

REFERENCE TITLE: public employees; collective bargaining

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2253

Introduced by
Representatives Quezada, Alston, Cardenas, Dalessandro, Gabaldón, Mendez,
Sherwood, Senators Gallardo: Pancrazi

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
41-3024.01; RELATING TO THE PUBLIC EMPLOYEE BARGAINING ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 ARTICLE 7. PUBLIC EMPLOYEE BARGAINING ACT

5 23-1421. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

20 6. "CONFIDENTIAL EMPLOYEE" MEANS AN INDIVIDUAL WHO ASSISTS AND ACTS IN
21 A CONFIDENTIAL CAPACITY TO AN INDIVIDUAL WHO FORMULATES, DETERMINES AND
22 EFFECTUATES MANAGEMENT POLICIES FOR MEETING AND CONFERRING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 23-1422. Public employee rights

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

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

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

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

42 23-1423. Public employer rights

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

- 1 1. DETERMINE THE MISSION OF ITS AGENCIES, SET STANDARDS OF SERVICE TO
2 BE OFFERED TO THE PUBLIC AND EXERCISE CONTROL OVER ITS ORGANIZATION AND
3 OPERATIONS.
- 4 2. DIRECT, PROMOTE OR ASSIGN ITS EMPLOYEES, TAKE DISCIPLINARY ACTION
5 FOR JUST CAUSE AND RELIEVE ITS EMPLOYEES FROM DUTY FOR LACK OF WORK.
- 6 23-1424. Appropriate governing body
- 7 A. THE APPROPRIATE GOVERNING BODY IS AS FOLLOWS:
- 8 1. FOR THIS STATE, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE.
- 9 2. FOR A CONSTITUTIONALLY CREATED BODY, THE DESIGNATED HEAD OF THAT
10 BODY.
- 11 3. FOR A LOCAL PUBLIC BODY, THE ELECTED OR APPOINTED REPRESENTATIVE
12 BODY OR INDIVIDUAL CHARGED WITH MANAGEMENT OF THE LOCAL PUBLIC BODY.
- 13 B. IF THERE IS A DISPUTE REGARDING WHO THE APPROPRIATE GOVERNING BODY
14 IS, THE BOARD SHALL DETERMINE THE APPROPRIATE GOVERNING BODY.
- 15 23-1425. Public employee labor relations board; membership;
16 appointments; director; compensation
- 17 A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD IS ESTABLISHED.
- 18 B. THE BOARD CONSISTS OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY
19 THE GOVERNOR:
- 20 1. ONE MEMBER WHO IS INVOLVED IN REPRESENTING PUBLIC EMPLOYEES.
- 21 2. ONE MEMBER WHO IS A PUBLIC EMPLOYER AND WHO IS ACTIVELY INVOLVED IN
22 COLLECTIVE BARGAINING.
- 23 3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE
24 APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.
- 25 C. BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT OCCUR,
26 OTHER THAN BY THE EXPIRATION OF A TERM, MUST BE FILLED IN THE SAME MANNER FOR
27 THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A BOARD MEMBER
28 SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC OFFICE, BE A PUBLIC
29 EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION THAT REPRESENTS
30 PUBLIC EMPLOYEES OR PUBLIC EMPLOYERS. BOARD MEMBERS MAY SERVE AN UNLIMITED
31 NUMBER OF TERMS.
- 32 D. THE BOARD SHALL APPOINT A DIRECTOR WHO IS ELIGIBLE TO RECEIVE
33 COMPENSATION PURSUANT TO SECTION 38-611.
- 34 E. BOARD MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO
35 SECTION 38-611 AND ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT
36 TO TITLE 38, CHAPTER 4, ARTICLE 2.
- 37 23-1426. Public employee labor relations board; powers and
38 duties; prohibition
- 39 A. THE BOARD SHALL:
- 40 1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS
41 ARTICLE, INCLUDING RULES FOR:
- 42 (a) DESIGNATING APPROPRIATE BARGAINING UNITS.
- 43 (b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.
- 44 (c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF
45 PROHIBITED PRACTICES.

1 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES THAT ARE ADOPTED
2 PURSUANT TO THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO
3 ENFORCE THIS ARTICLE.
4 3. HOLD HEARINGS AND MAKE INQUIRIES THAT ARE NECESSARY TO CARRY OUT
5 ITS FUNCTIONS AND DUTIES.
6 4. CONDUCT STUDIES ON PROBLEMS THAT RELATE TO EMPLOYEE AND EMPLOYER
7 RELATIONS.
8 5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE
9 INFORMATION AND DATA THAT ARE NECESSARY TO CARRY OUT THE BOARD'S FUNCTIONS
10 AND RESPONSIBILITIES.
11 6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN THE
12 FORM OF WRITTEN ORDERS AND OPINIONS.
13 B. THE BOARD MAY:
14 1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE ATTENDANCE
15 AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE, INCLUDING
16 BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY MATTER IN
17 QUESTION.
18 2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL
19 ACTIONS IN SUPERIOR COURT.
20 3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE
21 EVIDENCE.
22 4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE BOARD
23 IN ITS FUNCTIONS.
24 C. THE BOARD SHALL NOT REQUIRE ANY PUBLIC EMPLOYEE TO PAY MONEY TO ANY
25 LABOR ORGANIZATION AS A CONDITION OF EMPLOYMENT.
26 23-1427. Local boards; members; powers and duties
27 A. EXCEPT FOR THIS STATE AND IF THE PUBLIC EMPLOYEE LABOR RELATIONS
28 BOARD APPROVES, A PUBLIC EMPLOYER BY ORDINANCE, RESOLUTION OR CHARTER
29 AMENDMENT MAY ESTABLISH A LOCAL BOARD THAT IS SIMILAR TO THE PUBLIC EMPLOYEE
30 LABOR RELATIONS BOARD. IF ESTABLISHED AND APPROVED, THE LOCAL BOARD SHALL
31 ASSUME THE DUTIES AND RESPONSIBILITIES OF THE PUBLIC EMPLOYEE LABOR RELATIONS
32 BOARD. A LOCAL BOARD SHALL FOLLOW ALL PROVISIONS OF THIS ARTICLE THAT APPLY
33 TO THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD UNLESS OTHERWISE APPROVED BY THE
34 PUBLIC EMPLOYEE LABOR RELATIONS BOARD.
35 B. A LOCAL BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS WHO ARE
36 APPOINTED BY THE PUBLIC EMPLOYER:
37 1. ONE MEMBER WHO REPRESENTS PUBLIC EMPLOYEES.
38 2. ONE MEMBER WHO REPRESENTS MANAGEMENT.
39 3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE
40 APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.
41 C. LOCAL BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT
42 OCCUR, OTHER THAN BY THE EXPIRATION OF A TERM, MUST BE FILLED IN THE SAME
43 MANNER FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A
44 LOCAL BOARD MEMBER SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC
45 OFFICE, BE A PUBLIC EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION

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

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

5 E. THE LOCAL BOARD SHALL:

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

8 (a) DESIGNATING APPROPRIATE BARGAINING UNITS.
9 (b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.
10 (c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF
11 PROHIBITED PRACTICES.

12 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES THAT ARE ADOPTED
13 PURSUANT TO THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO
14 ENFORCE THIS ARTICLE.

15 3. HOLD HEARINGS AND MAKE INQUIRIES THAT ARE NECESSARY TO CARRY OUT
16 ITS FUNCTIONS AND DUTIES.

17 4. CONDUCT STUDIES ON PROBLEMS THAT RELATE TO EMPLOYEE AND EMPLOYER
18 RELATIONS.

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

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

24 F. THE LOCAL BOARD MAY:

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

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

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

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

35 23-1428. Hearing procedures

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

38 B. THE BOARD OR A LOCAL BOARD SHALL ADOPT RULES TO GOVERN PROCEDURES
39 FOR THE HEARINGS. THE RULES THAT ARE ADOPTED UNDER THIS SUBSECTION MUST
40 INCLUDE ALL MINIMAL DUE PROCESS REQUIREMENTS THAT THE UNITED STATES
41 CONSTITUTION AND THE CONSTITUTION OF THIS STATE REQUIRE.

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

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

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

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

22 23-1429. Appropriate bargaining units; definition

23 A. ON RECEIPT OF A PETITION FOR A REPRESENTATION ELECTION THAT A LABOR
24 ORGANIZATION FILES, THE BOARD OR A LOCAL BOARD SHALL DESIGNATE THE
25 APPROPRIATE BARGAINING UNITS FOR COLLECTIVE BARGAINING. APPROPRIATE
26 BARGAINING UNITS MUST BE ESTABLISHED ON THE BASIS OF OCCUPATIONAL GROUPS.
27 ESSENTIAL FACTORS IN DETERMINING APPROPRIATE BARGAINING UNITS MUST INCLUDE
28 THE PRINCIPLES OF EFFICIENT ADMINISTRATION OF GOVERNMENT, THE HISTORY OF
29 COLLECTIVE BARGAINING AND THE ASSURANCE TO PUBLIC EMPLOYEES OF THE FULLEST
30 FREEDOM IN EXERCISING THE RIGHTS THAT ARE GUARANTEED BY THIS ARTICLE.

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

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

38 D. FOR THE PURPOSES OF THIS SECTION, "OCCUPATIONAL GROUPS" MEANS A
39 CLEAR AND IDENTIFIABLE COMMUNITY OF INTEREST IN EMPLOYMENT TERMS AND
40 CONDITIONS AND RELATED PERSONNEL MATTERS AMONG THE PUBLIC EMPLOYEES INVOLVED.
41 OCCUPATIONAL GROUPS INCLUDE EMPLOYEES OF BLUE-COLLAR, SECRETARIAL, CLERICAL,
42 TECHNICAL, PROFESSIONAL, PARAPROFESSIONAL, POLICE, FIRE AND CORRECTIONS
43 POSITIONS.

1 23-1430. Elections

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

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

13 2. A PROVISION THAT ALLOWS THE PUBLIC EMPLOYEES TO INDICATE IF THE
14 PUBLIC EMPLOYEES DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION.

15 B. AFTER A LABOR ORGANIZATION FILES A VALID PETITION WITH THE BOARD OR
16 A LOCAL BOARD THAT CALLS FOR A REPRESENTATION ELECTION, OTHER LABOR
17 ORGANIZATIONS MAY SEEK TO BE PLACED ON THE BALLOT BY FILING A PETITION THAT
18 CONTAINS THE SIGNATURES OF AT LEAST TEN PER CENT OF THE PUBLIC EMPLOYEES IN
19 THE APPROPRIATE BARGAINING UNIT. THE PETITION MUST BE FILED NO LATER THAN
20 TEN DAYS AFTER THE BOARD OR LOCAL BOARD AND THE PUBLIC EMPLOYER POST A
21 WRITTEN NOTICE THAT THE PETITION THAT CONTAINS THE SIGNATURES OF AT LEAST
22 THIRTY PER CENT OF THE PUBLIC EMPLOYEES HAS BEEN FILED BY A LABOR
23 ORGANIZATION.

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

29 D. WITHIN FIFTEEN DAYS AFTER AN ELECTION IN WHICH A MAJORITY OF THE
30 EMPLOYEES INDICATE THE DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION, BUT
31 NO LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, A RUNOFF
32 ELECTION BETWEEN THE TWO CHOICES THAT RECEIVE THE LARGEST NUMBER OF VOTES
33 CAST MUST BE CONDUCTED. THE BOARD OR A LOCAL BOARD SHALL CERTIFY THE RESULTS
34 OF THE ELECTION. IF A LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES
35 CAST, THE BOARD OR LOCAL BOARD SHALL CERTIFY THE LABOR ORGANIZATION AS THE
36 EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE
37 BARGAINING UNIT.

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

43 23-1431. Exclusive representation

44 A. A LABOR ORGANIZATION THAT HAS BEEN CERTIFIED BY THE BOARD OR A
45 LOCAL BOARD TO REPRESENT PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT

1 IS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE
2 BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL ACT FOR ALL PUBLIC
3 EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT AND NEGOTIATE A COLLECTIVE
4 BARGAINING AGREEMENT THAT COVERS ALL PUBLIC EMPLOYEES IN THE APPROPRIATE
5 BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL REPRESENT THE INTERESTS
6 OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT WITHOUT
7 DISCRIMINATION OR REGARD TO MEMBERSHIP IN THE LABOR ORGANIZATION.

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

15 23-1432. Decertification of exclusive representative

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

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

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

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

38 23-1433. Scope of bargaining; membership dues; grievance
39 procedure; closed meetings

40 A. EXCEPT FOR PUBLIC RETIREMENT SYSTEMS THAT ARE ESTABLISHED BY TITLE
41 38, CHAPTER 5, PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES:

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

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

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

9 C. PAYROLL DEDUCTIONS OF THE EXCLUSIVE REPRESENTATIVE'S MEMBERSHIP
10 DUES ARE A MANDATORY SUBJECT OF BARGAINING. THE AMOUNT OF DUES MUST BE
11 CERTIFIED IN WRITING BY AN OFFICIAL OF THE LABOR ORGANIZATION AND MAY NOT
12 INCLUDE SPECIAL ASSESSMENTS, PENALTIES OR FINES. THE DUTY OF THE PUBLIC
13 EMPLOYER TO HONOR PAYROLL DEDUCTIONS MUST CONTINUE UNTIL THE PUBLIC EMPLOYEE
14 REVOKES THE AUTHORIZATION IN WRITING ACCORDING TO THE NEGOTIATED AGREEMENT
15 AND FOR AS LONG AS THE LABOR ORGANIZATION IS CERTIFIED AS THE EXCLUSIVE
16 REPRESENTATIVE. DURING THE TIME THAT A BOARD CERTIFICATION IS IN EFFECT FOR
17 A PARTICULAR APPROPRIATE BARGAINING UNIT, THE PUBLIC EMPLOYER SHALL NOT
18 DEDUCT DUES FOR ANY OTHER LABOR ORGANIZATION.

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

20 E. ANY IMPASSE RESOLUTION OR ANY AGREEMENT PROVISION BY THIS STATE AND
21 AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES MUST BE
22 CONTINGENT ON THE SPECIFIC APPROPRIATION OF MONIES BY THE LEGISLATURE AND THE
23 AVAILABILITY OF THE MONIES. ANY IMPASSE RESOLUTION OR ANY AGREEMENT
24 PROVISION BY A PUBLIC EMPLOYER OTHER THAN THIS STATE OR THE PUBLIC SCHOOLS
25 AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES MUST
26 BE CONTINGENT ON THE SPECIFIC APPROPRIATION FOR WAGES BY THE APPROPRIATE
27 GOVERNING BODY AND THE AVAILABILITY OF THE MONIES. ANY AGREEMENT PROVISION
28 BY A LOCAL SCHOOL BOARD AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE
29 EXPENDITURE OF MONIES MUST BE CONTINGENT ON RATIFICATION BY THE APPROPRIATE
30 GOVERNING BODY.

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

40 G. NOTWITHSTANDING TITLE 38, CHAPTER 3, ARTICLE 3.1, THE FOLLOWING
41 MUST BE CLOSED:

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

45 2. COLLECTIVE BARGAINING SESSIONS.

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

4 23-1434. Impasse resolution; mediation; arbitration

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

7 1. THE EXCLUSIVE REPRESENTATIVE TO THIS STATE SHALL FILE A REQUEST FOR
8 THE BEGINNING OF INITIAL NEGOTIATIONS IN WRITING NO LATER THAN JUNE 1 OF THE
9 YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE. NEGOTIATIONS MUST BEGIN NO
10 LATER THAN JULY 1 OF THAT YEAR.

11 2. IN THE YEARS FOLLOWING INITIAL NEGOTIATIONS PURSUANT TO PARAGRAPH 1
12 OF THIS SUBSECTION, NEGOTIATIONS THAT THIS STATE AND THE EXCLUSIVE
13 REPRESENTATIVE AGREE TO MUST BEGIN NO LATER THAN AUGUST 1 FOLLOWING THE
14 EXCLUSIVE REPRESENTATIVE'S SUBMISSION OF WRITTEN NOTICE TO THIS STATE. THE
15 EXCLUSIVE REPRESENTATIVE SHALL SUBMIT THE WRITTEN NOTICE TO THIS STATE BY
16 JULY 1 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE.

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

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

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

35 B. EXCEPT FOR THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR THIS
36 STATE, ALL OTHER PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES SHALL FOLLOW
37 THE FOLLOWING IMPASSE PROCEDURES:

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

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

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

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

10 23-1435. Prohibited practices: public employers; public
11 employees

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

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

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

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

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

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

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

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

30 8. ENGAGE IN A LOCKOUT OF ANY EMPLOYEES.

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

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

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

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

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

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

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

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

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

7 23-1436. Strikes and lockouts; prohibition; decertification

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

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

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

21 23-1437. Agreements; enforcement

22 ALL COLLECTIVE BARGAINING AGREEMENTS AND OTHER AGREEMENTS BETWEEN
23 PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES ARE VALID AND ENFORCEABLE
24 ACCORDING TO THE TERMS OF THE AGREEMENT IF ENTERED INTO PURSUANT TO THIS
25 ARTICLE.

26 23-1438. Judicial enforcement

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

- 36 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.
37 2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD CONSIDERED AS A
38 WHOLE.
39 3. NOT IN ACCORDANCE WITH LAW.

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

1 DECISION OF THE BOARD OR LOCAL BOARD. ACTIONS THAT ARE TAKEN BY THE BOARD OR
2 LOCAL BOARD MUST BE AFFIRMED UNLESS THE COURT CONCLUDES THAT THE ACTION IS:
3 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.
4 2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD TAKEN AS A
5 WHOLE.
6 3. NOT IN ACCORDANCE WITH LAW.

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

9 41-1092.02. Appealable agency actions; application of
10 procedural rules; exemption from article

11 A. This article applies to all contested cases as defined in section
12 41-1001 and all appealable agency actions, except contested cases with or
13 appealable agency actions of:

- 14 1. The state department of corrections.
- 15 2. The board of executive clemency.
- 16 3. The industrial commission of Arizona.
- 17 4. The Arizona corporation commission.
- 18 5. The Arizona board of regents and institutions under its
19 jurisdiction.
- 20 6. The state personnel board.
- 21 7. The department of juvenile corrections.
- 22 8. The department of transportation.
- 23 9. The department of economic security except as provided in sections
24 8-506.01, 8-811 and 46-458.
- 25 10. The department of revenue regarding:
 - 26 (a) Income tax or withholding tax.
 - 27 (b) Any tax issue related to information associated with the reporting
28 of income tax or withholding tax unless the taxpayer requests in writing that
29 this article apply and waives confidentiality under title 42, chapter 2,
30 article 1.
- 31 11. The board of tax appeals.
- 32 12. The state board of equalization.
- 33 13. The state board of education, but only in connection with contested
34 cases and appealable agency actions related to applications for issuance or
35 renewal of a certificate and discipline of certificate holders pursuant to
36 sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
- 37 14. The board of fingerprinting.
- 38 15. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

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

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

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

