REFERENCE TITLE: public employees; collective bargaining.

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1124

Introduced by
Senator Gallardo

AN ACT

AMENDING TITLE 23, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; AMENDING SECTION 41-1092.02, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3023.01; RELATING TO THE PUBLIC EMPLOYEE BARGAINING ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 23, chapter 8, Arizona Revised Statutes, is amended by adding article 7, to read:

ARTICLE 7. PUBLIC EMPLOYEE BARGAINING ACT

23-1421. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "APPROPRIATE BARGAINING UNIT" MEANS A GROUP OF PUBLIC EMPLOYEES DESIGNATED BY THE BOARD OR A LOCAL BOARD FOR THE PURPOSE OF COLLECTIVE BARGAINING.

2. "APPROPRIATE GOVERNING BODY" MEANS THE POLICYMAKING BODY OR INDIVIDUAL REPRESENTING A PUBLIC EMPLOYER.

3. "BOARD" MEANS THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

4. "CERTIFICATION" MEANS THE DESIGNATION, BY THE BOARD OR A LOCAL BOARD, OF A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE FOR ALL PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT.

5. "COLLECTIVE BARGAINING" MEANS THE ACT OF NEGOTIATING BETWEEN A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FOR THE PURPOSE OF ENTERING INTO A WRITTEN AGREEMENT REGARDING WAGES, HOURS AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

6. "CONFIDENTIAL EMPLOYEE" MEANS A PERSON WHO ASSISTS AND ACTS IN A CONFIDENTIAL CAPACITY TO A PERSON WHO FORMULATES, DETERMINES AND EFFECTUATES MANAGEMENT POLICIES FOR MEETING AND CONFERRING.

7. "EXCLUSIVE REPRESENTATIVE" MEANS THE LABOR ORGANIZATION CERTIFIED TO BE THE SOLE MEET AND CONFER AGENT OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT FOR THE PURPOSES OF COLLECTIVE BARGAINING.

8. "IMPASSE" MEANS THE FAILURE OF A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE, AFTER GOOD FAITH BARGAINING, TO REACH AGREEMENT IN THE COURSE OF NEGOTIATING A COLLECTIVE BARGAINING AGREEMENT.

9. "LABOR ORGANIZATION" MEANS AN EMPLOYEE ORGANIZATION WHOSE PURPOSE IS THE REPRESENTATION OF PUBLIC EMPLOYEES IN COLLECTIVE BARGAINING AND IN MEETING, CONSULTING AND CONFERRING WITH EMPLOYERS ON MATTERS PERTAINING TO EMPLOYMENT RELATIONS.

10. "LOCAL BOARD" MEANS A LOCAL LABOR RELATIONS BOARD ESTABLISHED THROUGH ORDINANCE, RESOLUTION OR CHARTER AMENDMENT BY A PUBLIC EMPLOYER THAT IS A POLITICAL SUBDIVISION OF THIS STATE.

11. "LOCKOUT" MEANS AN ACT BY A PUBLIC EMPLOYER TO PREVENT ITS EMPLOYEES FROM GOING TO WORK FOR THE PURPOSE OF RESISTING THE DEMANDS OF THE EMPLOYEES' EXCLUSIVE REPRESENTATIVE OR FOR THE PURPOSE OF GAINING A CONCESSION FROM THE EXCLUSIVE REPRESENTATIVE.

12. "MANAGEMENT EMPLOYEE" MEANS AN EMPLOYEE WHO IS ENGAGED PRIMARILY IN EXECUTIVE AND MANAGEMENT FUNCTIONS AND WHO IS CHARGED WITH THE RESPONSIBILITY OF DEVELOPING, ADMINISTERING OR EFFECTUATING MANAGEMENT POLICIES. MANAGEMENT EMPLOYEE DOES NOT INCLUDE AN EMPLOYEE WHO PARTICIPATES IN COOPERATIVE DECISION MAKING PROGRAMS ON AN OCCASIONAL BASIS.

13. "MEDIATION" MEANS ASSISTANCE BY AN IMPARTIAL THIRD PARTY TO RESOLVE, THROUGH INTERPRETATION, SUGGESTION AND ADVICE, AN IMPASSE BETWEEN A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE REGARDING EMPLOYMENT RELATIONS.

14. "PROFESSIONAL" MEANS AN EMPLOYEE WHOSE WORK IS PREDOMINANTLY INTELLECTUAL AND VARIED IN CHARACTER, INVOLVES THE CONSISTENT EXERCISE OF DISCRETION AND JUDGMENT IN ITS PERFORMANCE AND REQUIRES KNOWLEDGE OF AN ADVANCED NATURE IN A FIELD OF LEARNING CUSTOMARILY REQUIRING SPECIALIZED STUDY AT AN INSTITUTION OF HIGHER EDUCATION OR ITS EQUIVALENT.

15. "PUBLIC EMPLOYEE" MEANS AN EMPLOYEE OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE BUT DOES NOT INCLUDE ELECTED OFFICIALS OR PERSONS WHO ARE APPOINTED TO SERVE ON BOARDS OR COMMISSIONS.

16. "PUBLIC EMPLOYER" MEANS THIS STATE AND ANY POLITICAL SUBDIVISION OF THIS STATE.

17. "STRIKE" MEANS A PUBLIC EMPLOYEE'S REFUSAL IN CONCERTED ACTION WITH OTHERS TO REPORT FOR DUTY, THE WILFUL ABSENCE BY AN EMPLOYEE FROM THE EMPLOYEE'S POSITION OR THE STOPPING OF WORK OR THE ABSENCE FROM THE FULL, FAITHFUL OR PROPER PERFORMANCE OF DUTIES FOR THE PURPOSE OF INDUCING, INFLUENCING OR COERCING A CHANGE IN THE CONDITIONS, COMPENSATION, RIGHTS, PRIVILEGES OR OBLIGATIONS OF PUBLIC EMPLOYMENT.

18. "SUPERVISOR" MEANS AN INDIVIDUAL WHO IS EMPLOYED BY AN EMPLOYER AND WHO:

(a) HAS THE AUTHORITY IN THE INTEREST OF THE EMPLOYER TO HIRE, TRANSFER, FURLOUGH, LAY OFF, RECALL, SUSPEND, DISCIPLINE OR REMOVE OTHER EMPLOYEES, IF THE EXERCISE OF THE AUTHORITY IS NOT MERELY ROUTINE OR CLERICAL IN NATURE BUT REQUIRES THE CONSISTENT EXERCISE OF INDEPENDENT JUDGMENT.

(b) DEVOTES A MAJORITY OF TIME AT WORK EXERCISING THIS AUTHORITY.

23-1422. Public employee rights

A. PUBLIC EMPLOYEES MAY FORM, JOIN AND PARTICIPATE IN, OR REFRAIN FROM FORMING, JOINING OR PARTICIPATING IN, ANY LABOR ORGANIZATION.

B. PUBLIC EMPLOYEES MAY BE REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE AND MAY MEET AND CONFER THROUGH THE EXCLUSIVE REPRESENTATIVE WITH THEIR PUBLIC EMPLOYER IN THE DETERMINATION OF THE TERMS AND CONDITIONS OF THEIR EMPLOYMENT, INCLUDING THE RIGHT TO BE REPRESENTED IN THE DETERMINATION OF GRIEVANCES ON ALL TERMS AND CONDITIONS OF EMPLOYMENT.

C. PUBLIC EMPLOYEES MAY ENGAGE IN CONCERTED ACTIVITIES NOT PROHIBITED BY LAW FOR THE PURPOSE OF MEETING AND CONFERRING ON OTHER MUTUAL AID OR PROTECTION OR MAY REFRAIN FROM ENGAGING IN THESE ACTIVITIES.

D. PUBLIC EMPLOYEES MAY EXERCISE THE RIGHTS PROVIDED FOR IN THIS SECTION FREE FROM INTERFERENCE, INTIMIDATION, RESTRAINT, COERCION OR DISCRIMINATION.

23-1423. Public employer rights

IN ADDITION TO ALL OF THE POWERS, RIGHTS AND DUTIES ESTABLISHED BY LAW, A PUBLIC EMPLOYER HAS THE RIGHT TO:

1. DETERMINE THE MISSION OF ITS AGENCIES, SET STANDARDS OF SERVICE TO BE OFFERED TO THE PUBLIC AND EXERCISE CONTROL OVER ITS ORGANIZATION AND OPERATIONS.

2. DIRECT, PROMOTE OR ASSIGN ITS EMPLOYEES, TAKE DISCIPLINARY ACTION FOR JUST CAUSE AND RELIEVE ITS EMPLOYEES FROM DUTY FOR LACK OF WORK.

23-1424. Appropriate governing body

A. THE APPROPRIATE GOVERNING BODY SHALL BE AS FOLLOWS:

1. FOR THIS STATE, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE.

2. FOR A CONSTITUTIONALLY CREATED BODY, THE DESIGNATED HEAD OF THAT BODY.

3. FOR A LOCAL PUBLIC BODY, THE ELECTED OR APPOINTED REPRESENTATIVE BODY OR INDIVIDUAL CHARGED WITH MANAGEMENT OF THE LOCAL PUBLIC BODY.

B. IF THERE IS A DISPUTE REGARDING WHO THE APPROPRIATE GOVERNING BODY IS, THE BOARD SHALL DETERMINE THE APPROPRIATE GOVERNING BODY.

23-1425. Public employee labor relations board; membership; appointments; director; compensation

A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD IS ESTABLISHED.

B. THE BOARD CONSISTS OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR:

1. ONE MEMBER WHO IS INVOLVED IN REPRESENTING PUBLIC EMPLOYEES.

2. ONE MEMBER WHO IS A PUBLIC EMPLOYER AND WHO IS ACTIVELY INVOLVED IN COLLECTIVE BARGAINING.

3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

C. BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT OCCUR, OTHER THAN BY THE EXPIRATION OF A TERM, SHALL BE FILLED IN THE SAME MANNER FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A BOARD MEMBER SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC OFFICE, BE A PUBLIC EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION THAT REPRESENTS PUBLIC EMPLOYEES OR PUBLIC EMPLOYERS. BOARD MEMBERS MAY SERVE AN UNLIMITED NUMBER OF TERMS.

D. THE BOARD SHALL APPOINT A DIRECTOR WHO IS ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

E. BOARD MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611 AND ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

23-1426. Public employee labor relations board; powers and duties

A. THE BOARD SHALL:

1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE, INCLUDING RULES FOR:

(a) DESIGNATING APPROPRIATE BARGAINING UNITS.

(b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.

(c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF PROHIBITED PRACTICES.

2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES ADOPTED PURSUANT TO THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO ENFORCE THIS ARTICLE.

3. HOLD HEARINGS AND MAKE INQUIRIES NECESSARY TO CARRY OUT ITS FUNCTIONS AND DUTIES.

4. CONDUCT STUDIES ON PROBLEMS RELATING TO EMPLOYEE AND EMPLOYER RELATIONS.

5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE INFORMATION AND DATA NECESSARY TO CARRY OUT THE BOARD'S FUNCTIONS AND RESPONSIBILITIES.

6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN THE FORM OF WRITTEN ORDERS AND OPINIONS.

B. THE BOARD MAY:

1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE, INCLUDING BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY MATTER IN QUESTION.

2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL ACTIONS IN SUPERIOR COURT.

3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE EVIDENCE.

4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE BOARD IN ITS FUNCTIONS.

C. THE BOARD SHALL NOT REQUIRE ANY PUBLIC EMPLOYEE TO PAY MONEY TO ANY LABOR ORGANIZATION AS A CONDITION OF EMPLOYMENT.

23-1427. Local boards; members; powers and duties

A. EXCEPT FOR THIS STATE AND IF THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD APPROVES, A PUBLIC EMPLOYER BY ORDINANCE, RESOLUTION OR CHARTER AMENDMENT MAY ESTABLISH A LOCAL BOARD SIMILAR TO THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD. IF ESTABLISHED AND APPROVED, THE LOCAL BOARD SHALL ASSUME THE DUTIES AND RESPONSIBILITIES OF THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD. A LOCAL BOARD SHALL FOLLOW ALL PROVISIONS OF THIS ARTICLE THAT APPLY TO THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD UNLESS OTHERWISE APPROVED BY THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

B. A LOCAL BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE PUBLIC EMPLOYER:

1. ONE MEMBER WHO REPRESENTS PUBLIC EMPLOYEES.

2. ONE MEMBER WHO REPRESENTS MANAGEMENT.

3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

C. LOCAL BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT OCCUR, OTHER THAN BY THE EXPIRATION OF A TERM, SHALL BE FILLED IN THE SAME MANNER FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A LOCAL BOARD MEMBER SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC OFFICE, BE A PUBLIC EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION

THAT REPRESENTS PUBLIC EMPLOYEES OR PUBLIC EMPLOYERS. BOARD MEMBERS MAY SERVE AN UNLIMITED NUMBER OF TERMS.

D. LOCAL BOARD MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION AND REIMBURSEMENT OF EXPENSES.

E. THE LOCAL BOARD SHALL:

1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE, INCLUDING RULES FOR:

(a) DESIGNATING APPROPRIATE BARGAINING UNITS.

(b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.

(c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF PROHIBITED PRACTICES.

2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES ADOPTED PURSUANT TO THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO ENFORCE THIS ARTICLE.

3. HOLD HEARINGS AND MAKE INQUIRIES NECESSARY TO CARRY OUT ITS FUNCTIONS AND DUTIES.

4. CONDUCT STUDIES ON PROBLEMS RELATING TO EMPLOYEE AND EMPLOYER RELATIONS.

5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE INFORMATION AND DATA NECESSARY TO CARRY OUT THE LOCAL BOARD'S FUNCTIONS AND RESPONSIBILITIES.

6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN THE FORM OF WRITTEN ORDERS AND OPINIONS.

F. THE LOCAL BOARD MAY:

1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE, INCLUDING BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY MATTER IN QUESTION.

2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL ACTIONS IN SUPERIOR COURT.

3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE EVIDENCE.

4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE BOARD IN ITS FUNCTIONS.

23-1428. Hearing procedures

A. THE BOARD OR A LOCAL BOARD MAY HOLD HEARINGS TO GATHER INFORMATION, MAKE INQUIRIES, ADOPT RULES, ADJUDICATE DISPUTES AND ENFORCE THIS ARTICLE.

B. THE BOARD OR A LOCAL BOARD SHALL ADOPT RULES TO GOVERN PROCEDURES FOR THE HEARINGS. THE RULES ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE ALL MINIMAL DUE PROCESS REQUIREMENTS REQUIRED BY THE UNITED STATES CONSTITUTION AND THE CONSTITUTION OF THIS STATE.

C. THE BOARD OR A LOCAL BOARD MAY APPOINT A HEARING OFFICER TO CONDUCT ANY ADJUDICATION HEARING AUTHORIZED BY THE BOARD OR LOCAL BOARD. AT THE CONCLUSION OF THE HEARING, THE HEARING OFFICER SHALL PREPARE A WRITTEN

REPORT, INCLUDING FINDINGS AND RECOMMENDATIONS, AND SHALL SUBMIT THE REPORT TO THE BOARD OR LOCAL BOARD FOR ITS DECISION.

D. THE BOARD OR A LOCAL BOARD SHALL NOT PROPOSE TO ADOPT A RULE THAT AFFECTS ANY PERSON OR GOVERNMENTAL ENTITY OUTSIDE OF THE BOARD'S OR LOCAL BOARD'S JURISDICTION. THE BOARD OR LOCAL BOARD SHALL CONDUCT A PUBLIC HEARING TO ADOPT, AMEND OR REPEAL ANY RULE AND ALLOW A PUBLIC HEARING AND COMMENT ON THE PROPOSED ACTION BEFORE THE BOARD OR LOCAL BOARD. THE PUBLIC HEARING SHALL BE HELD AFTER NOTICE OF THE SUBJECT MATTER OF THE RULE, THE ACTION PROPOSED TO BE TAKEN, THE TIME AND PLACE OF THE HEARING, THE MANNER IN WHICH INTERESTED PERSONS MAY PRESENT THEIR VIEWS AND THE METHOD BY WHICH COPIES OF THE PROPOSED RULE, PROPOSED AMENDMENT OR REPEAL OF AN EXISTING RULE MAY BE OBTAINED. ALL MEETINGS OF THE BOARD SHALL BE HELD IN PHOENIX. ALL MEETINGS OF LOCAL BOARDS SHALL BE HELD IN THE COUNTY OF RESIDENCE OF THE LOCAL PUBLIC EMPLOYER. THE BOARD OR LOCAL BOARD SHALL PUBLISH A NOTICE AT LEAST THIRTY DAYS BEFORE THE HEARING DATE IN A NEWSPAPER OF GENERAL CIRCULATION IN THIS STATE OR, IN THE CASE OF A LOCAL BOARD HEARING, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY. THE BOARD OR LOCAL BOARD SHALL MAIL A NOTICE AT LEAST THIRTY DAYS BEFORE THE HEARING DATE TO ALL PERSONS WHO HAVE MADE A WRITTEN REQUEST FOR ADVANCE NOTICE OF HEARINGS.

E. THE BOARD OR LOCAL BOARD SHALL MAKE AN ELECTRONIC RECORD OF ALL HEARINGS.

23-1429. Appropriate bargaining units

A. ON RECEIPT OF A PETITION FOR A REPRESENTATION ELECTION FILED BY A LABOR ORGANIZATION, THE BOARD OR A LOCAL BOARD SHALL DESIGNATE THE APPROPRIATE BARGAINING UNITS FOR COLLECTIVE BARGAINING. APPROPRIATE BARGAINING UNITS SHALL BE ESTABLISHED ON THE BASIS OF OCCUPATIONAL GROUPS. ESSENTIAL FACTORS IN DETERMINING APPROPRIATE BARGAINING UNITS SHALL INCLUDE THE PRINCIPLES OF EFFICIENT ADMINISTRATION OF GOVERNMENT, THE HISTORY OF COLLECTIVE BARGAINING AND THE ASSURANCE TO PUBLIC EMPLOYEES OF THE FULLEST FREEDOM IN EXERCISING THE RIGHTS GUARANTEED BY THIS ARTICLE. FOR THE PURPOSES OF THIS SUBSECTION, "OCCUPATIONAL GROUPS" MEANS A CLEAR AND IDENTIFIABLE COMMUNITY OF INTEREST IN EMPLOYMENT TERMS AND CONDITIONS AND RELATED PERSONNEL MATTERS AMONG THE PUBLIC EMPLOYEES INVOLVED. OCCUPATIONAL GROUPS INCLUDE EMPLOYEES OF BLUE-COLLAR, SECRETARIAL, CLERICAL, TECHNICAL, PROFESSIONAL, PARAPROFESSIONAL, POLICE, FIRE AND CORRECTIONS POSITIONS.

B. WITHIN THIRTY DAYS AFTER A DISAGREEMENT BETWEEN A PUBLIC EMPLOYER AND A LABOR ORGANIZATION CONCERNING THE COMPOSITION OF AN APPROPRIATE BARGAINING UNIT, THE BOARD OR A LOCAL BOARD SHALL HOLD A HEARING CONCERNING THE COMPOSITION OF THE BARGAINING UNIT BEFORE DESIGNATING AN APPROPRIATE BARGAINING UNIT.

C. THE BOARD OR A LOCAL BOARD SHALL NOT INCLUDE IN ANY APPROPRIATE BARGAINING UNIT SUPERVISORS, MANAGEMENT EMPLOYEES OR CONFIDENTIAL EMPLOYEES.

23-1430. Elections

A. IF, IN ACCORDANCE WITH RULES ADOPTED BY THE BOARD OR A LOCAL BOARD, A LABOR ORGANIZATION FILES A PETITION WITH THE BOARD OR LOCAL BOARD AND THE PETITION CONTAINS THE SIGNATURES OF AT LEAST THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT, THE BOARD OR LOCAL BOARD SHALL CONDUCT A SECRET BALLOT REPRESENTATION ELECTION TO DETERMINE WHETHER AND BY WHICH LABOR ORGANIZATION THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT SHALL BE REPRESENTED. THE BALLOT SHALL CONTAIN THE FOLLOWING:

1. THE NAMES OF ANY LABOR ORGANIZATION THAT SUBMITS A PETITION CONTAINING SIGNATURES OF AT LEAST TEN PER CENT OF THE PUBLIC EMPLOYEES WITHIN THE APPROPRIATE BARGAINING UNIT.

2. A PROVISION ALLOWING THE PUBLIC EMPLOYEES TO INDICATE IF THE PUBLIC EMPLOYEES DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION.

B. AFTER A LABOR ORGANIZATION FILES A VALID PETITION WITH THE BOARD OR A LOCAL BOARD CALLING FOR A REPRESENTATION ELECTION, OTHER LABOR ORGANIZATIONS MAY SEEK TO BE PLACED ON THE BALLOT BY FILING A PETITION CONTAINING THE SIGNATURES OF AT LEAST TEN PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT. THE PETITION SHALL BE FILED NO LATER THAN TEN DAYS AFTER THE BOARD OR LOCAL BOARD AND THE PUBLIC EMPLOYER POST A WRITTEN NOTICE THAT THE PETITION CONTAINING THE SIGNATURES OF AT LEAST THIRTY PER CENT OF THE PUBLIC EMPLOYEES HAS BEEN FILED BY A LABOR ORGANIZATION.

C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE BOARD OR A LOCAL BOARD MAY ESTABLISH AN ALTERNATIVE APPROPRIATE PROCEDURE FOR DETERMINING MAJORITY STATUS. THE BOARD OR LOCAL BOARD SHALL NOT CERTIFY ANY APPROPRIATE BARGAINING UNIT IF THE PUBLIC EMPLOYER OBJECTS TO THE CERTIFICATION WITHOUT AN ELECTION.

D. WITHIN FIFTEEN DAYS AFTER AN ELECTION IN WHICH A MAJORITY OF THE EMPLOYEES INDICATE THE DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION, BUT NO LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, A RUNOFF ELECTION BETWEEN THE TWO CHOICES RECEIVING THE LARGEST NUMBER OF VOTES CAST SHALL BE CONDUCTED. THE BOARD OR A LOCAL BOARD SHALL CERTIFY THE RESULTS OF THE ELECTION. IF A LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, THE BOARD OR LOCAL BOARD SHALL CERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT.

E. AN ELECTION SHALL NOT BE CONDUCTED IF AN ELECTION OR RUNOFF ELECTION HAS BEEN CONDUCTED WITHIN THE TWELVE MONTHS THAT IMMEDIATELY PRECEDE THE PROPOSED REPRESENTATION ELECTION. AN ELECTION SHALL NOT BE HELD DURING THE TERM OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT, EXCEPT AS PROVIDED BY SECTION 23-1432.

23-1431. Exclusive representation

A. A LABOR ORGANIZATION THAT HAS BEEN CERTIFIED BY THE BOARD OR A LOCAL BOARD TO REPRESENT PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL ACT FOR ALL

PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT AND NEGOTIATE A COLLECTIVE BARGAINING AGREEMENT THAT COVERS ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL REPRESENT THE INTERESTS OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT WITHOUT DISCRIMINATION OR REGARD TO MEMBERSHIP IN THE LABOR ORGANIZATION.

B. THIS SECTION DOES NOT PREVENT A PUBLIC EMPLOYEE FROM ACTING INDIVIDUALLY AND PRESENTING A GRIEVANCE WITHOUT THE INTERVENTION OF THE EXCLUSIVE REPRESENTATIVE. IF A PUBLIC EMPLOYEE INDIVIDUALLY BRINGS A GRIEVANCE AT ANY HEARING, THE EXCLUSIVE REPRESENTATIVE SHALL BE ALLOWED TO BE PRESENT AND STATE OPINIONS. ANY ADJUSTMENT THAT IS MADE SHALL NOT BE INCONSISTENT WITH OR IN VIOLATION OF THE COLLECTIVE BARGAINING AGREEMENT THAT IS IN EFFECT BETWEEN THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE.

23-1432. Decertification of exclusive representative

A. ANY LABOR ORGANIZATION OR ANY MEMBER OF A LABOR ORGANIZATION MAY INITIATE DECERTIFICATION OF A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE IF THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT MAKE A WRITTEN REQUEST TO THE BOARD OR A LOCAL BOARD FOR A DECERTIFICATION ELECTION. A DECERTIFICATION ELECTION SHALL BE HELD IN A MANNER PRESCRIBED BY THE BOARD OR LOCAL BOARD.

B. IF A COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR LESS THAN THREE YEARS, A REQUEST FOR A DECERTIFICATION ELECTION SHALL BE MADE TO THE BOARD OR A LOCAL BOARD NO EARLIER THAN NINETY DAYS AND NO LATER THAN SIXTY DAYS BEFORE THE EXPIRATION OF THE COLLECTIVE BARGAINING AGREEMENT. IF A COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR MORE THAN THREE YEARS, A REQUEST FOR AN ELECTION MAY BE FILED AT ANY TIME.

C. IF, WITHIN THE TIME PERIOD PRESCRIBED IN SUBSECTION B OF THIS SECTION, A COMPETING LABOR ORGANIZATION FILES A PETITION THAT CONTAINS THE SIGNATURES OF AT LEAST THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT, A REPRESENTATION ELECTION SHALL BE CONDUCTED INSTEAD OF A DECERTIFICATION ELECTION.

D. IF AN EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED BUT NO COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT, THE BOARD OR A LOCAL BOARD SHALL NOT ACCEPT A REQUEST FOR A DECERTIFICATION ELECTION EARLIER THAN TWELVE MONTHS AFTER THE LABOR ORGANIZATION HAS BEEN CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE.

23-1433. Scope of bargaining; membership dues; grievance procedure; closed meetings

A. EXCEPT FOR PUBLIC RETIREMENT SYSTEMS ESTABLISHED BY TITLE 38, CHAPTER 5, PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES:

1. SHALL BARGAIN IN GOOD FAITH ON WAGES, HOURS AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT AND OTHER ISSUES AGREED TO BY THE PARTIES. THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL NOT BE REQUIRED TO AGREE TO A PROPOSAL OR TO MAKE A CONCESSION.

2. MAY ENTER INTO WRITTEN COLLECTIVE BARGAINING AGREEMENTS THAT COVER EMPLOYMENT RELATIONS.

B. THE OBLIGATION TO COLLECTIVELY BARGAIN UNDER THIS ARTICLE DOES NOT AUTHORIZE PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES TO ENTER INTO ANY AGREEMENT THAT CONFLICTS WITH ANY STATUTE OF THIS STATE. IF A CONFLICT EXISTS BETWEEN A STATUTE OF THIS STATE AND AN AGREEMENT ENTERED INTO BY THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE IN COLLECTIVE BARGAINING, THE STATUTE GOVERNS.

C. PAYROLL DEDUCTIONS OF THE EXCLUSIVE REPRESENTATIVE'S MEMBERSHIP DUES SHALL BE A MANDATORY SUBJECT OF BARGAINING. THE AMOUNT OF DUES SHALL BE CERTIFIED IN WRITING BY AN OFFICIAL OF THE LABOR ORGANIZATION AND SHALL NOT INCLUDE SPECIAL ASSESSMENTS, PENALTIES OR FINES. THE DUTY OF THE PUBLIC EMPLOYER TO HONOR PAYROLL DEDUCTIONS SHALL CONTINUE UNTIL THE AUTHORIZATION IS REVOKED IN WRITING BY THE PUBLIC EMPLOYEE IN ACCORDANCE WITH THE NEGOTIATED AGREEMENT AND FOR AS LONG AS THE LABOR ORGANIZATION IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE. DURING THE TIME THAT A BOARD CERTIFICATION IS IN EFFECT FOR A PARTICULAR APPROPRIATE BARGAINING UNIT, THE PUBLIC EMPLOYER SHALL NOT DEDUCT DUES FOR ANY OTHER LABOR ORGANIZATION.

D. OCCUPATIONAL GROUPS SHALL NEGOTIATE ALL ISSUES AT THE STATE LEVEL.

E. ANY IMPASSE RESOLUTION OR ANY AGREEMENT PROVISION BY THIS STATE AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL BE CONTINGENT ON THE SPECIFIC APPROPRIATION OF MONIES BY THE LEGISLATURE AND THE AVAILABILITY OF THE MONIES. ANY IMPASSE RESOLUTION OR ANY AGREEMENT PROVISION BY A PUBLIC EMPLOYER OTHER THAN THIS STATE OR THE PUBLIC SCHOOLS AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL BE CONTINGENT ON THE SPECIFIC APPROPRIATION FOR WAGES BY THE APPROPRIATE GOVERNING BODY AND THE AVAILABILITY OF THE MONIES. ANY AGREEMENT PROVISION BY A LOCAL SCHOOL BOARD AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL BE CONTINGENT ON RATIFICATION BY THE APPROPRIATE GOVERNING BODY.

F. EVERY AGREEMENT SHALL INCLUDE A GRIEVANCE PROCEDURE TO BE USED FOR THE SETTLEMENT OF DISPUTES THAT RELATE TO EMPLOYMENT TERMS AND CONDITIONS AND RELATED PERSONNEL MATTERS. THE GRIEVANCE PROCEDURE SHALL PROVIDE FOR A FINAL AND BINDING DETERMINATION. THE FINAL DETERMINATION CONSTITUTES AN ARBITRATION AWARD. IF THERE IS A JUDICIAL REVIEW OF THE AWARD, THE COURT SHALL DETERMINE IF THE AWARD IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS OR NOT BASED ON SUBSTANTIAL EVIDENCE. THE COSTS OF ANY ARBITRATION PROCEEDING CONDUCTED PURSUANT TO THIS SECTION SHALL BE SHARED EQUALLY BY THE PARTIES.

G. NOTWITHSTANDING TITLE 38, CHAPTER 3, ARTICLE 3.1, THE FOLLOWING SHALL BE CLOSED:

1. MEETINGS IN WHICH BARGAINING STRATEGY IS PRELIMINARY TO COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN A PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OF THE PUBLIC EMPLOYEES OF THE PUBLIC EMPLOYER.

2. COLLECTIVE BARGAINING SESSIONS.

3. CONSULTATIONS AND IMPASSE RESOLUTION PROCEDURES IF THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OF THE APPROPRIATE BARGAINING UNIT ARE PRESENT.

23-1434. Impasse resolution; mediation; arbitration

A. THE FOLLOWING NEGOTIATIONS AND IMPASSE PROCEDURES SHALL BE FOLLOWED BETWEEN THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR STATE EMPLOYEES:

1. A REQUEST FOR THE BEGINNING OF INITIAL NEGOTIATIONS SHALL BE FILED IN WRITING BY THE EXCLUSIVE REPRESENTATIVE TO THIS STATE NO LATER THAN JUNE 1 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE. NEGOTIATIONS SHALL BEGIN NO LATER THAN JULY 1 OF THAT YEAR.

2. IN THE YEARS FOLLOWING INITIAL NEGOTIATIONS PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, NEGOTIATIONS THAT ARE AGREED TO BY THIS STATE AND THE EXCLUSIVE REPRESENTATIVE SHALL BEGIN NO LATER THAN AUGUST 1 FOLLOWING THE SUBMISSION OF WRITTEN NOTICE TO THIS STATE BY THE EXCLUSIVE REPRESENTATIVE. THE EXCLUSIVE REPRESENTATIVE SHALL SUBMIT THE WRITTEN NOTICE TO THIS STATE BY JULY 1 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE.

3. IF AN IMPASSE OCCURS DURING NEGOTIATIONS BETWEEN THIS STATE AND THE EXCLUSIVE REPRESENTATIVE AND NO AGREEMENT IS REACHED BY OCTOBER 1, THIS STATE OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST MEDIATION SERVICES FROM THE BOARD. THE BOARD SHALL ASSIGN A MEDIATOR FROM THE FEDERAL MEDIATION AND CONCILIATION SERVICE TO ASSIST NEGOTIATIONS UNLESS THE PARTIES AGREE TO ANOTHER MEDIATOR.

4. THE MEDIATOR SHALL PROVIDE SERVICES UNTIL AN AGREEMENT IS REACHED, UNTIL THE MEDIATOR BELIEVES THAT MEDIATION SERVICES ARE NO LONGER HELPFUL OR UNTIL DECEMBER 1, WHICHEVER OCCURS FIRST.

5. IF THE IMPASSE CONTINUES AFTER DECEMBER 1, THIS STATE OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST THE FORMATION OF AN ARBITRATION PANEL. THE ARBITRATION PANEL SHALL ADDRESS THE UNRESOLVED ISSUES. THE ARBITRATION PANEL SHALL CONSIST OF ONE MEMBER WHO IS APPOINTED BY THE EXCLUSIVE REPRESENTATIVE, ONE MEMBER WHO IS APPOINTED BY THIS STATE AND A THIRD MEMBER WHO IS APPOINTED BY THE OTHER TWO MEMBERS. IF THERE IS A JUDICIAL REVIEW OF THE DECISION OF THE ARBITRATION PANEL, THE COURT SHALL DETERMINE WHETHER THE DECISION IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS OR NOT BASED ON SUBSTANTIAL EVIDENCE.

B. EXCEPT FOR THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR THIS STATE, THE FOLLOWING IMPASSE PROCEDURES SHALL BE FOLLOWED BY ALL OTHER PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES:

1. IF AN IMPASSE OCCURS AND THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE CANNOT AGREE ON A MEDIATOR, THE PUBLIC EMPLOYER OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST FROM THE BOARD OR LOCAL BOARD THAT A MEDIATOR BE ASSIGNED TO THE NEGOTIATIONS. THE BOARD OR LOCAL BOARD SHALL ASSIGN A MEDIATOR WITH THE FEDERAL MEDIATION AND CONCILIATION SERVICE TO ASSIST NEGOTIATIONS.

2. IF THE IMPASSE CONTINUES AFTER A SIXTY DAY MEDIATION PERIOD, EITHER THE PUBLIC EMPLOYER OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST THE FORMATION

OF AN ARBITRATION PANEL. THE ARBITRATION PANEL SHALL CONSIST OF ONE MEMBER WHO IS APPOINTED BY THE EXCLUSIVE REPRESENTATIVE, ONE MEMBER WHO IS APPOINTED BY THE PUBLIC EMPLOYER AND A THIRD MEMBER WHO IS APPOINTED BY THE OTHER TWO MEMBERS. IF THERE IS A JUDICIAL REVIEW OF THE DECISION OF THE ARBITRATION PANEL, THE COURT SHALL DETERMINE WHETHER THE DECISION IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS OR NOT BASED ON SUBSTANTIAL EVIDENCE.

C. EXCEPT FOR THIS STATE, A PUBLIC EMPLOYER MAY ENTER INTO A WRITTEN AGREEMENT WITH THE EXCLUSIVE REPRESENTATIVE THAT ESTABLISHES AN ALTERNATIVE IMPASSE RESOLUTION PROCEDURE.

23-1435. Prohibited practices; public employers; public employees

A. IT IS A PROHIBITED PRACTICE FOR A PUBLIC EMPLOYER OR ITS DESIGNATED REPRESENTATIVE TO DO ANY OF THE FOLLOWING:

1. INTERFERE WITH, RESTRAIN OR COERCE, OR THREATEN TO INTERFERE WITH, RESTRAIN OR COERCE, ANY EMPLOYEE IN OR BECAUSE OF THE EXERCISE OF ANY RIGHTS GUARANTEED BY THIS ARTICLE.

2. CONTROL, DOMINATE OR INTERFERE WITH THE FORMATION, EXISTENCE OR ADMINISTRATION OF ANY LABOR ORGANIZATION OR SUPPORT OR IN ANY WAY ENCOURAGE EMPLOYEES TO JOIN ANY ORGANIZATION IN PREFERENCE TO ANOTHER.

3. DISCRIMINATE OR RETALIATE AGAINST ANY EMPLOYEE FOR FILING A GRIEVANCE OR FOR ASSERTING RIGHTS UNDER THIS ARTICLE.

4. REFUSE OR FAIL TO MEET AND CONFER IN GOOD FAITH WITH THE EXCLUSIVE REPRESENTATIVE OR REFUSE OR FAIL TO PARTICIPATE IN GOOD FAITH IN THE MEDIATION OR ARBITRATION.

5. DENY A LABOR ORGANIZATION RIGHTS THAT ARE GUARANTEED TO IT BY THIS CHAPTER.

6. REFUSE OR FAIL TO COMPLY WITH THIS ARTICLE OR ANY RULE ADOPTED BY THE BOARD OR LOCAL BOARD.

7. REFUSE OR FAIL TO COMPLY WITH ANY COLLECTIVE BARGAINING AGREEMENT.

8. ENGAGE IN A LOCKOUT OF ANY EMPLOYEES.

B. IT IS A PROHIBITED PRACTICE FOR A PUBLIC EMPLOYEE OR A LABOR ORGANIZATION TO DO ANY OF THE FOLLOWING:

1. INTERFERE WITH, RESTRAIN OR COERCE, OR THREATEN TO INTERFERE WITH, RESTRAIN OR COERCE, ANY EMPLOYEE IN, OR BECAUSE OF, THE EXERCISE OF RIGHTS GUARANTEED BY THIS ARTICLE.

2. DISCRIMINATE OR RETALIATE AGAINST ANY EMPLOYEE FOR FILING A GRIEVANCE OR FOR ASSERTING RIGHTS UNDER THIS ARTICLE.

3. DISCRIMINATE AGAINST A PUBLIC EMPLOYEE REGARDING MEMBERSHIP IN A LABOR ORGANIZATION BECAUSE OF RACE, COLOR, CREED, AGE, SEX OR NATIONAL ORIGIN.

4. REFUSE TO ENTER INTO COLLECTIVE BARGAINING IN GOOD FAITH WITH THE PUBLIC EMPLOYER.

5. REFUSE OR FAIL TO MEET AND CONFER IN GOOD FAITH WITH THE EXCLUSIVE REPRESENTATIVE, INCLUDING REFUSAL OR FAILURE TO PARTICIPATE IN GOOD FAITH IN MEDIATION OR ARBITRATION.

6. REFUSE OR FAIL TO COMPLY WITH ANY COLLECTIVE BARGAINING AGREEMENT OR THIS ARTICLE.

7. PICKET HOMES OR PRIVATE BUSINESSES OF ELECTED OFFICIALS OR PUBLIC EMPLOYEES.

8. INDUCE, AUTHORIZE OR PARTICIPATE IN A STRIKE AGAINST ANY PUBLIC EMPLOYER.

23-1436. Strikes and lockouts; prohibition; decertification

A. A PUBLIC EMPLOYEE OR LABOR ORGANIZATION SHALL NOT ENGAGE IN A STRIKE. A LABOR ORGANIZATION SHALL NOT CAUSE, INSTIGATE, ENCOURAGE OR SUPPORT A PUBLIC EMPLOYEE STRIKE. A PUBLIC EMPLOYER SHALL NOT CAUSE, INSTIGATE OR ENGAGE IN ANY PUBLIC EMPLOYEE LOCKOUT.

B. A PUBLIC EMPLOYER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF TO END A STRIKE. THE EXCLUSIVE REPRESENTATIVE OF PUBLIC EMPLOYEES WHO ARE AFFECTED BY A LOCKOUT MAY BRING AN ACTION FOR INJUNCTIVE RELIEF TO END A LOCKOUT.

C. ANY LABOR ORGANIZATION THAT CAUSES, INSTIGATES, ENCOURAGES OR SUPPORTS A PUBLIC EMPLOYEE STRIKE, WALKOUT OR SLOWDOWN MAY BE DECERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR THAT APPROPRIATE BARGAINING UNIT BY EITHER THE BOARD OR A LOCAL BOARD AND SHALL NOT SERVE AS THE EXCLUSIVE REPRESENTATIVE OF ANY BARGAINING UNIT OF PUBLIC EMPLOYEES FOR A PERIOD THAT DOES NOT EXCEED ONE YEAR.

23-1437. Agreements; enforcement

ALL COLLECTIVE BARGAINING AGREEMENTS AND OTHER AGREEMENTS BETWEEN PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES ARE VALID AND ENFORCEABLE ACCORDING TO THE TERMS OF THE AGREEMENT IF ENTERED INTO IN ACCORDANCE WITH THIS ARTICLE.

23-1438. Judicial enforcement

A. THE TERMS OF ANY AGREEMENT MAY BE ENFORCED BY EITHER PARTY BY A CIVIL ACTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE AGREEMENT WAS MADE. THE BOARD OR A LOCAL BOARD MAY REQUEST THE COURT TO ENFORCE AN ORDER ISSUED PURSUANT TO THIS ARTICLE, INCLUDING ORDERS FOR APPROPRIATE TEMPORARY RELIEF AND RESTRAINING ORDERS. THE COURT SHALL CONSIDER THE REQUEST FOR ENFORCEMENT ON THE RECORD MADE BEFORE THE BOARD OR LOCAL BOARD. THE COURT SHALL UPHOLD THE ACTION OF THE BOARD OR LOCAL BOARD AND TAKE APPROPRIATE ACTION TO ENFORCE THE BOARD'S OR LOCAL BOARD'S ACTION UNLESS THE COURT CONCLUDES THAT THE ORDER IS:

1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.

2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD CONSIDERED AS A WHOLE.

3. NOT IN ACCORDANCE WITH LAW.

B. ANY PERSON OR PARTY, INCLUDING ANY LABOR ORGANIZATION THAT IS AFFECTED BY A FINAL RULE, ORDER OR DECISION OF THE BOARD OR A LOCAL BOARD, MAY APPEAL TO THE COURT FOR FURTHER RELIEF. ALL APPEALS SHALL BE BASED ON THE RECORD MADE AT THE BOARD OR LOCAL BOARD HEARING. ALL APPEALS TO THE COURT SHALL BE TAKEN WITHIN THIRTY DAYS AFTER THE DATE OF THE FINAL RULE, ORDER OR DECISION OF THE BOARD OR LOCAL BOARD. ACTIONS THAT ARE TAKEN BY THE

BOARD OR LOCAL BOARD SHALL BE AFFIRMED UNLESS THE COURT CONCLUDES THAT THE ACTION IS:

1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.

2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD TAKEN AS A WHOLE.

3. NOT IN ACCORDANCE WITH LAW.

Sec. 2. Section 41-1092.02, Arizona Revised Statutes, is amended to read:

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.

2. The board of executive clemency.

3. The industrial commission of Arizona.

4. The Arizona corporation commission.

5. The Arizona board of regents and institutions under its jurisdiction.

6. The state personnel board.

7. The department of juvenile corrections.

8. The department of transportation.

9. The department of economic security except as provided in sections 8-506.01, 8-811 and 46-458.

10. The department of revenue regarding:

(a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

14. The board of fingerprinting.

15. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to ~~the provisions under~~ section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3023.01, to read:

41-3023.01. Public employee labor relations board; termination July 1, 2023

A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD TERMINATES ON JULY 1, 2023.

B. TITLE 23, CHAPTER 8, ARTICLE 7 IS REPEALED ON JANUARY 1, 2024.

Sec. 4. Purpose

Pursuant to section 41-2955, subsection E, Arizona Revised Statutes, the purpose of the public employee labor relations board is to encourage conciliation, mediation and voluntary arbitration, to aid and encourage employers and their employees to reach and maintain collective bargaining agreements concerning rates of pay, hours and working conditions and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by those methods as may be provided for in any applicable agreement for the settlement of disputes.