

REFERENCE TITLE: public employees; collective bargaining

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1670

Introduced by
Senator Mendez

AN ACT

AMENDING TITLE 38, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 9; AMENDING SECTION 41-1092.02, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3031.01; RELATING TO PUBLIC EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 38, Arizona Revised Statutes, is amended by adding
3 chapter 9, to read:

4 CHAPTER 9

5 PUBLIC EMPLOYEE BARGAINING ACT

6 ARTICLE 1. GENERAL PROVISIONS

7 38-1201. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "APPROPRIATE BARGAINING UNIT" MEANS A GROUP OF PUBLIC EMPLOYEES
10 DESIGNATED BY THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD
11 FOR THE PURPOSE OF COLLECTIVE BARGAINING.

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

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

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

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

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

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

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

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

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

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

12. "MANAGEMENT EMPLOYEE":

(a) 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.

(b) 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. "PUBLIC EMPLOYEE":

(a) MEANS AN EMPLOYEE OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

(b) DOES NOT INCLUDE ELECTED OFFICIALS OR INDIVIDUALS WHO ARE APPOINTED TO SERVE ON BOARDS OR COMMISSIONS.

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

16. "STRIKE" MEANS A PUBLIC EMPLOYEE'S REFUSAL IN CONCERTED ACTION WITH OTHERS TO REPORT FOR DUTY, AN EMPLOYEE'S WILFUL ABSENCE 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.

17. "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.

38-1202. 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 DETERMINING THE TERMS AND CONDITIONS OF THEIR EMPLOYMENT, INCLUDING THE RIGHT TO BE REPRESENTED IN DETERMINING GRIEVANCES ON ALL TERMS AND CONDITIONS OF EMPLOYMENT.

C. PUBLIC EMPLOYEES MAY ENGAGE IN CONCERTED ACTIVITIES THAT ARE 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.

38-1203. Public employer rights

IN ADDITION TO ALL OF THE POWERS, RIGHTS AND DUTIES THAT ARE 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.

38-1204. Appropriate governing body

A. THE APPROPRIATE GOVERNING BODY IS 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 MANAGING 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.

38-1205. 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, MUST BE FILLED IN THE SAME MANNER FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A BOARD MEMBER MAY 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 CHAPTER 4, ARTICLE 2 OF THIS TITLE.

38-1206. Public employee labor relations board; powers and duties; prohibition

A. THE BOARD SHALL:

1. ADOPT RULES THAT ARE NECESSARY TO ADMINISTER THIS ARTICLE, INCLUDING RULES FOR:

1 (a) DESIGNATING APPROPRIATE BARGAINING UNITS.
2 (b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE
3 REPRESENTATIVES.
4 (c) FILING, HEARING AND DETERMINING COMPLAINTS OF PROHIBITED
5 PRACTICES.
6 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES THAT ARE ADOPTED
7 PURSUANT TO THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO
8 ENFORCE THIS ARTICLE.
9 3. HOLD HEARINGS AND MAKE INQUIRIES THAT ARE NECESSARY TO CARRY OUT
10 ITS FUNCTIONS AND DUTIES.
11 4. CONDUCT STUDIES ON PROBLEMS THAT RELATE TO EMPLOYEE AND EMPLOYER
12 RELATIONS.
13 5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE
14 INFORMATION AND DATA THAT ARE NECESSARY TO CARRY OUT THE BOARD'S FUNCTIONS
15 AND RESPONSIBILITIES.
16 6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN
17 THE FORM OF WRITTEN ORDERS AND OPINIONS.
18 B. THE BOARD MAY:
19 1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE
20 ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE,
21 INCLUDING BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY
22 MATTER IN QUESTION.
23 2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL
24 ACTIONS IN SUPERIOR COURT.
25 3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE
26 EVIDENCE.
27 4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE
28 BOARD IN ITS FUNCTIONS.
29 C. THE BOARD MAY NOT REQUIRE ANY PUBLIC EMPLOYEE TO PAY MONEY TO
30 ANY LABOR ORGANIZATION AS A CONDITION OF EMPLOYMENT.
31 38-1207. Local boards; members; powers and duties
32 A. EXCEPT FOR THIS STATE AND IF THE PUBLIC EMPLOYEE LABOR RELATIONS
33 BOARD APPROVES, A PUBLIC EMPLOYER BY ORDINANCE, RESOLUTION OR CHARTER
34 AMENDMENT MAY ESTABLISH A LOCAL BOARD THAT IS SIMILAR TO THE PUBLIC
35 EMPLOYEE LABOR RELATIONS BOARD. IF ESTABLISHED AND APPROVED, THE LOCAL
36 BOARD SHALL ASSUME THE DUTIES AND RESPONSIBILITIES OF THE PUBLIC EMPLOYEE
37 LABOR RELATIONS BOARD. A LOCAL BOARD SHALL FOLLOW ALL PROVISIONS OF THIS
38 ARTICLE THAT APPLY TO THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD UNLESS
39 OTHERWISE APPROVED BY THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.
40 B. A LOCAL BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS WHO ARE
41 APPOINTED BY THE PUBLIC EMPLOYER:
42 1. ONE MEMBER WHO REPRESENTS PUBLIC EMPLOYEES.
43 2. ONE MEMBER WHO REPRESENTS MANAGEMENT.
44 3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE
45 APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

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

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

10 E. THE LOCAL BOARD SHALL:

11 1. ADOPT RULES THAT ARE NECESSARY TO ADMINISTER THIS ARTICLE,
12 INCLUDING RULES FOR:

13 (a) DESIGNATING APPROPRIATE BARGAINING UNITS.

14 (b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE
15 REPRESENTATIVES.

16 (c) FILING, HEARING AND DETERMINING COMPLAINTS OF PROHIBITED
17 PRACTICES.

18 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES THAT ARE ADOPTED
19 PURSUANT TO THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO
20 ENFORCE THIS ARTICLE.

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

23 4. CONDUCT STUDIES ON PROBLEMS THAT RELATE TO EMPLOYEE AND EMPLOYER
24 RELATIONS.

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

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

30 F. THE LOCAL BOARD MAY:

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

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

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

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

41 ~~38-1208.~~ Hearing procedures

42 A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD MAY
43 HOLD HEARINGS TO GATHER INFORMATION, MAKE INQUIRIES, ADOPT RULES,
44 ADJUDICATE DISPUTES AND ENFORCE THIS ARTICLE.

1 B. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD SHALL
2 ADOPT RULES TO GOVERN PROCEDURES FOR THE HEARINGS. THE RULES THAT ARE
3 ADOPTED UNDER THIS SUBSECTION MUST INCLUDE ALL MINIMAL DUE PROCESS
4 REQUIREMENTS THAT THE UNITED STATES CONSTITUTION AND THE ARIZONA
5 CONSTITUTION REQUIRE.

6 C. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD MAY
7 APPOINT A HEARING OFFICER TO CONDUCT ANY ADJUDICATION HEARING THAT IS
8 AUTHORIZED BY THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD.
9 AT THE CONCLUSION OF THE HEARING, THE HEARING OFFICER SHALL PREPARE A
10 WRITTEN REPORT, INCLUDING FINDINGS AND RECOMMENDATIONS, AND SHALL SUBMIT
11 THE REPORT TO THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD FOR
12 ITS DECISION.

13 D. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD MAY
14 NOT PROPOSE TO ADOPT A RULE THAT AFFECTS ANY PERSON OR GOVERNMENTAL ENTITY
15 OUTSIDE OF THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD'S OR LOCAL BOARD'S
16 JURISDICTION. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD
17 SHALL CONDUCT A PUBLIC HEARING TO ADOPT, AMEND OR REPEAL ANY RULE AND
18 ALLOW A PUBLIC HEARING AND COMMENT ON THE PROPOSED ACTION BEFORE THE
19 PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD. THE PUBLIC HEARING
20 MUST BE HELD AFTER NOTICE OF THE SUBJECT MATTER OF THE RULE, THE ACTION
21 PROPOSED TO BE TAKEN, THE TIME AND PLACE OF THE HEARING, THE MANNER IN
22 WHICH INTERESTED PERSONS MAY PRESENT THEIR VIEWS AND THE METHOD BY WHICH
23 COPIES OF THE PROPOSED RULE, PROPOSED AMENDMENT OR REPEAL OF AN EXISTING
24 RULE MAY BE OBTAINED. ALL MEETINGS OF THE PUBLIC EMPLOYEE LABOR RELATIONS
25 BOARD MUST BE HELD IN PHOENIX. ALL MEETINGS OF LOCAL BOARDS MUST BE HELD
26 IN THE COUNTY OF RESIDENCE OF THE LOCAL PUBLIC EMPLOYER. THE PUBLIC
27 EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD SHALL PUBLISH A NOTICE AT
28 LEAST THIRTY DAYS BEFORE THE HEARING DATE IN A NEWSPAPER OF GENERAL
29 CIRCULATION IN THIS STATE OR, IN THE CASE OF A LOCAL BOARD HEARING, IN A
30 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY. THE PUBLIC EMPLOYEE LABOR
31 RELATIONS BOARD OR LOCAL BOARD SHALL MAIL A NOTICE AT LEAST THIRTY DAYS
32 BEFORE THE HEARING DATE TO ALL PERSONS THAT HAVE MADE A WRITTEN REQUEST
33 FOR ADVANCE NOTICE OF HEARINGS.

34 E. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD SHALL
35 MAKE AN ELECTRONIC RECORD OF ALL HEARINGS.

36 38-1209. Appropriate bargaining units: definitions

37 A. ON RECEIPT OF A PETITION FOR A REPRESENTATION ELECTION THAT A
38 LABOR ORGANIZATION FILES, THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A
39 LOCAL BOARD SHALL DESIGNATE THE APPROPRIATE BARGAINING UNITS FOR
40 COLLECTIVE BARGAINING. APPROPRIATE BARGAINING UNITS MUST BE ESTABLISHED
41 ON THE BASIS OF OCCUPATIONAL GROUPS. ESSENTIAL FACTORS IN DETERMINING
42 APPROPRIATE BARGAINING UNITS MUST INCLUDE THE PRINCIPLES OF EFFICIENT
43 ADMINISTRATION OF GOVERNMENT, THE HISTORY OF COLLECTIVE BARGAINING AND THE
44 ASSURANCE TO PUBLIC EMPLOYEES OF THE FULLEST FREEDOM IN EXERCISING THE
45 RIGHTS THAT ARE GUARANTEED BY THIS ARTICLE.

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

6 C. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD MAY
7 NOT INCLUDE IN ANY APPROPRIATE BARGAINING UNIT SUPERVISORS, MANAGEMENT
8 EMPLOYEES OR CONFIDENTIAL EMPLOYEES.

9 D. FOR THE PURPOSES OF THIS SECTION:

10 1. "OCCUPATIONAL GROUPS":

11 (a) MEANS A CLEAR AND IDENTIFIABLE COMMUNITY OF INTEREST IN
12 EMPLOYMENT TERMS AND CONDITIONS AND RELATED PERSONNEL MATTERS AMONG THE
13 PUBLIC EMPLOYEES INVOLVED.

14 (b) INCLUDE EMPLOYEES OF BLUE-COLLAR, SECRETARIAL, CLERICAL,
15 TECHNICAL, PROFESSIONAL, PARAPROFESSIONAL, POLICE, FIRE AND CORRECTIONS
16 POSITIONS.

17 2. "PROFESSIONAL" MEANS WORK THAT IS PREDOMINANTLY INTELLECTUAL AND
18 VARIED IN CHARACTER, THAT INVOLVES THE CONSISTENT EXERCISE OF DISCRETION
19 AND JUDGMENT IN ITS PERFORMANCE AND THAT REQUIRES KNOWLEDGE OF AN ADVANCED
20 NATURE IN A FIELD OF LEARNING THAT CUSTOMARILY REQUIRES SPECIALIZED STUDY
21 AT AN INSTITUTION OF HIGHER EDUCATION OR ITS EQUIVALENT.

22 38-1210. Elections

23 A. IF, IN ACCORDANCE WITH RULES THAT ARE ADOPTED BY THE PUBLIC
24 EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD, A LABOR ORGANIZATION
25 FILES A PETITION WITH THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL
26 BOARD AND THE PETITION CONTAINS THE SIGNATURES OF AT LEAST THIRTY PERCENT
27 OF THE PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT, THE PUBLIC
28 EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD SHALL CONDUCT A SECRET
29 BALLOT REPRESENTATION ELECTION TO DETERMINE WHETHER AND BY WHICH LABOR
30 ORGANIZATION THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT SHALL
31 BE REPRESENTED. THE BALLOT MUST CONTAIN THE FOLLOWING:

32 1. THE NAMES OF ANY LABOR ORGANIZATION THAT SUBMITS A PETITION THAT
33 CONTAINS SIGNATURES OF AT LEAST TEN PERCENT OF THE PUBLIC EMPLOYEES WITHIN
34 THE APPROPRIATE BARGAINING UNIT.

35 2. A PROVISION THAT ALLOWS THE PUBLIC EMPLOYEES TO INDICATE WHETHER
36 THE PUBLIC EMPLOYEES DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION.

37 B. AFTER A LABOR ORGANIZATION FILES A VALID PETITION WITH THE
38 PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD THAT CALLS FOR A
39 REPRESENTATION ELECTION, OTHER LABOR ORGANIZATIONS MAY SEEK TO BE PLACED
40 ON THE BALLOT BY FILING A PETITION THAT CONTAINS THE SIGNATURES OF AT
41 LEAST TEN PERCENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING
42 UNIT. THE PETITION MUST BE FILED NOT LATER THAN TEN DAYS AFTER THE PUBLIC
43 EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD AND THE PUBLIC EMPLOYER POST
44 A WRITTEN NOTICE THAT THE PETITION THAT CONTAINS THE SIGNATURES OF AT

1 LEAST THIRTY PERCENT OF THE PUBLIC EMPLOYEES HAS BEEN FILED BY A LABOR
2 ORGANIZATION.

3 C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE PUBLIC
4 EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD MAY ESTABLISH AN
5 ALTERNATIVE APPROPRIATE PROCEDURE FOR DETERMINING MAJORITY STATUS. THE
6 PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD MAY NOT CERTIFY ANY
7 APPROPRIATE BARGAINING UNIT IF THE PUBLIC EMPLOYER OBJECTS TO THE
8 CERTIFICATION WITHOUT AN ELECTION.

9 D. WITHIN FIFTEEN DAYS AFTER AN ELECTION IN WHICH A MAJORITY OF THE
10 EMPLOYEES INDICATE THE DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION,
11 BUT NO LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, A RUNOFF
12 ELECTION BETWEEN THE TWO CHOICES THAT RECEIVE THE LARGEST NUMBER OF VOTES
13 CAST MUST BE CONDUCTED. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A
14 LOCAL BOARD SHALL CERTIFY THE RESULTS OF THE ELECTION. IF A LABOR
15 ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, THE PUBLIC EMPLOYEE
16 LABOR RELATIONS BOARD OR LOCAL BOARD SHALL CERTIFY THE LABOR ORGANIZATION
17 AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE
18 BARGAINING UNIT.

19 E. AN ELECTION MAY NOT BE CONDUCTED IF AN ELECTION OR RUNOFF
20 ELECTION HAS BEEN CONDUCTED WITHIN THE TWELVE MONTHS THAT IMMEDIATELY
21 PRECEDE THE PROPOSED REPRESENTATION ELECTION. AN ELECTION MAY NOT BE HELD
22 DURING THE TERM OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT EXCEPT AS
23 PROVIDED BY SECTION 38-1212.

24 38-1211. Exclusive representation

25 A. A LABOR ORGANIZATION THAT HAS BEEN CERTIFIED BY THE PUBLIC
26 EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD TO REPRESENT PUBLIC
27 EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT IS THE EXCLUSIVE
28 REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING
29 UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL ACT FOR ALL PUBLIC EMPLOYEES IN
30 THE APPROPRIATE BARGAINING UNIT AND NEGOTIATE A COLLECTIVE BARGAINING
31 AGREEMENT THAT COVERS ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING
32 UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL REPRESENT THE INTERESTS OF ALL
33 PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT WITHOUT DISCRIMINATION
34 OR REGARD TO MEMBERSHIP IN THE LABOR ORGANIZATION.

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

38-1212. 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 PERCENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT MAKE A WRITTEN REQUEST TO THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD FOR A DECERTIFICATION ELECTION. A DECERTIFICATION ELECTION MUST BE HELD IN A MANNER PRESCRIBED BY THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD.

B. IF A COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR LESS THAN THREE YEARS, A REQUEST FOR A DECERTIFICATION ELECTION MUST BE MADE TO THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR A LOCAL BOARD NOT EARLIER THAN NINETY DAYS AND NOT 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 PERCENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT, A REPRESENTATION ELECTION MUST BE CONDUCTED INSTEAD OF A DECERTIFICATION ELECTION.

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

38-1213. Scope of bargaining; membership dues; grievance procedure; closed meetings

A. EXCEPT FOR PUBLIC RETIREMENT SYSTEMS THAT ARE ESTABLISHED PURSUANT TO CHAPTER 5 OF THIS TITLE, 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 MAY 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 STATE STATUTE. IF A CONFLICT EXISTS BETWEEN A STATE STATUTE AND AN AGREEMENT THAT THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE ENTER INTO IN COLLECTIVE BARGAINING, THE STATUTE GOVERNS.

C. PAYROLL DEDUCTIONS OF THE EXCLUSIVE REPRESENTATIVE'S MEMBERSHIP DUES ARE A MANDATORY SUBJECT OF BARGAINING. THE AMOUNT OF DUES MUST BE CERTIFIED IN WRITING BY AN OFFICIAL OF THE LABOR ORGANIZATION AND MAY NOT

1 INCLUDE SPECIAL ASSESSMENTS, PENALTIES OR FINES. THE PUBLIC EMPLOYER
2 SHALL CONTINUE TO HONOR PAYROLL DEDUCTIONS UNTIL THE PUBLIC EMPLOYEE
3 REVOKES THE AUTHORIZATION IN WRITING ACCORDING TO THE NEGOTIATED AGREEMENT
4 AND FOR AS LONG AS THE LABOR ORGANIZATION IS CERTIFIED AS THE EXCLUSIVE
5 REPRESENTATIVE. DURING THE TIME THAT A BOARD CERTIFICATION IS IN EFFECT
6 FOR A PARTICULAR APPROPRIATE BARGAINING UNIT, THE PUBLIC EMPLOYER MAY NOT
7 DEDUCT DUES FOR ANY OTHER LABOR ORGANIZATION.

8 D. OCCUPATIONAL GROUPS AS DEFINED IN SECTION 38-1209 SHALL
9 NEGOTIATE ALL ISSUES AT THE STATE LEVEL.

10 E. ANY IMPASSE RESOLUTION OR ANY AGREEMENT PROVISION BY THIS STATE
11 AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES
12 MUST BE CONTINGENT ON THE SPECIFIC APPROPRIATION OF MONIES BY THE
13 LEGISLATURE AND THE AVAILABILITY OF THE MONIES. ANY IMPASSE RESOLUTION OR
14 ANY AGREEMENT PROVISION BY A PUBLIC EMPLOYER OTHER THAN THIS STATE OR THE
15 PUBLIC SCHOOLS AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE
16 EXPENDITURE OF MONIES MUST BE CONTINGENT ON THE SPECIFIC APPROPRIATION FOR
17 WAGES BY THE APPROPRIATE GOVERNING BODY AND THE AVAILABILITY OF THE
18 MONIES. ANY AGREEMENT PROVISION BY A LOCAL SCHOOL BOARD AND AN EXCLUSIVE
19 REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES MUST BE CONTINGENT
20 ON RATIFICATION BY THE APPROPRIATE GOVERNING BODY.

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

30 G. NOTWITHSTANDING CHAPTER 3, ARTICLE 3.1 OF THIS TITLE, THE
31 FOLLOWING MUST BE CLOSED:

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

35 2. COLLECTIVE BARGAINING SESSIONS.

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

39 ~~38-1214.~~ Impasse resolution; mediation; arbitration

40 A. THE FOLLOWING NEGOTIATIONS AND IMPASSE PROCEDURES MUST BE
41 FOLLOWED BETWEEN THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR STATE
42 EMPLOYEES:

1 1. THE EXCLUSIVE REPRESENTATIVE TO THIS STATE SHALL FILE A REQUEST
2 FOR THE BEGINNING OF INITIAL NEGOTIATIONS IN WRITING NOT LATER THAN JUNE 1
3 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE. NEGOTIATIONS MUST
4 BEGIN NOT LATER THAN JULY 1 OF THAT YEAR.

5 2. IN THE YEARS FOLLOWING INITIAL NEGOTIATIONS PURSUANT TO
6 PARAGRAPH 1 OF THIS SUBSECTION, NEGOTIATIONS THAT THIS STATE AND THE
7 EXCLUSIVE REPRESENTATIVE AGREE TO MUST BEGIN NOT LATER THAN AUGUST 1
8 FOLLOWING THE EXCLUSIVE REPRESENTATIVE'S SUBMISSION OF WRITTEN NOTICE TO
9 THIS STATE. THE EXCLUSIVE REPRESENTATIVE SHALL SUBMIT THE WRITTEN NOTICE
10 TO THIS STATE BY JULY 1 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE
11 PLACE.

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

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

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

30 B. EXCEPT FOR THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR THIS
31 STATE, ALL OTHER PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES SHALL
32 FOLLOW THE FOLLOWING IMPASSE PROCEDURES:

33 1. IF AN IMPASSE OCCURS AND THE PUBLIC EMPLOYER AND THE EXCLUSIVE
34 REPRESENTATIVE CANNOT AGREE ON A MEDIATOR, THE PUBLIC EMPLOYER OR THE
35 EXCLUSIVE REPRESENTATIVE MAY REQUEST FROM THE PUBLIC EMPLOYEE LABOR
36 RELATIONS BOARD OR LOCAL BOARD THAT A MEDIATOR BE ASSIGNED TO THE
37 NEGOTIATIONS. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD
38 SHALL ASSIGN A MEDIATOR WITH THE FEDERAL MEDIATION AND CONCILIATION
39 SERVICE TO ASSIST NEGOTIATIONS.

40 2. IF THE IMPASSE CONTINUES AFTER A SIXTY-DAY MEDIATION PERIOD,
41 EITHER THE PUBLIC EMPLOYER OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST THE
42 FORMATION OF AN ARBITRATION PANEL. THE ARBITRATION PANEL SHALL CONSIST OF
43 ONE MEMBER WHO IS APPOINTED BY THE EXCLUSIVE REPRESENTATIVE, ONE MEMBER
44 WHO IS APPOINTED BY THE PUBLIC EMPLOYER AND A THIRD MEMBER WHO IS
45 APPOINTED BY THE OTHER TWO MEMBERS. IF THERE IS A JUDICIAL REVIEW OF THE

1 DECISION OF THE ARBITRATION PANEL, THE COURT SHALL DETERMINE WHETHER THE
2 DECISION IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS OR NOT BASED ON
3 SUBSTANTIAL EVIDENCE.

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

7 38-1215. Prohibited practices; public employers; public
8 employees

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

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

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

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

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

22 5. DENY A LABOR ORGANIZATION RIGHTS THAT ARE GUARANTEED TO IT BY
23 THIS ARTICLE.

24 6. REFUSE OR FAIL TO COMPLY WITH THIS ARTICLE OR ANY RULE THAT IS
25 ADOPTED BY THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD.

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

28 8. ENGAGE IN A LOCKOUT OF ANY EMPLOYEES.

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

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

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

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

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

41 5. REFUSE OR FAIL TO MEET AND CONFER IN GOOD FAITH WITH THE
42 EXCLUSIVE REPRESENTATIVE, INCLUDING REFUSING OR FAILING TO PARTICIPATE IN
43 GOOD FAITH IN MEDIATION OR ARBITRATION.

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

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

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

7 38-1216. Strikes and lockouts; prohibition; decertification

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

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

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

22 38-1217. Agreements; enforcement

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

27 38-1218. Judicial enforcement

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

39 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.

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

42 3. NOT IN ACCORDANCE WITH LAW.

43 B. ANY PERSON OR PARTY, INCLUDING ANY LABOR ORGANIZATION THAT IS
44 AFFECTED BY A FINAL RULE, ORDER OR DECISION OF THE PUBLIC EMPLOYEE LABOR
45 RELATIONS BOARD OR A LOCAL BOARD, MAY APPEAL TO THE COURT FOR FURTHER

1 RELIEF. ALL APPEALS MUST BE BASED ON THE RECORD MADE AT THE PUBLIC
2 EMPLOYEE LABOR RELATIONS BOARD OR LOCAL BOARD HEARING. ALL APPEALS TO THE
3 COURT MUST BE TAKEN WITHIN THIRTY DAYS AFTER THE DATE OF THE FINAL RULE,
4 ORDER OR DECISION OF THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD OR LOCAL
5 BOARD. ACTIONS THAT ARE TAKEN BY THE PUBLIC EMPLOYEE LABOR RELATIONS
6 BOARD OR LOCAL BOARD MUST BE AFFIRMED UNLESS THE COURT CONCLUDES THAT THE
7 ACTION IS:

- 8 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.
- 9 2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD TAKEN AS A
10 WHOLE.
- 11 3. NOT IN ACCORDANCE WITH LAW.

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

14 41-1092.02. Appealable agency actions: application of
15 procedural rules; exemption from article

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

- 19 1. The state department of corrections.
- 20 2. The board of executive clemency.
- 21 3. The industrial commission of Arizona.
- 22 4. The Arizona corporation commission.
- 23 5. The Arizona board of regents and institutions under its
24 jurisdiction.
- 25 6. The state personnel board.
- 26 7. The department of juvenile corrections.
- 27 8. The department of transportation, except as provided in title
28 28, chapter 30, article 2.
- 29 9. The department of economic security except as provided in
30 section 46-458.
- 31 10. The department of revenue regarding:
 - 32 (a) Income tax or withholding tax.
 - 33 (b) Any tax issue related to information associated with the
34 reporting of income tax or withholding tax unless the taxpayer requests in
35 writing that this article apply and waives confidentiality under title 42,
36 chapter 2, article 1.
 - 37 11. The board of tax appeals.
 - 38 12. The state board of equalization.
 - 39 13. The state board of education, but only in connection with
40 contested cases and appealable agency actions related to either:
 - 41 (a) Applications for issuance or renewal of a certificate and
42 discipline of certificate holders and noncertificated persons pursuant to
43 sections 15-203, 15-505, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
 - 44 (b) The Arizona empowerment scholarship account program pursuant to
45 title 15, chapter 19.

1 14. The board of fingerprinting.
2 15. The department of child safety except as provided in sections
3 8-506.01 and 8-811.
4 16. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.
5 B. Unless waived by all parties, an administrative law judge shall
6 conduct all hearings under this article, and the procedural rules set
7 forth in this article and rules made by the director apply.
8 C. Except as provided in subsection A of this section:
9 1. A contested case heard by the office of administrative hearings
10 regarding taxes administered under title 42 shall be subject to section
11 42-1251.
12 2. A final decision of the office of administrative hearings
13 regarding taxes administered under title 42 may be appealed by either
14 party to the director of the department of revenue, or a taxpayer may file
15 and appeal directly to the board of tax appeals pursuant to section
16 42-1253.
17 D. Except as provided in subsections A, B, E, F and G of this
18 section and notwithstanding any other administrative proceeding or
19 judicial review process established in statute or administrative rule,
20 this article applies to all appealable agency actions and to all contested
21 cases.
22 E. Except for a contested case or an appealable agency action
23 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and
24 41-1092.09 do not apply to the department of revenue.
25 F. The board of appeals established by section 37-213 is exempt
26 from:
27 1. The time frames for hearings and decisions provided in section
28 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.
29 2. The requirement in section 41-1092.06, subsection A to hold an
30 informal settlement conference at the appellant's request if the sole
31 subject of an appeal pursuant to section 37-215 is the estimate of value
32 reported in an appraisal of lands or improvements.
33 G. Auction protest procedures pursuant to title 37, chapter 2,
34 article 4.1 are exempt from this article.
35 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes,
36 is amended by adding section 41-3031.01, to read:
37 41-3031.01. Public employee labor relations board;
38 termination July 1, 2031
39 A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD TERMINATES ON JULY 1,
40 2031.
41 B. TITLE 38, CHAPTER 9 AND THIS SECTION ARE REPEALED ON JANUARY 1,
42 2032.

1 Sec. 4. Purpose

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