

AN ACT

RELATING TO COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES;  
PROVIDING RIGHTS, RESPONSIBILITIES AND PROCEDURES IN THE  
EMPLOYMENT RELATIONSHIP BETWEEN PUBLIC EMPLOYEES AND PUBLIC  
EMPLOYERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the  
"Public Employee Bargaining Act".

Section 2. PURPOSE OF ACT. -- The purpose of the Public  
Employee Bargaining Act is to guarantee public employees the  
right to organize and bargain collectively with their  
employers, to promote harmonious and cooperative  
relationships between public employers and public employees  
and to protect the public interest by assuring, at all  
times, the orderly operation and functioning of the state  
and its political subdivisions.

Section 3. CONFLICTS. -- In the event of conflict with  
other laws, the provisions of the Public Employee Bargaining  
Act shall supersede other previously enacted legislation;  
provided that the Public Employee Bargaining Act shall not  
supersede the provisions of the Bateman Act, the Personnel  
Act, Sections 10-7-1 through 10-7-19 NMSA 1978, the Group  
Benefits Act, the Per Diem and Mileage Act, the Retiree  
Health Care Act, public employee retirement laws or the Tort  
Claims Act.

Section 4. DEFINITIONS.--As used in the Public Employee Bargaining Act:

A. "appropriate bargaining unit" means a group of public employees designated by the board or local board for the purpose of collective bargaining;

B. "appropriate governing body" means the policymaking body or individual representing a public employer as defined in Section 7 of the Public Employee Bargaining Act;

C. "board" means the public employee labor relations board;

D. "certification" means the designation by the board or local board of a labor organization as the exclusive representative for all public employees in an appropriate bargaining unit;

E. "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;

F. "confidential employee" means a person who assists and acts in a confidential capacity with respect to a person who formulates, determines and effectuates management policies;

G. "exclusive representative" means a labor organization that, as a result of certification, has the

right to represent all public employees in an appropriate bargaining unit for the purposes of collective bargaining;

H. "impasse" means 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;

I. "labor organization" means an employee organization, one of whose purposes is the representation of public employees in collective bargaining and in otherwise meeting, consulting and conferring with employers on matters pertaining to employment relations;

J. "local board" means a local labor relations board established by a public employer, other than the state, through ordinance, resolution or charter amendment;

K. "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;

L. "management employee" means an employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, administering or effectuating management policies. An employee shall not be deemed a management employee solely because the employee participates in cooperative decision-making programs on an occasional basis;

M. "mediation" means assistance by an impartial third party to resolve an impasse between a public employer and an exclusive representative regarding employment relations through interpretation, suggestion and advice;

N. "professional employee" means an employee whose work is predominantly intellectual and varied in character and whose work 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. The work of a professional employee is of such character that the output or result accomplished cannot be standardized in relation to a given period of time;

O. "public employee" means a regular, nonprobationary employee of a public employer; provided that in the public schools, "public employee" includes any regular probationary employee;

P. "public employer" means the state or any political subdivision of the state, including municipalities having adopted home rule charters, and not including any government of a tribe or pueblo;

Q. "strike" means a public employee's refusal, in concerted action with other public employees, to report for duty or his willful absence in whole or in part from the full, faithful and proper performance of the duties of

employment for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment; and

R. "supervisor" means an employee who devotes a substantial amount of work time to supervisory duties, who customarily and regularly directs the work of two or more other employees and who has the authority in the interest of the employer to hire, promote or discipline other employees or to recommend such actions effectively, but does not include individuals who perform merely routine, incidental or clerical duties or who occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their subordinates, and does not include lead employees or employees who participate in peer review or occasional employee evaluation programs.

Section 5. RIGHTS OF PUBLIC EMPLOYEES. -- Public employees, other than management employees, supervisors and confidential employees, may form, join or assist any labor organization for the purpose of collective bargaining through representatives chosen by public employees without interference, restraint or coercion and shall have the right to refuse any such activities.

Section 6. RIGHTS OF PUBLIC EMPLOYERS. -- Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, a public employer may:

A. direct the work of, hire, promote, assign,

transfer, demote, suspend, discharge or terminate public employees;

B. determine qualifications for employment and the nature and content of personnel examinations;

C. take actions as may be necessary to carry out the mission of the public employer in emergencies; and

D. retain all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

Section 7. APPROPRIATE GOVERNING BODY--PUBLIC EMPLOYER.--The appropriate governing body of any public employer shall be the policymaking individual or body representing the public employer. In the case of the state, the appropriate governing body shall be the governor or his designee or, in the case of a constitutionally created body, the constitutionally designated head of that body. At the local level, the appropriate governing body shall be the elected or appointed representative body or individual charged with management of the local public body. In the event of dispute, the board shall determine the appropriate governing body.

Section 8. PUBLIC EMPLOYEE LABOR RELATIONS BOARD--CREATED--TERMS--QUALIFICATIONS.--

A. The "public employee labor relations board" is created. The board shall consist of three members appointed by the governor. The governor shall appoint one member

recommended by organized labor representatives actively involved in representing public employees, one member recommended by public employers actively involved in collective bargaining and one member jointly recommended by the other two appointees.

B. Board members shall serve for a period of one year with terms commencing on July 1. Vacancies shall be filled by appointment by the governor in the same manner as the original appointment, and such appointments shall only be made for the remainder of the unexpired term. A board member may serve an unlimited number of terms.

C. During the term for which he is appointed, no board member shall hold or seek any other political office or public employment or be an employee of a union or an organization representing public employees or public employers.

D. Each board member shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

Section 9. BOARD-- POWERS AND DUTIES. --

A. The board shall promulgate rules necessary to accomplish and perform its functions and duties as established in the Public Employee Bargaining Act, including the establishment of procedures for:

(1) the designation of appropriate bargaining units;

(2) the selection, certification and decertification of exclusive representatives; and

(3) the filing of, hearing on and determination of complaints of prohibited practices.

B. The board shall:

(1) hold hearings and make inquiries necessary to carry out its functions and duties;

(2) conduct studies on problems pertaining to employee-employer relations; and

(3) request from public employers and labor organizations the information and data necessary to carry out the board's functions and responsibilities.

C. The board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents relating to any matter in question. The board may prescribe the form of subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The board may administer oaths and affirmations, examine witnesses and receive evidence.

D. The board shall decide all issues by majority vote and shall issue its decisions in the form of written orders and opinions.

E. The board may hire such personnel or contract with such third parties as it deems necessary to assist it

in carrying out its functions.

F. The board has the power to enforce provisions of the Public Employee Bargaining Act through the imposition of appropriate administrative remedies.

G. No rule promulgated by the board or a local board shall require, directly or indirectly, as a condition of continuous employment, any public employee covered by the Public Employee Bargaining Act to pay money to any labor organization that is certified as an exclusive representative. This issue shall be left to voluntary bargaining by the parties.

Section 10. LOCAL BOARD--CREATED.--

A. With the approval of the board, a public employer other than the state may, by ordinance, resolution or charter amendment, create a local board similar to the public employee labor relations board. Once created and approved, the local board shall assume the duties and responsibilities of the public employee labor relations board. A local board shall follow all procedures and provisions of the Public Employee Bargaining Act that apply to the board unless otherwise approved by the board.

B. The local board shall be composed of three members appointed by the public employer. One member shall be appointed on the recommendation of individuals representing labor, one member shall be appointed on the recommendation of individuals representing management and

one member shall be appointed on the recommendation of the first two appointees.

C. Local board members shall serve one-year terms. Local board members may serve an unlimited number of terms. Vacancies shall be filled in the same manner as the original appointment, and such appointments shall only be made for the remainder of the unexpired term.

D. During the term for which he is appointed, no local board member shall hold or seek any other political office or public employment or be an employee of a union or an organization representing public employees or public employers.

E. Each local board member shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

Section 11. LOCAL BOARD--POWERS AND DUTIES.--

A. A local board shall promulgate rules necessary to accomplish and perform its functions and duties as established in the Public Employee Bargaining Act, including the establishment of procedures for:

(1) the designation of appropriate bargaining units;

(2) the selection, certification and decertification of exclusive representatives; and

(3) the filing of, hearing on and determination of complaints of prohibited practices.

B. A local board shall:

(1) hold hearings and make inquiries necessary to carry out its functions and duties;

(2) request information and data from public employers and labor organizations to carry out the local board's functions and responsibilities; and

(3) hire such personnel or contract with such third parties as the appropriate governing body deems necessary to assist the local board in carrying out its functions.

C. A local board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents relating to any matter in question. The local board may prescribe the form of subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The local board may administer oaths and affirmations, examine witnesses and receive evidence.

D. A local board shall decide all issues by majority vote and shall issue its decisions in the form of written orders and opinions.

E. A local board has the power to enforce provisions of the Public Employee Bargaining Act or a local collective bargaining ordinance, resolution or charter amendment through the imposition of appropriate

administrative remedies.

Section 12. HEARING PROCEDURES. --

A. The board or a local board may hold hearings for the purposes of:

- (1) information gathering and inquiry;
- (2) adopting rules; and
- (3) adjudicating disputes and enforcing the

provisions of the Public Employee Bargaining Act and rules adopted pursuant to that act.

B. The board or a local board shall adopt rules setting forth procedures to be followed during hearings of the board or local board. The procedures adopted for conducting adjudicatory hearings shall meet all minimal due process requirements of the state and federal constitutions.

C. The board or a local board may appoint a hearing examiner to conduct any adjudicatory hearing authorized by the board or local board. At the conclusion of the hearing, the examiner shall prepare a written report, including findings and recommendations, all of which shall be submitted to the board or local board for its decision.

D. No rule proposed to be adopted by the board or a local board that affects any person or governmental entity outside of the board or local board and its staff shall be adopted, amended or repealed without 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 Santa Fe. All meetings of local boards shall be held in the county of residence of the local public employer. Notice shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation in the state or, in the case of a local board hearing, in a newspaper of general circulation in the county, and notice shall be mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearings.

E. All adopted rules shall be filed in accordance with applicable state statutes.

F. A verbatim record made by electronic or other suitable means shall be made of every rulemaking and adjudicatory hearing. The record shall not be transcribed unless required for judicial review or unless ordered by the board or local board.

Section 13. APPROPRIATE BARGAINING UNITS. --

A. The board or a local board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining units for collective bargaining. Appropriate bargaining units shall

be established on the basis of "occupational groups", a clear and identifiable community of interest in employment terms and conditions and related personnel matters among the public employees involved. Occupational groups shall generally be identified as blue collar, secretarial-clerical, technical, professional, paraprofessional, police, fire and corrections. The parties, by mutual agreement, may further consolidate 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 the Public Employee Bargaining Act.

B. Within thirty days of a disagreement arising 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.

#### Section 14. ELECTIONS. --

A. Whenever, in accordance with rules prescribed by the board or a local board, a petition is filed by a labor organization containing the signatures of at least

thirty percent 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 names of any labor organization submitting a petition containing signatures of at least ten percent of the public employees within the appropriate bargaining unit. The ballot shall also contain a provision allowing the public employee to indicate whether he desires to be represented by a labor organization.

B. Once a labor organization has filed 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. Such an organization shall file a petition containing the signatures of not less than ten percent of the public employees in the appropriate bargaining unit 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 not less than thirty percent of the public employees has been filed by a labor organization.

C. As an alternative to the provisions of 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 of an election in which 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, and, where 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. No election shall be conducted if an election or runoff election has been conducted in the twelve-month period immediately preceding the proposed representation election. No election shall be held during the term of an existing collective bargaining agreement, except as provided in Section 16 of the Public Employee Bargaining Act.

Section 15. EXCLUSIVE REPRESENTATION. --

A. A labor organization that has been certified by the board or a local board as representing the public employees in the 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 covering 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, acting individually, from presenting a grievance without the intervention of the exclusive representative. At any hearing on a grievance brought by a public employee individually, the exclusive representative shall be afforded the opportunity to be present and make its views known. Any adjustment made shall not be inconsistent with or in violation of the collective bargaining agreement then in effect between the public employer and the exclusive representative.

Section 16. DECERTIFICATION OF EXCLUSIVE REPRESENTATIVE. --

A. Any member of a labor organization or the labor organization itself 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 board or a local board for a decertification election. Decertification elections shall be held in a manner prescribed by rule of the board.

B. When there is a collective bargaining agreement in effect, 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; provided, however, that a request for an election may be filed at any time after the expiration of the third year of a collective bargaining agreement with a term of more than three years.

C. When, within the time period prescribed in Subsection B of this section, a competing labor organization files a petition containing signatures of at least thirty percent of the public employees in the appropriate bargaining unit, a representation election rather than a decertification election shall be conducted.

D. When 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 subsequent to a labor organization's certification as the exclusive representative.

Section 17. SCOPE OF BARGAINING. --

A. Except for retirement programs provided pursuant to the Public Employees Retirement Act or the Educational Retirement Act, 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. However, neither the public employer nor the exclusive representative shall be required to agree to a proposal or to make a concession; and

(2) may enter into written collective bargaining agreements covering employment relations.

B. The obligation to collectively bargain imposed by the Public Employee Bargaining Act shall not be construed as authorizing public employers and exclusive representatives to enter into any agreement that is in conflict with the provisions of any other statute of this state. In the event of conflict between the provisions of any other statute of this state and any agreement entered into by the public employer and the exclusive representative in collective bargaining, the former shall prevail.

C. Payroll deduction of the exclusive representative's membership dues shall be a mandatory subject of bargaining if either party chooses to negotiate the issue. 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 of any type. 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 so 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. Negotiations at the state level shall be conducted by occupational groups on all issues.

E. Any impasse resolution or any agreement provision by the state and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the legislature and the availability of funds. Any impasse resolution or any agreement provision by a public employer other than the state or the public schools and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation for wages by the appropriate governing body and the availability of funds. Any agreement provision by a local school board and an exclusive representative that requires the expenditure of funds shall be contingent upon ratification by the appropriate governing body.

F. Every agreement shall include a grievance procedure to be used for the settlement of disputes pertaining to employment terms and conditions and related personnel matters. The grievance procedure shall provide for a final and binding determination. The final determination shall constitute an arbitration award within the meaning of the Uniform Arbitration Act; provided that, in any judicial review of the award, the court shall

determine whether 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. The following meetings shall be closed:

(1) meetings for the discussion of bargaining strategy 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; and

(3) consultations and impasse resolution procedures at which the public employer and the exclusive representative of the appropriate bargaining unit are present.

Section 18. IMPASSE RESOLUTION. --

A. The following negotiations and impasse procedures shall be followed by the state and exclusive representatives for state employees.

(1) A request for the commencement of initial negotiations shall be filed in writing by the exclusive representative to the 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 subsequent years, negotiations

agreed to by the parties shall begin no later than August 1 following the submission of written notice to the state by the exclusive representative no later than July 1 of the year in which negotiations are to take place.

(3) If an impasse occurs during negotiations between the parties and if no agreement is reached by the parties by October 1, either party may request mediation services from the board. A mediator from the federal mediation and conciliation service shall be assigned by the board to assist negotiations unless the parties agree to another mediator.

(4) The mediator shall provide services to the parties until the parties reach agreement or 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, either party may request the formation of an arbitration panel. Upon the request for an arbitration panel, the unresolved issues shall be resolved pursuant to the Uniform Arbitration Act by an arbitration panel consisting of one member appointed by the exclusive representative, one member appointed by the state and a third member appointed by the other two members; provided that, in any 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. The following impasse procedure shall be followed by all public employers and exclusive representatives, except the state and the state's exclusive representatives.

(1) If an impasse occurs, either party may request from the board or local board that a mediator be assigned to the negotiations unless the parties can agree on a mediator. A mediator with the federal mediation and conciliation service shall be assigned by the board or local board to assist negotiations unless the parties agree to another mediator.

(2) If the impasse continues after a sixty-day mediation period, either party may request the formation of an arbitration panel. Upon the request for an arbitration panel, the unresolved issues shall be resolved pursuant to the Uniform Arbitration Act by an arbitration panel consisting of one member appointed by the exclusive representative, one member appointed by the public employer and a third member appointed by the other two members; provided that, in any 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. A public employer other than the state may enter into a written agreement with the exclusive

representative setting forth an alternative impasse resolution procedure.

Section 19. PUBLIC EMPLOYERS--PROHIBITED

PRACTICES.--No public employer or his representative shall:

A. discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;

B. interfere with, restrain or coerce any public employee in the exercise of any right guaranteed by the provisions of the Public Employee Bargaining Act;

C. dominate or interfere in the formation, existence or administration of any labor organization;

D. discriminate in regard to hiring, tenure or any term or condition of employment in order to encourage or discourage membership in a labor organization;

E. discharge or otherwise discriminate against a public employee because he has signed or filed an affidavit, petition, grievance or complaint or given any information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization;

F. refuse to enter into collective bargaining in good faith with the exclusive representative;

G. refuse or fail to comply with any provision of the Public Employee Bargaining Act or board rule; or

H. refuse or fail to comply with any collective bargaining agreement.

Section 20. PUBLIC EMPLOYEES--LABOR ORGANIZATIONS--PROHIBITED PRACTICES.--No public employee or labor organization or its representative shall:

A. discriminate against a public employee with regard to labor organization membership because of race, color, religion, creed, age, sex or national origin;

B. interfere with, restrain or coerce any public employee in the exercise of any right guaranteed by the provisions of the Public Employee Bargaining Act;

C. refuse to enter into collective bargaining in good faith with a public employer;

D. refuse or fail to comply with any collective bargaining or other agreement with the public employer;

E. refuse or fail to comply with any provision of the Public Employee Bargaining Act; or

F. picket homes or private businesses of elected officials or public employees.

Section 21. STRIKES AND LOCKOUTS PROHIBITED.--

A. No public employee or labor organization shall engage in a strike. No labor organization shall cause, instigate, encourage or support a public employee strike. No public employer shall cause, instigate or engage in any public employee lockout.

B. A public employer may apply to the district

court for injunctive relief to end a strike, and an exclusive representative of public employees affected by a lockout may apply to the district court 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 be barred from serving as the exclusive representative of any bargaining unit of public employees for a period of not more than one year.

Section 22. AGREEMENTS VALID-- ENFORCEMENT. -- All collective bargaining agreements and other agreements between public employers and exclusive representatives are valid and enforceable according to their terms when entered into in accordance with the provisions of the Public Employee Bargaining Act.

Section 23. JUDICIAL ENFORCEMENT-- STANDARD OF REVIEW. --

A. The board or a local board may request the district court to enforce an order issued pursuant to the Public Employee Bargaining Act, including those 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. It shall

uphold the action of the board or local board and take appropriate action to enforce it unless it 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; or
- (3) otherwise not in accordance with law.

B. Any person or party, including any labor organization affected by a final rule, order or decision of the board or a local board, may appeal to the district court for further relief. All such appeals shall be based upon the record made at the board or local board hearing. All such appeals to the district court shall be taken within thirty days of the date of the final rule, order or decision of the board or local board. Actions 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; or
- (3) otherwise not in accordance with law.

Section 24. EXISTING COLLECTIVE BARGAINING UNITS. -- Bargaining units established prior to July 1, 2000 shall continue to be recognized as appropriate bargaining units

for the purposes of the Public Employee Bargaining Act. Bargaining units established between July 1, 2000 and the effective date of that act shall continue in effect only if the unit was established through a representation election.

Section 25. EXISTING COLLECTIVE BARGAINING AGREEMENTS. --Nothing in the Public Employee Bargaining Act shall be construed to annul or modify a collective bargaining agreement entered into between a public employer and an exclusive representative prior to the effective date of the Public Employee Bargaining Act.

Section 26. ORDINANCES EXISTING BEFORE OCTOBER 1, 1991. --A public employer other than the state that prior to October 1, 1991 adopted by ordinance, resolution or charter amendment a system of provisions and procedures permitting employees to form, join or assist a labor organization for the purpose of bargaining collectively through exclusive representatives may continue to operate under those provisions and procedures provided the board has determined that the system of provisions and procedures and the continuing implementation thereof are substantially equivalent to the provisions and procedures set forth in the Public Employee Bargaining Act.

Section 27. EXISTING ORDINANCES PROVIDING FOR PUBLIC EMPLOYEE BARGAINING. --A public employer other than the state that subsequent to October 1, 1991 adopts by ordinance, resolution or charter amendment a system of provisions and

procedures permitting employees to form, join or assist any labor organization for the purpose of collective bargaining through exclusive representatives freely chosen by its employees may operate under those provisions and procedures rather than those set forth in the Public Employee Bargaining Act; provided that the employer shall comply with the provisions of Sections 8, 9, 10, 11 and 12 of that act and provided the following provisions and procedures are included in each ordinance, resolution or charter amendment:

A. the right of public employees to form, join or assist employee organizations for the purpose of achieving collective bargaining;

B. procedures for the identification of appropriate bargaining units, certification elections and decertification elections equivalent to those set forth in the Public Employee Bargaining Act;

C. the right of a labor organization to be certified as an exclusive representative;

D. the right of an exclusive representative to negotiate all wages, hours and other terms and conditions of employment for public employees in the appropriate bargaining unit;

E. the obligation to incorporate agreements reached by the public employer and the exclusive representative into a collective bargaining agreement;

F. a requirement that grievance procedures

culminating with binding arbitration be negotiated;

G. a requirement that payroll deduction for the exclusive representative's membership dues be negotiated if requested by the exclusive representative;

H. impasse resolution procedures equivalent to those set forth in Section 18 of the Public Employee Bargaining Act; and

I. prohibited practices for the public employer, public employees and labor organizations that promote the principles established in Sections 19, 20 and 21 of the Public Employee Bargaining Act.

Section 28. SEVERABILITY. -- If any part or application of the Public Employee Bargaining Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 29. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 2001. \_\_\_\_\_