Section 1. **Law amended.**—Mason's Minnesota Statutes of 1927, Section 9513, is hereby amended so as to read as follows:

"9513. **Arbitrators in labor disputes.**—Except as in this section provided, every controversy which can be the subject of a civil action *or a labor dispute as defined in the Minnesota Labor Relations Act,* may be submitted to the decision of one or more arbitrators in the manner prescribed in this *act,* but nothing herein shall preclude the arbitration of controversies according to the common law. No submission shall be made of a claim to any estate in fee or for life in real estate, but a claim to an interest for a term of years, or for a lesser term, and controversies respecting a partition of lands, or concerning the boundaries thereof, may be submitted. When a controversy has been submitted, no party thereto shall have power to revoke the submission without the consent of all the others; and, if any of them neglect to appear after due notice, the cause may nevertheless be heard and determined by the arbitrators upon the evidence produced."

Approved April 22, 1939.

CHAPTER 440—H. F. No. 352

An act relating to the avoidance and settlement of labor disputes and the promotion of industrial peace, creating the office of labor conciliator, defining his powers and duties, defining unfair labor practices and defining and making unlawful certain acts, providing for arbitration and court procedure in labor disputes, and repealing Subsection (4) of Section 4046, of Mason's Minnesota Statutes of 1927, and any other acts or portions of acts inconsistent herewith.

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

Section 1. **Definitions.**—When used in this act the word or term:

(a) "Person" includes individuals, partnerships, associations, corporation, trustees, and receivers; the singular includes the plural, and the masculine includes the feminine.

(b) "Employer" includes all persons employing others and all persons acting in the interest of an employer, but does not include the state or any political or governmental subdivision thereof, nor any person subject to the Federal Railway Labor Act, as amended from time to time.

(c) "Employee" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice as defined in section 12 of this act on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home.

(d) "Representative of employees" means a labor organization or one or more individuals selected by a group of employees as provided in Section 16 of this act.

(e) "Labor organization" means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment.

(f) "Labor dispute" includes, any controversy concerning employment, tenure or conditions or terms of employment or concerning the association or right of representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants.

(g) "Strike" means the temporary stoppage of work by the concerted action of two or more employees as a result of a labor dispute as defined herein.

(h) "Lockout" is the refusal of the employer to furnish work to employees as a result of a labor dispute as defined herein.

(i) "Commission" means the commission of three members which may be appointed by the governor to conduct hearings under this act.

(j) "Unfair labor practice" means any unfair labor practice defined in sections 11 and 12 of this act.

(k) "Competent evidence" means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable men as worthy of belief.

Sec. 2. **Division of conciliation established.—Conciliator—Salary.**—There is hereby established in the department of labor and industries a division of conciliation but not in any way subject to the control of said department. Said division

shall be under the supervision and control of a labor conciliator who shall be appointed by the governor with the advice and consent of the senate. He shall receive an annual salary of $4,500 and shall hold office for a term of four years. The term of the first labor conciliator hereunder shall expire March 1, 1945. The governor may from time to time appoint special conciliators to aid in the settlement of particular labor disputes or controversies, and such special conciliators when appointed shall have the same power and authority as the labor conciliator and such appointment shall be for the duration only of the particular dispute. Such special conciliators shall be paid a per diem of $15.00 per day while so engaged, and their necessary expenses. The labor conciliator shall prepare a roster of persons qualified to act as such special conciliators and keep the same revised at all times and available to the governor and the public.

The labor conciliator may employ and discharge clerks and other assistants, as needed, fix their compensation and assign to them their duties.

Sec. 3. **May be removed for political activities.**—Any labor conciliator or employee, under the provisions of this act, who exerts his influence, directly or indirectly to induce any other person to adopt his political views, or to favor any particular candidate for office, or to contribute funds for political purposes, shall forthwith be removed from his office or position by the authority appointing him; provided that before removal the labor conciliator shall be entitled to a hearing before the governor, and any other employee shall be entitled to a similar hearing before the labor conciliator.

Sec. 4. **Expenses of Conciliator and employees.**—The labor conciliator and his employees or any special conciliator shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties. Vouchers for such expenses shall be itemized and sworn to by the person incurring the expense.

Sec. 5. **Conciliator to adopt rules and regulations.**—The labor conciliator shall adopt reasonable and proper rules and regulations relative to and regulating the conduct of the hearings. Such rules and regulations shall be printed and made available to the public and a copy delivered with each notice of hearing; provided that every such rule or regulation shall be filed with the secretary of state, and any change therein or additions thereto shall not take effect until 20 days after such filing.

Sec. 6. **To give written notice to employer of labor.**—Whenever any representative of employees or labor organization shall desire to negotiate a collective bargaining agreement, or make any change in any existing agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavor in good faith to reach an agreement respecting such demand. An employer shall give a like notice to his employees, representatives or labor organizations of any intended change in any existing agreement. If no agreement is reached at the expiration of ten (10) days after service of such notice, any employees, representative, labor organization, or employer may give notice of intention to strike or lockout, as the case may be, but it shall be unlawful for any labor organization or representative to institute or aid in the conduct of a strike or for an employer to institute a lockout, unless notice of intention to strike or lockout has been served by the party intending to institute a strike or lockout upon the labor conciliator and the other parties to the labor dispute at least ten (10) days before the strike or lockout is to become effective.

Notice by the employer shall be signed by him or his duly authorized officer or agent; and notice by the employees shall be signed by their representative or its officers, or by the committee selected to conduct the strike. In either case the notice shall be served by delivering it to the labor conciliator in person or by sending it by registered mail addressed to him at his office. The notice shall state briefly the nature of the dispute and the demands of the party who serves it. Upon receipt of a notice, the labor conciliator shall fix a time and place for a conference with the parties to the labor dispute upon the issues involved in the dispute, and he shall then take whatever steps he deems most expedient to bring about a settlement of the dispute, including assisting in negotiating and drafting a settlement agreement. It shall be the duty of all parties to a labor dispute to respond to the summons of the labor conciliator for joint or several conferences with him and to continue in such conference until excused by the labor conciliator, not beyond, however, the ten day period heretofore prescribed except by mutual consent of the parties.

Sec. 7. **Labor disputes.—Procedure.**—If the dispute is in any industry, business or institution affected with a public interest, which includes, but is not restricted to, any industry, business or institution engaged in supplying the necessi-

ties of life, safety, or health, so that a temporary suspension of its operation would endanger the life, safety, health or well being of a substantial number of people of any community, the provisions of section 6 shall apply and the labor conciliator shall also notify the Governor who may appoint a commission of three, to conduct a hearing and make a report on the issues involved and the merits of the respective contentions of the parties to the dispute. If the commission is appointed by the Governor, the labor conciliator shall immediately notify the parties to the labor dispute and shall also inform them of the date of the notification to the Governor. The members of such commission shall on account of vocations, employment or affiliations be representative of employees, employers and the public respectively. Such report shall be filed with the Governor and may be published as he may determine in one or more legal newspapers in the counties where the dispute exists. If and when a commission shall be appointed, neither party to the dispute shall make any change in the situation affecting the dispute and no strike or lockout shall be instituted until the report of the commission shall have been filed or thirty (30) days shall have elapsed after the notification to the Governor.

Sec. 8. **Commission to subpoena witnesses.**—(a) The commission appointed by the governor pursuant to the provisions of this act shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may by its chairman administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state of Minnesota at any designated place of hearing, but hearings shall be held in a county where the labor dispute has arisen or exists.

(b) In case of contumacy or refusal to obey a subpoena issued under subsection (a) of this section, the district court of the state of Minnesota for the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, or transacts business, or application by the commission shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, there to produce evidence as so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(c) The labor conciliator may take jurisdiction of a labor dispute in which negotiations for settlement have failed if either party to said dispute before a vote to strike or lockout files a petition requesting said conciliator to act in the dispute, setting forth the issues of the dispute and the efforts to agree and the failure to reach an agreement. If the conciliator takes jurisdiction he shall then proceed as otherwise provided in this act.

(d) Any party to or party affected by the dispute may appear before the labor conciliator or the commission in person or by attorney or by their representative, and shall have the right to offer competent evidence and to be heard on the issues before the report is made.

Any commissioners so appointed shall be paid a per diem of $15.00 per day and their necessary expenses while serving.

Sec. 9. **Labor disputes may be submitted to arbitration.**—Whenever a labor dispute arises which is not settled by conciliation, such dispute may, by written agreement of the parties, be submitted to arbitration on such terms as the parties may specify, including, among other methods, the arbitration procedure under the terms of Sections 9513 to 9519, inclusive, of Mason's Minnesota Statutes of 1927, and acts amendatory thereof and supplementary thereto, and arbitration under the Voluntary Industrial Arbitration Tribunal of the American Arbitration Association. If any such agreement so provides, the labor conciliator may act as a member of any arbitration tribunal created by any such agreement, and, if the agreement so provides, the conciliator may appoint one or more of such arbitrators. Either or both of the parties to any such agreement, or any arbitration tribunal created under any such agreement, may apply to the conciliator to have the said tribunal designated as a temporary arbitration tribunal, and if so designated, said temporary arbitration tribunal shall have power to administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and the production of evidence, which subpoenas shall be enforced in the same manner as subpoenas issued by the commission under Section 8 of this act. Any such temporary arbitration tribunal shall file with the conciliator a copy of its report, duly certified by its chairman.

Sec. 10. **Employees to have right to join labor organization.**—(a) Employes shall have the right of self-organization and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own

choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection; and such employes shall also have the right to refrain from any and all of such activities.

(b) Employers shall have the right to associate together for the purpose of collective bargaining.

(c) The conciliator shall maintain a list of labor organizations and employers organizations. A labor organization to be recognized and included in the list by the conciliator must file with him a statement under oath of its name, the name and address of its secretary or other officer to whom notices may be sent, the names and addresses of its business agents, the date of its organization, and its affiliations, if any, with other labor organizations or bodies. An employers' organization to be recognized and included in the list by the conciliator must file with him a statement under oath of its name, the name and address of its secretary or other officer to whom notices may be sent, the names and addresses of its principal agent, the date of its organization, and its affiliations, if any, with other employer organizations or groups. Such information shall be for the use of the conciliator only and shall not be open to public inspection, but the conciliator may furnish such information upon request to the parties to a labor dispute.

Sec. 11. **What are unfair labor practices by employees.**— It shall be an unfair labor practice:

(a) For any employe or labor organization to institute a strike if the calling of such strike is a violation of any valid collective agreement between any employer and his employes or labor organization and the employer is, at the time, in good faith complying with the provisions of the agreement.

(b) For any employe or labor organization to institute a strike if the calling of such strike is in violation of sections 6 or 7 of this act.

(c) For any person to seize or occupy property unlawfully during the existence of a labor dispute.

(d) For any person to picket or cause to be picketed a place of employment of which place said person is not an employe while a strike is in progress affecting said place of employment, unless the majority of persons engaged in picketing said place of employment at said times are employes of said place of employment.

(e) For more than one person to picket or cause to be picketed a single entrance to any place of employment where no strike is in progress at the time.

(f) For any person to interfere in any manner with the operation of a vehicle or the operator thereof when neither the owner nor operator of said vehicle is at said time a party to a strike.

(g) For any employe, labor organization or officer, agent or member thereof to compel or attempt to compel any person to join or to refrain from joining any labor organization or any strike against his will or any threatened or actual unlawful interference with his person, immediate family or physical property, or to assault or unlawfully threaten any such person while in pursuit of lawful employment.

(h) The violation of sub-sections (b), (c), (d), (e), (f) and (g) of this section are hereby declared to be unlawful acts.

Sec. 12. **What are unfair labor practices by employers.**— It shall be an unfair labor practice for an employer:

(a) To institute any lockout of his employes in violation of any valid collective bargaining agreement between the employer and his employes or labor organization if the employes at the time are in good faith complying with the provisions of the agreement.

(b) To institute any lockout of his employes in violation of sections 6 or 7 of this act.

(c) To encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, however, that this sub-section shall not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and his employees or a labor organization representing said employees as a bargaining agent as provided by section 16 of this act.

(d) To discharge or otherwise to discriminate against an employe because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this act.

(e) To spy directly or through agents or any other persons upon any activities of employes or their representatives in the exercise of their legal rights.

(f) To distribute or circulate any blacklist of individuals exercising any legal right or of members of a labor organization for the purpose of preventing individuals so blacklisted from obtaining or retaining employment.

(g) The violation of sub-sections (b), (d), (e) and (f) of this section are hereby declared to be unlawful acts.

Sec. 13. **What are unlawful practices.**—It shall be unlawful for any person at any time to interfere with the free and uninterrupted use of public roads, streets, highways or methods of transportation or conveyance or to wrongfully obstruct ingress to and egress from any place of business or employment.

Sec. 14. **Suit to enjoin unfair labor practices.**—Whenever any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained in the district court of any county wherein such practice has occurred or is threatened. In any suit to enjoin any of the unfair labor practices set forth in Sections 11 and 12 of this act, the provisions of Mason's Minnesota Statutes, Sections 4257 to 4260 and Mason's Minnesota Statutes, 1938 Supplement, Sections 4256, sections 4260-1 to 4260-15 shall not apply, provided, however, that no court of the state of Minnesota shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of Sections 11 and 12 of this act as herein defined, except after hearing the testimony of witnesses in open court, with opportunity for cross examination, in support of the allegations made under oath, and testimony in opposition thereto if offered, and except after findings of fact by the court to the effect that the acts set forth in Sections 11 and 12 of this act have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, provided, however, that no temporary restraining order may be issued under the provisions of this act except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony.

Sec. 15. **Not to be entitled to benefit of act in certain cases.**—Any employer, employee or labor organization who has violated any of the provisions of this act with respect to any labor dispute shall not be entitled to any of the benefits of this act respecting such labor disputes and such employer, employees, or labor organization shall not be entitled to maintain in any court of this state an action for injunctive relief with respect to any matters growing out of that labor dispute, until he

shall have in good faith made use of all means available under the laws of the state of Minnesota for the peaceable settlement of the dispute.

Sec. 16. **Representatives for collective bargaining.**—(a) Representatives designated or selected for the purpose of collective bargaining by the majority of the employes in a unit appropriate for such purposes shall be the exclusive representatives of all the employes in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment, provided, that any individual employe or group of employes shall have the right at any time to present grievances to their employer in person or through representatives of their own choosing.

(b) Whenever a question concerning the representative of employes is raised by an employe, group of employes, labor organization, or employer the labor conciliator or any person designated by him shall at the request of any of the parties, investigate such controversy and certify to the parties, in writing, the name or names of the representatives that have been designated or selected. The labor conciliator shall decide in each case whether, in order to insure to employees the full benefit of their right to self organization and to collective bargaining, and otherwise to effectuate the purpose of this act, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, plant unit; provided, however, that any larger unit may be decided upon with the consent of all employers involved, and provided further, however, that when a craft exists, composed of one or more employees then such craft shall constitute a unit appropriate for the purpose of collective bargaining for such employee or employees belonging to said craft and a majority of such employees of said craft may designate a representative for such unit. Two or more units may by voluntary consent, bargain through the same agent or agents with an employer or employers, their agent or agents. Supervisory employees shall not be considered in the selection of a bargaining agent. In any such investigation, the labor conciliator may provide for an appropriate hearing, and may take a secret ballot of employees or utilize any other suitable method to ascertain such representatives, but the labor conciliator shall not certify any labor organization which is dominated, controlled or maintained by an employer. If the labor conciliator has certified the representatives as herein provided, he shall not be required to again consider the matter for a period of one year unless it appears to him that sufficient reason exists."

Sec. 17. **Appropriation.**—The sum of $25,000 is herewith appropriated to be immediately available and for the fiscal year ending June 30, 1940 and the sum of $15,000 is hereby appropriated for the fiscal year ending June 30, 1941, for the purpose of carrying out the provisions of this act.

Sec. 18. **Provisions severable.**—If any provision of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 19. **Minnesota Labor Relations Act.**—This act may be cited as the "Minnesota Labor Relations Act".

Sec. 20. **Laws repealed.**—Subsection (4) of Section 4046, Mason's Minnesota Statutes of 1927 and all acts or portion of acts inconsistent herewith are hereby repealed.

Approved April 22, 1939.

CHAPTER 441—H. F. No. 601

An act creating a department of Civil Service for the State of Minnesota; prescribing the powers, duties, and procedure of the Civil Service Board and the Director of the State Civil Service in said department; providing for and regulating the Civil Service in said state; prescribing penalties for the violation of the provisions of this act; amending Mason's Minnesota Statutes of 1927, Sections 53-1, 53-7, and the 1938 Minnesota Supplement to Mason's Minnesota Statutes of 1927, Chapter 3A, and repealing Mason's Minnesota Statutes of 1927, Section 53-11, relating to the organization of state government; and amending the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 9950-7, relating to the Bureau of Criminal Apprehension; and amending the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 4337-30 (e), relating to the powers of the commission administering the Minnesota Unemployment Compensation Law and the personnel of said department; amending the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 53-23½ 1 (e), relating to the powers of the Commissioner of Conservation; repealing Mason's Minnesota Statutes of 1927, Sections 3861, 3863, 3864, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 3862, relating to inspectors in the