changes to existing units.

Seven (7) unit determination or clarification petitions (submitted when there is no agreement on the composition of the bargaining unit) were filed in FY 08: 5 were for determinations and 2 were for clarifications. None of the new unit petitions went to hearing. Agreements were reached in 3 cases, 2 unit were deemed appropriate, 1 was withdrawn, and 1 is pending. Once a unit petition and response are filed, a member of the Board's staff, other than the assigned hearing officer in the case, contacts the parties and attempts to facilitate agreement on the appropriate bargaining unit. This involvement, successful in 42.85% of the cases this year, saves substantial time and litigation costs for public employers and bargaining agents. There were 32 unit petitions filed in FY 07, 16 in FY 06, 8 in FY 05, 10 in FY 04, and 15 in FY 03. The unit determination/clarification requests were filed by the following employee organizations:

| | |
|---|------------|
| <u>Teamsters Union Local 340</u> | 3 requests |
| (Town of Wells General Government Unit) | |
| (Town of Windham Public Works Unit) | |
| (Somerset County Patrol Division Unit) | |
| <u>Maine Education Association/NEA</u> | 2 |
| (Machias School Dept. Educational Support Personnel Unit) | |
| (MSAD #59 Educational Support Personnel Unit) | |
| <u>AFSCME Council 93</u> | 1 |
| Town of Sanford General Unit | |
| <u>Waldo County Deputies Association</u> | 1 |
| (Waldo County Law Enforcement Officers) | |

After the scope and composition of the bargaining unit is established, either by agreement or by unit determination, a secret ballot bargaining agent election is conducted by the Board. An election is held to determine the desires of the employees, unless a bargaining agent is voluntarily recognized by the public employer. During FY 08 there was 1 voluntary recognition filed, involving the following employee organization:

| | |
|---------------------------------------|-------------------------|
| <u>AFT-Maine</u> | 1 voluntary recognition |
| (Jefferson School Support Staff Unit) | |

Eleven (11) bargaining agent election requests were filed in FY 08; 15 elections were held, including matters carried forward from FY 07, the bargaining agent was voluntarily recognized in 1 case, 1 request was withdrawn and 5 election matters are pending. The bargaining agent election petitions filed this year involved the following employee organizations:

| | |
|--|-------------|
| <u>Maine Education Association/NEA</u> | 4 petitions |
| (Five Town CSD Food Service Workers Unit) | |
| (MSAD #28 Food Service Workers Unit) | |
| (Machias School Dept. ESP Unit) | |
| (MSAD #59 ESP Unit) | |
| <u>Teamsters Union Local 340</u> | 4 |
| (Town of Wells General Government Unit) | |
| (Town of Boothbay Harbor Public Works Unit) | |
| (Town of Boothbay Harbor Admin. & Dispatch Unit) | |
| (Town of Windham Public Works Unit) | |
| <u>AFSCME Council 93</u> | 2 |
| (South Portland City Bus Drivers Unit & Parks, Public Works, Waterfront & Transportation & Fire Dept. Services Unit-MERGER ELECTION) | |
| (Ellsworth School Dept. Bus Drivers & Mechanics Unit) | |
| <u>Waldo County Deputies Association</u> | 1 |
| (Waldo County Sheriff's Dept. Law Enforcement Officers Unit) | |

In FY 07, there were 2 voluntary recognitions filed, 31 bargaining agent election requests received, and 7 elections held.

In addition to representation election requests, the Board received 5 requests for decertification/certification. This type of petition involves a challenge by the petitioning organization to unseat and replace an incumbent as bargaining agent for bargaining unit members. Three elections were held and the incumbent union disclaimed interest in 2 cases. Disclaimers arise when a bargaining agent no longer wishes to represent a bargaining unit. The results of the decertification/certification petitions were as follows:

| <u>Petitioner (Bargaining Unit)</u> | <u>Incumbent Agent</u> | <u>Outcome</u> |
|--|---------------------------|-------------------------|
| Farmington Police Assn. (Farmington Sergeant's Unit) | AFSCME Council 93 | AFSCME filed disclaimer |
| Farmington Police Assn. (Farmington Patrolmen's Unit) | AFSCME Council 93 | AFSCME filed disclaimer |
| Maine Association of Police (Jay Police Unit) | AFSCME Council 93 | MAP |
| Wells Professional Firefighters Assn. (Wells Firefighters Unit) | Teamsters Union Local 340 | Wells Pro. FF Assn. |
| International Assn. of Fire Fighters (Bar Harbor Firefighters Unit) | Teamsters Union Local 340 | IAFF |

The Board received one straight decertification petition in FY 08. No new union is involved in this type of petition; rather, the petitioner is simply attempting to remove the incumbent agent.

| <u>Employee Organization</u> | <u>Unit</u> | <u>Result</u> |
|------------------------------|----------------------------|---------------|
| Teamsters Union Local 340 | Mt. Desert Gen. Govt. Unit | No Rep. |

No straight decertification petition was received in FY 07. In addition, two (2) disclaimers were filed by bargaining agents after expiration of collective bargaining agreements.

There were 11 election matters carried over from FY 07; consequently, there were 28 such matters requiring attention during the fiscal year. This compares with a total of 39 in FY 07, 25 in FY 06, 20 in FY 05, 23 in FY 04, and 22 in FY 03.

Representation Appeals

Parties aggrieved by the decisions of the executive director or the director's designee in representation matters, including unit determination and unit clarification decisions or concerning the conduct of elections, may appeal to the Board. One representation appeal was filed this year. *Cumberland County (Sheriff's Department) and Teamsters Union Local 340*, Case No. 07-UDA-01. The dispute was presented to the Board through written briefs, oral argument was waived, and the Board issued its decision on January 16, 2007.

Dispute Resolution

The Panel of Mediators is the statutory cornerstone of the dispute resolution process for public sector employees. Its importance continues to be reflected in its volume of activity and in its credibility with the client community. The activities of the Panel are summarized in this report and are more fully discussed in the Annual Report of the Panel of Mediators.

Interest mediation is the process through which State mediators assist parties in negotiating initial or successor collective bargaining agreements. The number of new interest mediation requests received during the fiscal year decreased. There were 40 new requests filed this year compared with 47 last year. In addition to the new mediation

requests received during FY 08, there were 21 matters carried over from FY 07 that required some form of mediation activity during the year. Thus, the total number of mediation matters requiring the Panel's attention in this fiscal year was 61, down from 74 in FY 07. During the downturn in the regional economy in the early 2000's, most parties were opting for one-year agreements, hoping that more favorable conditions would prevail the following year. As a result, many more agreements expired in FY 03 and FY 04 than would normally be expected. Beginning in late FY 2004, more parties resumed negotiating multi-year agreements, accounting for some of the decreased demand for mediation this year. The decreased demand for mediation services this year also resulted from one major external factor. Until the end of the legislative session in April, continued consideration of the K-12 education reorganization initiative left public employers and bargaining agents unsure of whether the law enacted last year would be amended, to what extent, and what the impact of any amendment might be on collective bargaining relationships.

The settlement rate for cases where mediation was concluded this year, including carryovers from FY 07, increased slightly. This year's settlement rate was 87.5%. During the past 15 years, the settlement rate has ranged from 50% in FY 1995 to a high of 88.5% in FY 2005, with a mean of 78.73%. Anecdotal evidence from the mediators suggests that parties have been bargaining this year in an atmosphere of general unease regarding the national economy as well as uncertainty regarding the K-12 reorganization initiative. Given the significant impact of educational costs on local budgets, negotiations in both municipal and school bargaining seemed especially cautious about reaching agreement before knowing how school reorganization would be addressed by the Legislature. Since both new filings and cases carried over from prior years contributed to the actual workload of the Panel in the course of the twelve-month period, we have reported settlement figures that represent all matters in which mediation activity has been completed during the reporting period.

One request for preventive mediation services was received this year. Interest in non-confrontational, interest-based negotiations in the labor-management community has waned in the last four years, despite the effectiveness of the process in achieving settlements (58 settlements in 60 cases). In fact, prior to FY 02, all of the preventive

mediation efforts had been successful. Preventive mediation is only undertaken upon the joint request of the parties; therefore, the fact that only one request for such services was received this year may be a negative development or it may just indicate parties' belief that their differences can be best addressed through traditional bargaining.

Fact finding is the second step in the three-step statutory dispute resolution process. In Fiscal Year 2008, 4 fact-finding requests were filed. There were 13 requests received in FY 07. Considering all cases, including 6 carryovers from FY 2007, 5 requests went to hearing, and 5 petitions were withdrawn or otherwise settled. In FY 07, 6 fact-finding hearings were held. The following employee organizations filed requests for fact-finding services this year:

| | |
|--|------------|
| <u>Maine Education Association/MEA/NEA</u> | 2 requests |
| (MSAD #29 Teachers Unit) | |
| (MSAD #49 Teachers Unit) | |
| <u>AFSCME Council 93</u> | 1 |
| (Caribou Public Works) | |
| <u>Bridgton Federation of Public Employees</u> | 1 |
| (Police Unit) | |

Interest arbitration is the third and final step in the statutory dispute resolution process. Under the provisions of the various public employee statutes administered by the Board and unless agreed otherwise by the parties, an interest arbitration award is binding on the parties on non-monetary issues. Unresolved questions concerning salaries, pensions and insurance are subject to interest arbitration, but an award on these matters is only advisory. In recent years the Board has received few interest arbitration requests. None have been received in the last seven years. One was filed in FY 01, none in FY 00, 2 in FY 99, and 2 in FY 98.

The various labor relations statutes do not require parties to notify the Board when they are invoking mandatory interest arbitration. The statutes do require that arbitration awards be filed with the Board; however, they usually are not. This year, no interest arbitration decisions were received. While we assume that this means there were no interest arbitration awards in the public sector during the year, it may be that parties have simply failed to provide notification to the Board.

Prohibited Practice Complaints

One of the Board's main responsibilities in administering the public sector collective bargaining process is to hear and rule on prohibited practice complaints. Formal hearings are conducted by the full, three-person Board in such matters. Five (5) complaints were filed in FY 08. For the last six years, including the current year, the number of complaints filed each year has fluctuated from a low of 5 to a high of 24, with the mean being 16.33. Many of the complaints received during the past year charge violations of the duty to negotiate in good faith.

The 2005-2007 collective bargaining agreements between the Maine State Employee Employees Association and the State of Maine for the four Executive Branch bargaining units represented by MSEA contained a "fair share" union security clause. These contract articles apply to all unit employees and require that those who are not members of the bargaining agent must pay to the bargaining agent a percentage of union dues, representing each individual's share of the cost incurred by the union in negotiating and administering the collective bargaining agreement. The constitutionality of the specific provisions of the union security article was upheld in a highly publicized action in the United States District Court, and affirmed by the 1st Circuit Court of Appeals, *Locke v. Karass*, 498 F.3d 49 (Aug. 8, 2007). The U.S. Supreme Court has granted certiorari in this case, *Locke v. Karass*, No. 07-610, 76 U.S.L.W. 3255 (Feb. 19, 2008). While many questions concerning the types of expenses that can be included in union services fees have been settled, other questions remain open. The Supreme Court may provide greater clarity in the *Locke* case, which is expected to be argued in October and a decision should be issued by the spring of 2009.

While the "fair share" litigation in the Federal Court did not involve the Board, it was widely publicized and closely watched by the public sector labor-management community. The service fee provisions in the Executive Branch collective bargaining agreements were the impetus for enactment of the law that commissioned the Board to study and report on the system for resolving disputes concerning the percentage of union dues that may be lawfully charged to non-member service fee payers discussed above. While the board concluded that the concerns about the service fee arbitration process did not warrant having the Board or the State Board of Arbitration and Conciliation determine the amount of the fee, the Board also noted that, "[w]ith respect to disputes about the

process of implementing agency services fees, the challengers would likely be able to file a prohibited practice complaint with the board under current law.” Late in the fiscal year, a bargaining unit employee did file a complaint against the bargaining agent and the State, charging that the retroactive collection of the service fee in the circumstances of his employment interfered with his rights under the State Employees Labor Relations Act. The complaint was pending at the end of the fiscal year.

In addition to the 5 complaints filed in FY 08, there were 6 carryovers from FY 07, compared with 18 complaints and 9 carryovers last year. Board panels conducted 2 evidentiary hearings during the year, the same as in FY 07. The Board issued formal a formal Consent Order in 1 case. Board chairs, sitting as prehearing officers, held conferences in 5 cases, compared with 8 in FY 07. Four (4) complaints were dismissed or withdrawn at the request of the parties. Four (4) complaints await prehearing and/or hearing. One (1) case was dismissed by the executive director.

The executive director has continued to be actively involved settling prohibited practice cases through telephone conferences and personal meetings with the parties' representatives. The services of the executive director or a Board attorney are offered on the day of the hearing to attempt to settle cases. If the parties either decline the Board's offer or if the effort is unsuccessful, the Board members are present, ready to convene a formal evidentiary hearing. In one case this year, it became clear to the executive director that the real issue underlying the complaint could best be resolved by the parties with the assistance of a State mediator. The complaint was held in abeyance by the Board, a mediator was assigned and substantial progress has been made towards resolution of the dispute.

Prohibited practice complaints, with the respondent noted in parenthesis, were filed by the following this year:

| | |
|--|--------------|
| <u>AFSCME Council 93</u> | 2 complaints |
| (Bath) | |
| (Sagadahoc County.) | |
| <u>Local 1476, IAFF</u> | 1 |
| (South Portland) | |
| <u>Wiscasset School Committee</u> | |
| (Teachers Association) | |
| <u>Individuals</u> | 1 |
| (MSEA & State Bureau of Human Resources) | |

Appeals

Decisions by the Board in prohibited practice cases and in appellate reviews of representation matters may be appealed to the Superior Court. No appeals were filed this year.

Summary

The following chart summarizes the filings for this fiscal year, along with the previous five years and percent change from year to year:

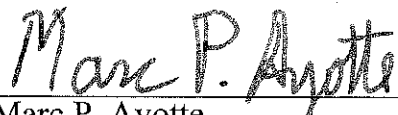
| | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 |
|--|------------|------------|------------|------------|------------|------------|
| Unit Determination/ Clarification Requests Number filed-- | 15 | -33% | -20% | +100% | +100% | -78% |
| Agreements on Bargaining Unit (MLRB Form #1) Number filed-- | 23 | +4.3% | -12.5% | +14.3% | -33.3% | +50% |
| Voluntary Recognitions (MLRB Form #3) Number filed-- | 8 | -75% | -50% | +200% | -33.3% | -50% |
| Bargaining Agent Election Requests Number filed-- | 11 | -9.1% | -10% | +77% | +93.75% | -64.5% |
| Decertification Election Requests Number filed-- | 0 | 0% | +300% | -66.7% | -100% | +100% |
| Decert./Certification Election Requests Number filed-- | 3 | +233% | -80% | +150% | -20% | +25% |
| Mediation Requests Number filed-- | 64 | +1.6% | -15.4% | +5.4% | -18.96% | -14.9% |
| Fact-Finding Requests Number filed-- | 23 | -43.5% | 0% | -7.7% | 0% | -66.6% |
| Prohibited Practice Complaints Number filed-- | 23 | -30.4% | -25% | +100% | -25% | -72.3% |

The above table indicates that the demand for the Board's different services decreased during the fiscal year, perhaps reflecting the uncertainties in the economy and regarding the future structure of K-12 education. For the past several years we have been predicting that public sector organizational activity may be nearing the point of saturation, given that the Board has been in existence since 1969 and many units, particularly education and firefighter units, predated the establishment of the agency. As the number of organized employees approaches the universe of those eligible, the number of new units created each year will decline. Contrary to last year's prediction, there was an increase in organizational activity this year and there are more units now than ever before. A larger number of units means more requests for changes in unit composition, more elections to change or oust bargaining agents, a greater potential for prohibited practice complaints, and increased demand for dispute resolution services in the future.

During FY 08, public sector labor-management relations in Maine continued to mature, with parties relying on the statutory dispute processes to settle their differences. The development of more mature labor relations is evidenced by the demand for mediation services and the continued willingness by the parties to settle prohibited practice complaint cases. In sum, the Board's dispute resolution services fostered public sector labor peace throughout the fiscal year.

Dated at Augusta, Maine, this 30th day of June 2008.

Respectfully submitted,



Marc P. Ayotte
Executive Director
Maine Labor Relations Board