

date of this act, the county court judge shall be selected according to the population of the respective counties in the county court district as hereinbefore provided in subparagraph 1 of this subdivision. The probate judge who is not hereby designated as judge of the county court shall continue in office until the expiration of his term and become a part time judicial officer of the county court, hearing and trying matters assigned to him by the judge of the county court but, if he is not learned in the law, then he shall hear and try only matters assigned to him by the judge of the county court he was heretofore authorized by law to hear and try.

(2) Except as provided in subparagraph 1 of this subdivision, the judges required by the application of this section shall be appointed by the governor from among the municipal court judges or magistrates serving pursuant to a municipal ordinance, ~~or charter~~, or legislative act other than special municipal court judges serving within the county ~~on July 1, 1972~~ who are learned in the law and consent thereto. A judge so appointed shall serve for the balance of the term for which he was last elected. If there are no serving municipal court judges, such county court judges shall be elected at the next general election following July 1, 1972.

Sec. 32. Sections 22 and 23 of this act are effective upon enactment.

Sec. 33. Minnesota Statutes 1969, Sections 3.10; 15A.02; 15A.03; 15A.04; 15A.05; 15A.06; 15A.07; 15A.08; 15A.09; 15A.091; 15A.10; 15A.11; 15A.16; 15A.17; and 15A.19; Laws 1971, Chapter 497, Section 8; and Extra Session Laws 1971, Chapter 3, Section 73, are repealed.

Sec. 34. Except as otherwise provided herein, this act is effective as of October 31, 1971, except that all salary provisions made in this act shall be effective the beginning of the first pay period following November 12, 1971.

Approved November 5, 1971.

EXTRA SESSION
CHAPTER 33—S.F.No.4

[Coded in Part]

An act relating to labor relations between public employees and their public employers; creating a Minnesota public employment relations board and designating its membership, powers and duties; adding to the duties of the director of the bureau of mediation services; providing for exclusive representation of public employees; providing for meeting and conferring by public professional employees and their public employers and making available

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qualified consultants therefor; providing for arbitration of disputes between public employees and their public employers; prohibiting strikes by public employees and providing penalties for violation thereof; providing jurisdiction to district courts to enjoin strikes by public employees; providing jurisdiction to district courts to enjoin the committing of unfair labor practices by public employees and public employers; repealing Minnesota Statutes 1969, Sections 125.19, 125.20, 125.21, 125.22, 125.23, 125.24, 125.25, 125.26, 179.50, 179.51, 179.52, 179.521, 179.522, 179.53, 179.54, 179.55, 179.56, 179.57, 179.571, 179.572, 179.58, 418.21, 418.22, 418.23, and 418.24.

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

Section 1. [179.61] PUBLIC EMPLOYMENT LABOR RELATIONS ACT OF 1971; PUBLIC POLICY. It is the public policy of this state and the purpose of this act to promote orderly and constructive relationships between all public employers and their employees, subject however, to the paramount right of the citizens of this state to keep inviolate the guarantees for their health, education, safety and welfare.

The relationships between the public, the public employees, and their employer governing bodies imply degrees of responsibility to the people served, need of cooperation and employment protection which are different from employment in the private sector. So also the essentiality and public desire for some public services tend to create imbalances in relative bargaining power or the resolution with which either party to a disagreement presses its position, so that unique approaches to negotiations and resolutions of disputes between public employees and employers are necessary.

Unresolved disputes between the public employer and its employees are injurious to the public as well as to the parties; adequate means must therefore be established for minimizing them and providing for their resolution. Within the foregoing limitations and considerations the legislature has determined that overall policy may best be accomplished by:

(1) granting to public employees certain rights to organize and choose freely their representatives;

(2) requiring public employers to meet and negotiate with public employees in an appropriate bargaining unit and providing for written agreements evidencing the result of such bargaining; and

(3) establishing special rights, responsibilities, procedures and limitations regarding public employment relationships which will provide for the protection of the rights of the public employee, the public employer and the public at large.

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Sec. 2. [179.62] CITATION. This act shall be known and may be cited as the public employment labor relations act. of 1971.

Sec. 3. [179.63] DEFINITIONS. Subdivision 1. For the purposes of this act, the terms defined in this section have the meanings given them.

Subd. 2. "Director of mediation services" or "director" means the director of the bureau of mediation services established by section 179.02.

Subd. 3. "Board" means the Minnesota public employment relations board unless otherwise clearly stated.

Subd. 4. "Public employer" or "employer" means the state of Minnesota and its political subdivisions and any agency or instrumentality of either; including the university of Minnesota, the state and junior colleges and school districts and their respective representatives; the term does not include a "charitable hospital" as defined in section 179.35, subdivision 2.

Subd. 5. "Employee organization" means any union or organization of public employees whose purpose is, in whole or in part, to deal with public employers concerning grievances and terms and conditions of employment.

Subd. 6. "Exclusive representative" means an employee organization which has been designated by more than 50 percent of the appropriate unit and has been certified pursuant to section 7.

Subd. 7. "Public employee" or "employee" means any person appointed or employed by a public employer except:

(a) elected public officials;

(b) election officers;

(c) commissioned or enlisted personnel of the Minnesota national guard;

(d) emergency employees who are employed for emergency work caused by natural disaster;

(e) part time employees whose service does not exceed 14 hours per week;

(f) employees who hold positions of a basically temporary or seasonal character for a period not in excess of 100 working days in any calendar year;

(g) employees of charitable hospitals as defined by section 179.35, subdivision 3.

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Subd. 8. "Confidential employee" means any employee who works:

(1) in the personnel offices of a public employer or who has access to information subject to use by the public employer in meeting and negotiating; or

(2) in a close continuing relationship with public officers or representatives associated with meeting and negotiating on behalf of the employer.

Subd. 9. "Supervisory employee" means any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment.

Subd. 10. "Professional employee" means:

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes;

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(c) a teacher shall be deemed to be a professional employee.

Subd. 11. "Essential employee" means any person within the definition of subdivision 7 of this section whose employment duties involve work or services essential to the health or safety of the public and the withholding of such services would create a clear and present danger to the health or safety of the public.

Subd. 12. "Strike" means concerted action in failing to report for duty, the willful absence from one's position, the

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stoppage of work, slowdown, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purposes of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges, or obligations of employment.

Subd. 13. "Teacher" means any person other than a superintendent or assistant superintendent, employed by a school district in a position for which the person must be certificated by the state board of education; and such employment does not come within the exceptions stated in section 3, subdivision 7, or defined in section 3, subdivisions 8, 9, or 15.

Subd. 14. "Principal" and "assistant principal" means any person so certificated by the state department of education who devotes more than 50 percent of his time to administrative or supervisory duties.

Subd. 15. "Meet and confer" means the exchange of views and concerns between employers and their respective employees.

Subd. 16. "Meet and negotiate" means the performance of the mutual obligations of public employers and the exclusive representatives of public employees to meet at reasonable times, including where possible meeting in advance of the budget making process, with the good faith intent of entering into an agreement with respect to terms and conditions of employment; provided, that by such obligation neither party is compelled to agree to a proposal or required to make a concession.

Subd. 17. "Appropriate unit" or "unit" means a unit of employees, excluding supervisory employees, confidential employees and principals and assistant principals, as determined pursuant to section 11, subdivision 3, and in the case of school districts, the term means all the teachers in the district.

Subd. 18. The term "terms and conditions of employment" means the hours of employment, the compensation therefor including fringe benefits, and the employer's personnel policies affecting the working conditions of the employees. In the case of professional employees the terms mean the hours of employment, the compensation therefor, and economic aspects relating to employment, but does not mean educational policies of a school district. The terms in both cases are subject to the provisions of section 6 of this act regarding the rights of public employers and the scope of negotiations.

Sec. 4. [179.64] STRIKES: PROHIBITION; PENALTIES.
Subdivision 1. No person holding a position by appointment or employment in the government of the state of Minnesota, or in

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the government of any one or more of the political subdivisions thereof, or in the service of the public schools, or of the state university, or in the service of any authority, commission or board or any other branch of the public service, whether included or excepted from this act may engage in a strike, nor shall any such person or organization of such persons or its officials or agents cause, condone, instigate, encourage, or cooperate, in a strike.

Subd. 2. Notwithstanding any other provision of law, any public employee who violates the provisions of this section may have his appointment or employment terminated by the employer effective the date the violation first occurs. Such termination shall be effective upon written notice served upon the employee. Service may be made by certified mail.

Subd. 3. For purposes of this subdivision an employee who is absent from any portion of his work assignment without permission, or who abstains wholly or in part from the full performance of his duties without permission from his employer on the date or dates when a strike occurs is prima facie presumed to have engaged in a strike on such date or dates.

Subd. 4. A public employee who knowingly violates the provisions of this section and whose employment has been terminated pursuant to this section, may, subsequent to such violation, be appointed or reappointed, employed or reemployed, but the employee shall be on probation for two years with respect to such civil service status, tenure of employment, or contract of employment, as he may have theretofore been entitled.

No employee shall be entitled to any daily pay, wages or per diem for the days on which he engaged in a strike.

Subd. 5. Any public employee, upon request, shall be entitled, as hereinafter provided, to establish that he did not violate the provisions of this section. Such request must be filed in writing with the officer or body having the power to remove such employee, within ten days after notice of termination is served upon him; whereupon such officer, or body, shall within ten days commence a proceeding at which such person shall be entitled to be heard for the purpose of determining whether the provisions of this section have been violated by such public employee, and if there be laws and regulations establishing proceedings to remove such public employee, the hearing shall be conducted in accordance therewith. The proceedings may upon application to the court by an employer, an employee, or employee organization and the issuance of an appropriate order by the court include more than one employee's employment status if the employees' defenses are identical, analagous or reasonably similar. Such proceedings shall be undertaken without unnecessary delay. Any person may se-

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cure a review of his removal by serving a notice so requesting upon the employer removing him within 20 days after the results of the hearing referred to herein have been announced. This notice, with proof of service thereof, shall be filed within ten days after service, with the clerk of the district court in the county where the employer has its principal office or in the county where the employee last was employed by the employer. The district court shall thereupon have jurisdiction to review the matter the same as on appeal from administrative orders and decisions. This hearing shall take precedence over all matters and may be held upon ten days written notice by either party. The court shall make such order in the premises as is proper; and an appeal may be taken therefrom to the supreme court.

Subd. 6. An employee organization which has been found pursuant to section 8 to have violated this section shall upon such finding lose its status, if any, as exclusive representative following such finding; and may not be so certified by the director for a period of two years following such finding; nor may any employer deduct employee payments to any such organization for a period of two years.

Subd. 7. An unfair labor practice by an employer is not a defense to violation of this section but may be considered by the court in mitigation of or retraction of any penalties as to employees and employee organizations.

Sec. 5. [179.65] RIGHTS AND OBLIGATIONS OF EMPLOYEES. Subdivision 1. Nothing contained in this act shall be construed to limit, impair or affect the right of any public employee or his representative to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full faithful and proper performance of the duties of employment or circumvent the rights of the exclusive representative if there be one; nor shall it be construed to require any public employee to perform labor or services against his will.

Subd. 2. Public employees shall have the right to form and join labor or employee organizations, and shall have the right not to form and join such organizations. Public employees in an appropriate unit shall have the right by secret ballot to designate an exclusive representative for the purpose of negotiating grievance procedures and the terms and conditions of employment for such employees with the employer of such unit.

Subd. 3. Public employees who are professional employees as defined by section 3, subdivision 11, of this act have the right to meet and confer with public employers regarding policies and

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matters not included under section 3, subdivision 18, pursuant to section 13 of this act.

Subd. 4. Public employees through their certified exclusive representative have the right and obligation to meet and negotiate in good faith with their employer regarding grievance procedures and the terms and conditions of employment, but such obligation does not compel the exclusive representative to agree to a proposal or require the making of a concession.

Subd. 5. Public employees shall have the right to request and be allowed dues check off for the employee organization of their selection, provided that dues check off and the proceeds thereof shall not be allowed any employee organization that has lost its right to dues check off pursuant to sections 4 to 15 of this act.

Subd. 6. Supervisory and confidential employees, principals and assistant principals, may join and participate in employee organizations and may form their own organizations, provided, however, that nothing in this section authorizes supervisory or confidential employees, or principals and assistant principals, to be included in an appropriate unit. Affiliation of a supervisory or confidential employee or principal or assistant principal organization with another employee organization which has as its members non-supervisory employees or non-confidential employees, or non-principals or non-assistant principals is permitted. An employer shall not, and shall not be required by the director to extend exclusive recognition to a representative of or an organization of supervisory or confidential employees, or principals and assistant principals, for the purpose of negotiating terms or conditions of employment, but an employer may consult and otherwise communicate with such an organization on appropriate matters.

Subd. 7. An exclusive representative shall have the right to petition the director for arbitration under section 9, subdivision 3; provided the exclusive representative has first petitioned the director for mediation services as are available under section 9, subdivision 1.

Sec. 6. [179.66] RIGHTS AND OBLIGATIONS OF EMPLOYERS. Subdivision 1. A public employer is not required to meet and negotiate on matters of inherent managerial policy, which include, but are not limited to, such areas of discretion or policy as the functions and programs of the employer, its overall budget, utilization of technology, the organizational structure and selection and direction and number of personnel.

Subd. 2. A public employer has an obligation to meet and negotiate in good faith with the exclusive representative of the public employees in an appropriate unit regarding grievance

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procedures and the terms and conditions of employment, but such obligation does not compel the public employer or its representative to agree to a proposal or require the making of a concession.

Subd. 3. A public employer has the obligation to meet and confer with professional employees to discuss policies and those matters relating to their employment not included under section 3, subdivision 18, pursuant to section 13 of this act.

Subd. 4. A public employer has the obligation to meet and confer with supervisory employees, confidential employees, principals and assistant principals, or their representative regarding the terms and conditions of their employment.

Subd. 5. Any provision of any contract required by section 10, which of itself or in its implementation would be in violation of or in conflict with any statute of the state of Minnesota or rule or regulation promulgated thereunder or provision of a municipal home rule charter or ordinance or resolution adopted pursuant thereto, or rule of any state board or agency governing licensure or registration of an employee, shall be void and of no effect.

Subd. 6. Nothing in this act shall be construed to impair, modify or otherwise alter, or indicate a policy contrary to the authority of the legislature of the state of Minnesota to establish by law schedules of rates of pay for its employees or the retirement or other fringe benefits related to the compensation of such employees.

Subd. 7. The employer shall not meet and negotiate or meet and confer with any employee or group of employees who are at the time designated as a member or part of an appropriate employee unit except through the exclusive representative if one is certified for that unit or as provided for in section 9, subdivision 1.

Subd. 8. An employer shall have the right to petition the director for arbitration under section 9, subdivision 3; provided the exclusive representative or the employer has first petitioned the director for mediation services as are available under section 9, subdivision 1.

Subd. 9. An employer may hire and pay for arbitrators desired or required by the provisions of this act.

Sec. 7. [179.67] EXCLUSIVE REPRESENTATION; ELECTIONS; DECERTIFICATION. Subdivision 1. Any employee organization holding formal recognition by order of the director or by employer voluntary recognition on the effective date of this act under any law that is repealed by this act is hereby certified as the exclusive representative until such time as it is decertified or

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another representative is certified in its place pursuant to this act. Any teacher organization as defined by Minnesota Statutes, Section 125.20, Subdivision 3 who on the effective date of this act has a majority of its members on a teacher's council in a school district as provided in Minnesota Statutes, Section 125.22 is hereby certified as the exclusive representative of all teachers of that school district until such time as the organization is decertified or another organization is certified in its place pursuant to this act.

Subd. 2. An employee organization may be certified as the exclusive representative of public employees in an appropriate unit upon complying with and qualifying under the provisions of this section.

Subd. 3. The director may certify an employee organization as an exclusive representative in an appropriate unit upon the joint request of the employer and the organization if, after investigation, he finds that no unfair labor practice was committed in initiating and submitting the joint request and that the employee organization does in fact represent over 50 percent of the employees in the appropriate unit. The provisions of this subdivision shall not in any case reduce the time period or nullify any bar to the employee organization's certification existing at the time of the filing of the joint request.

Subd. 4. Any employee organization may obtain a certification election upon petition to the director wherein it is stated that at least 30 percent of the employees of a proposed employee unit wish to be represented by the petitioner or that the certified representative no longer represents the majority of employees in the unit.

Subd. 5. The director shall, upon receipt of an employee organization's petition to the director wherein it is stated that at least 30 percent of the employees of a proposed employee unit wish to be represented by the petitioner or that the exclusive representative of a unit no longer represents the majority of the employees in the unit, investigate to determine if sufficient evidence of a question of representation exists and hold hearings as necessary to determine the appropriate unit and such other matters as may be necessary to determine the representation rights of the affected employees and employer.

Subd. 6. In determining the numerical status of an employee organization for purposes of subdivisions 2, 3, 4, and 8 of this section, the director shall require representation authorization signatures of affected employees as verification of the statements contained in the joint request or petitions. Such authorization signatures shall be privileged and confidential information available to the director only and shall be dated.

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Subd. 7. An employee organization shall be certified as the exclusive representative of an appropriate unit upon receiving a majority of votes of the employees in the appropriate unit at a certification election.

Subd. 8. The director shall issue his order providing for a secret ballot election by the employees in a designated appropriate unit. The election shall be held in the premises where those voting are employed unless the director shall determine that the election cannot be fairly held, in which case it shall be held at such a place as the director shall determine.

Subd. 9. The ballot in a certification election may contain as many names of representative candidates as have demonstrated that the candidate has 30 percent of the employees in the unit desiring it as their exclusive representative. The ballots shall, in every case, contain an appropriate space for employees to indicate that no representation is desired.

Subd. 10. The director shall provide for and count absentee ballots in all elections.

Subd. 11. If no choice on the ballot receives a majority of those employees in the unit, the director shall conduct a run off election wherein the ballot shall contain only the two choices receiving the greater number of votes.

Subd. 12. Upon a representative candidate receiving a majority of votes of all employees in a unit, the director shall certify that representative candidate as the exclusive representative of all employees in the unit.

Subd. 13. Upon a finding by the director of an unfair labor practice being committed by an employer or representative candidate or an employee or group of employees, which unfair labor practice affected the result of an election held pursuant to this section, the director may void such election result and order a new election.

Subd. 14. Upon the director certifying an exclusive representative, he shall not consider the question again for a period of one year, unless the exclusive representative is decertified by a court of competent jurisdiction, or by the director as authorized by section 11 of this act.

Sec. 8. [179.68] **UNFAIR PRACTICES.** Subdivision 1. The practices specified in this section are unfair practices. Any employee, employer, employee or employer organization, exclusive representative, or any other person or organization aggrieved by an unfair labor practice as defined in this act, may bring an action in district court of the county wherein the practice is

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alleged to have occurred for injunctive relief and for damages caused by such unfair labor practice. An unfair practice by a public employer is not a defense to an unlawful strike.

Subd. 2. Public employers, their agents or representatives are prohibited from:

(1) interfering, restraining or coercing employees in the exercise of the rights guaranteed in this act;

(2) interfering with the formation, existence or administration of any employee organization;

(3) discriminating in regard to hire or tenure to encourage or discourage membership in an employee organization;

(4) discharging or otherwise discriminating against an employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act;

(5) refusing to meet and negotiate in good faith with the exclusive representative of its employees in an appropriate unit;

(6) refusing to comply with grievance procedures contained in an agreement as required by section 10;

(7) distributing or circulating 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;

(8) violating any of the rules and regulations established by the director regulating the conduct of representation elections or other orders relating to certification of an exclusive representative;

(9) refusing to comply with the provisions of a valid decision of an arbitration panel or arbitrator acting pursuant to this act; provided, however, rejection of an arbitration decision by an employer as authorized by section 12, subdivision 9, is not an unfair labor practice;

(10) violating or refusing to comply with any lawful order or decision issued by the director or the board.

Subd. 3. Employee organizations, their agents or representatives, and public employees are prohibited from:

(1) restraining or coercing employees in the exercise of their rights as provided in this act;

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(2) restraining or coercing a public employer in the election of his representatives to be employed for the purposes of meeting and negotiating or the adjustment of grievances;

(3) refusing to meet and negotiate in good faith with a public employer, if they have been designated in accordance with the provisions of this act as the exclusive representative of employees in an appropriate unit;

(4) violating any of the rules and regulations established by the director regulating the conduct of representation elections;

(5) refusing to comply with the provisions of a valid decision of an arbitration panel or arbitrator acting pursuant to this act;

(6) calling, instituting, maintaining or conducting a strike or boycott against any public employer on account of any jurisdictional controversy;

(7) coercing or restraining any person with the effect to:

(a) force or require any public employer to cease dealing or doing business with any other person or;

(b) force or require a public employer to recognize for representation purposes an employee organization not certified by the director;

(c) refuse to handle goods or perform services;

(d) preventing an employee from providing services to the employer;

(8) committing any act designed to damage or actually damaging physical property or endangering the safety of persons while engaging in a strike;

(9) forcing or requiring any employer to assign particular work to employees in a particular employee organization or in a particular trade, craft, or class rather than to employees in another employee organization or in another trade, craft or class;

(10) causing or attempting to cause a public employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed;

(11) engaging in a strike;

(12) any picketing which results in a refusal by any person to deliver goods or perform services;

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(13) picketing which has an unlawful purpose such as, but not limited to, the furthering of a strike;

(14) picketing which unreasonably interferes with the ingress and egress to facilities of the public employer;

(15) seizing or occupying or destroying property of the employer;

(16) violating or refusing to comply with any lawful order or decision issued by the director of the board as authorized by this act;

(17) the persistent insistence to negotiate items clearly excluded as negotiable under section 3, subdivision 19.

Sec. 9. [179.69] PROCEDURES. Subdivision 1. When any employees or representative of employees shall desire to meet and negotiate an agreement establishing terms and conditions of employment, they shall give written notice to the employer and the director, and it shall thereupon be the duty of the employer to recognize the employee representative for purposes of reaching agreement on terms and conditions of employment of the employees or the employer shall within ten days of receipt of the written notice object or refuse to recognize the employees' representative or the employees as an appropriate unit. The employer or employees' representative may thereupon petition the director to take jurisdiction of the matter whereupon the director shall then be authorized and shall perform those duties as provided in section 11, subdivision 2 (a) and (b) of this act.

Upon the certified exclusive representative and the employer reaching agreement on terms and conditions of employment, they shall execute a written contract or memorandum of contract containing the terms of such agreement. The contracts or memoranda shall in every instance be subject to the provisions of section 10 of this act.

A petition by an employer shall be signed by him or his duly authorized officer or agent; and a petition by an exclusive representative shall be signed by its authorized officer. In either case the petition shall be served by delivering it to the director in person or by sending it by certified mail addressed to him at his office. The petition shall state briefly the nature of the disagreement of the parties. Upon receipt of a petition, the director, or by September 1, whichever date is earlier shall fix a time and place for a conference with the parties to the matter upon the issues involved in the matter, and he shall then take whatever steps he deems most expedient to bring about a settlement of the matter, including assisting in negotiating and drafting an agree-

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ment. It shall be the duty of all parties to respond to the summons of the director for joint or several conferences with him and to continue in such conference until excused by the director.

Subd. 2. All negotiations, mediation sessions, and hearings between public employers and public employees or their respective representatives shall be public meetings except when otherwise provided by the director.

Subd. 3. The director shall certify a matter to the board when either or both parties petition for arbitration stating that an impasse has been reached and the director has determined that further mediation efforts under subdivision 1 of this section would serve no purpose. Upon such certification, the parties shall each submit their respective final positions on matters not agreed upon. The parties may stipulate to the board those agreed upon items to be excluded from arbitration.

Subd. 4. The employer and exclusive representative shall execute a written contract or memorandum of contract as provided in section 10 at least 90 days prior to the last date the employer is required by statute, charter, ordinance, or resolution, to submit its tax levy or budget, or certify the taxes voted, to the appropriate public officer, agency, public body or office, or by September 1, whichever date is earlier.

Subd. 5. In the event the employer and exclusive representative fail to execute a contract pursuant to subdivision 4 of this section, they shall each submit their respective final positions on those terms and conditions of employment not agreed upon by the parties to the board at least 75 days prior to the last date the employer is required to submit its tax levy or budget, or certify the taxes voted to the appropriate public officer, agency, public body or office, or by October 1, whichever date is earlier. The parties may stipulate to the board those agreed upon items to be excluded from arbitration.

Subd. 6. Upon the director certifying a dispute under subdivision 3 of this section to the board or the board receiving the final positions of disputing parties under subdivision 5 of this section, the board shall take jurisdiction of the matter and proceed in accordance with section 12 of this act.

Subd. 7. This section shall not apply to any confidential employee, supervisory employee, or principal and assistant principal, nor shall any such employees derive any rights from this section.

Sec. 10. [179.70] **CONTRACTS; GRIEVANCES; ARBITRATION.** Subdivision 1. A written contract or memorandum of

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contract containing the agreed upon terms and conditions of employment and such other matters as may be agreed upon by the employer and exclusive representative shall be executed by the parties. The contracts shall not be for a term exceeding three years. Contract between employer school board and exclusive representative of teachers shall in every instance be for a term of two years commencing on July 1 of each even numbered year, except, however, such contracts entered into prior to July 1, 1972 shall expire on June 30, 1972. All contracts shall include a grievance procedure which shall provide compulsory binding arbitration of grievances. In the event that the parties cannot reach agreement on the grievance procedure, they shall be subject to the grievance procedure promulgated by the director pursuant to section 11, subdivision 5 (i).

Subd. 2. The employer shall implement the terms of the contract in the form of an ordinance or resolution. If the implementation of the terms of the contract require the adoption of a law, ordinance, or charter amendment, the employer shall make every reasonable effort to propose and secure the enactment of such law, ordinance, resolution, or charter amendment.

Subd. 3. In the event the employer and exclusive representative are bound by the terms of any arbitration decision of the arbitration panel or other terms established by operation of law, they shall execute a written contract or memorandum of contract containing the terms of such arbitration decision or such terms as are established by law. Upon execution of such contract, the employer shall implement its terms as required by subdivision 2 of this section.

Subd. 4. If the parties to a contract cannot agree upon an arbitrator or arbitrators as provided by the contract grievance procedures or the procedures established by the director, the parties shall, under direction of the chairman of the board, alternately strike names from a list of five arbitrators selected by the board until only one name remains which arbitrator shall make his decision regarding the grievance and it shall be binding upon the parties. The parties shall share equally the costs and fees of the arbitrator.

Subd. 5. All arbitration decisions authorized or required by a grievance procedure shall be subject to those limitations of arbitration decisions contained in section 12, subdivision 7.

Subd. 6. For purposes of this section, "grievance" means a dispute or disagreement as to the interpretation or application of any term or terms of any contract required by this section.

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Sec. 11. [179.71] **DIRECTOR'S POWER, AUTHORITY AND DUTIES.** Subdivision 1. The director of mediation services is authorized to and shall perform those duties provided in this section.

Subd. 2. The director shall accept and investigate all petitions for:

- (a) certification or decertification as the exclusive representative of an appropriate unit;
- (b) mediation services;
- (c) any election or other voting procedures provided for in this act;
- (d) certification to the board of arbitration.

Subd. 3. The director shall determine appropriate units. In determining the appropriate unit he shall take into consideration, along with other relevant factors, the principles and the coverage of uniform comprehensive position classification and compensation plans of the employees, the history and extent of organization, involvement of professions and skilled crafts and other occupational classifications, relevant administrative and supervisory levels of authority, the desires of the employees and employers, geographical location, and the recommendation of the parties.

He shall not designate an appropriate unit which includes employees subject to section 3, subdivision 11, with employees not included in section 3, subdivision 11.

Subd. 4. Public employers and exclusive representatives of employees may voluntarily participate in joint negotiations in similar or identical appropriate units. It is the policy of this act to encourage such areawide negotiations and the director shall encourage it whenever possible.

Subd. 5. In addition to all other duties imposed by this section, the director shall:

- (a) retain mediation jurisdiction over the parties for purposes of this subdivision until such time as the parties reach agreement; provided, however, he may continue to assist parties after the parties have submitted their final positions as provided or required under section 12, subdivision 6; or section 9, subdivision 6;
- (b) issue notices, subpoenas and orders as may be required by law to carry out his duties under this act. Issuance of orders shall include those orders of the Minnesota public employment relations board;

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(c) certify to the Minnesota public employment relations board those items of dispute between parties to be subject to the action of the Minnesota public employment relations board under section 9, subdivision 3;

(d) assist the parties in formulating petitions, notices, and other papers required to be filed with the director or the board;

(e) certify the final results of any election or other voting procedure conducted pursuant to this act;

(f) furnish clerical and administrative services to the Minnesota public employment relations board as may be required;

(g) adopt reasonable and proper rules and regulations relative to and regulating the forms of petitions, notices, orders and the conduct of hearings and elections subject to final approval of the Minnesota public employment relations board. 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;

(h) receive, catalogue and file in a logical manner all orders and decisions of the Minnesota public employment relations board and all arbitration panels authorized by this act as well as all grievance arbitration decisions and the director's own orders and decisions. All orders and decisions catalogued and filed shall be made readily available to the public;

(i) promulgate a grievance procedure to effectuate the purposes of section 10, subdivision 1. Such grievance procedures shall not provide for the services of the bureau of mediation services. The exercise of authority granted by this clause shall be subject to the provisions of Minnesota Statutes, Chapter 15;

(j) conduct elections.

Subd. 6. The director may at the request of a certified exclusive representative or employer who is a party to a labor dispute render assistance in settling the dispute without the necessity of filing the petition referred to in section 9, subdivision 1. If the director takes mediation jurisdiction of the dispute as a result of such a request, he shall then proceed as provided in section 9.

Subd. 7. The director shall not furnish mediation services to any employees nor any employee representative who is not at the time certified as an exclusive representative.

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Subd. 8. Hearings and mediation meetings authorized by this section shall be held in the county which best meets the conveniences of the witnesses, but such hearings may be held at a time and place as is agreed to by the petitioner and those parties affected by the petition.

Sec. 12. [179.72] PUBLIC EMPLOYMENT RELATIONS BOARD: POWERS AND DUTIES; ARBITRATION. Subdivision 1. There is hereby established a public employment relations board with the powers and duties assigned to it by this section. The board shall consist of five members appointed by the chief justice of the supreme court. Two members shall be representative of public employees; two shall be representative of public employers; and one shall be representative of the public at large. Public employers and employee organizations representing public employees may submit for consideration names of persons representing their interests to serve as members of the board. Members shall be appointed for a term of four years, except that of the members first appointed two shall be appointed for a term ending the first Monday in April, 1974, and three for a term to expire on the first Monday in April, 1976. Members shall hold office until their successors are appointed and qualified and vacancies shall be filled by the chief justice of the supreme court for the unexpired term. The board shall select one of its members to serve as chairman for a term beginning May 1 each year. The director of mediation services shall provide secretarial and administrative services to the board.

Subd. 2. The board shall adopt its own rules governing its procedure and shall hold regular and special meetings as are prescribed in such rules. The chairman shall preside at meetings of the board. Members of the board shall be reimbursed at the rate of \$35 per day when in attendance at meetings of the board and shall be allowed their actual and necessary travel or other expenses incurred in the performance of their duties pursuant to the laws and rules governing such expenses for state employees.

Subd. 3. In addition to the other powers and duties given it by law, the board has the following powers and duties;

(a) to hear and decide issues relating to the meaning of the terms "supervisory employee", "confidential employee", "essential employee" or "professional employee", as defined by section 3 of this act;

(b) to hear and decide appeals from determinations of the director relating to the appropriateness of a unit under section 7 of this act;

(c) to approve or disapprove the rules and regulations promulgated by the director under section 11, subdivision 5 (g).

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Subd. 4. The board shall adopt rules pursuant to chapter 15 governing the presentation of issues relating to matters included in subdivision 3 of this section; and the taking of such appeals. All issues and appeals presented to the board shall be construed to be a contested case as defined by section 15.0411, subdivision 4, and shall be subject to all the provisions of chapter 15 relating to contested cases.

Subd. 5. The board shall maintain a list of names of arbitrators qualified by experience and training in the field of labor management negotiations and arbitration. Names on the list may be selected and removed at any time by a majority of the board. In maintaining the list of such persons the board shall, to the maximum extent possible, select persons from varying geographical areas of the state.

Subd. 6. When final positions certified to the board as provided in section 9, subdivision 3, or submitted to the board as provided in section 9, subdivision 5, the board shall constitute an arbitration panel as follows:

The parties shall, under the direction of the chairman of the board, alternately strike names from a list of seven arbitrators until only three names remain, which three members shall be members of the panel; provided, however, that by mutual agreement the parties may select a single arbitrator to hear the dispute. If the parties are unable to agree on who shall strike the first name, the question shall be decided by the flip of a coin. In submitting names of arbitrators to the parties the board shall endeavor whenever possible to include names of persons from the general geographical area in which the public employer is located. The panel shall assume and have jurisdiction over the items of dispute certified to the board for which the panel was constituted. The panel's orders shall be issued upon a majority vote of members considering a given dispute. The members of the panel shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties plus a per diem allowance of \$100 for each day or part thereof while engaged in the consideration of a dispute. All expenses and costs of the panel shall be shared and assessed equally to the parties to the dispute.

Subd. 7. The arbitration panel selected by the parties shall resolve the issues in dispute between the parties as submitted by the board, and the panel's decision and order shall be final and binding upon the parties; subject, however, to the provisions of subdivision 9 of this section and provided, however, that no decision of the panel which violates any provision of the laws of Minnesota or rules or regulations promulgated thereunder or municipal charters or ordinances or resolutions enacted pursuant

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thereto, or which causes a penalty to be incurred thereunder, shall have any force or effect. In considering a dispute and issuing its order the panel shall give due consideration to the statutory rights and obligations of public employers to efficiently manage and conduct its operations within the legal limitations surrounding the financing of such operations. The panel's orders shall be issued by a majority vote of its members considering a given dispute. The panel shall have no jurisdiction over nor authority to entertain any matter or issue not within the definition stated in section 3, subdivision 18; provided, however, items not within terms and conditions of employment may be included in an arbitration decision if such items are contained in the employer's final position. Any issue or order or part thereof issued by the panel determining any matter not included under section 3, subdivision 18 or the employer's final position shall be void and of no effect. The panel shall render its decision within ten days from the date of submission of the parties respective positions, but in any event must issue its order by the last date the employer is required by statute, charter, ordinance or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. The panel's order shall be for such period as the panel shall direct, except that orders determining contracts for teacher units shall be effective to the next June 30 of the next even numbered year.

Subd. 8. The arbitration panel may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any dispute before it. The panel may administer oaths and affidavits, and may examine witnesses. Attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing; provided, however, the panel's meeting shall be held in the county in which the principal administrative offices of the employer are located, unless another location is selected by agreement of the parties. In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the state 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 shall on application of the panel have jurisdiction to issue to such person an order requiring such person to appear before the panel, there to produce evidence as so ordered, or there to give testimony touching the matters in issue, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

Subd. 9. Upon issuing its decision and order involving any dispute, the panel shall transmit the order to the board and to the appropriate representative or officer of the public employer and the employees.

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The public employer shall have ten days from the receipt of the order to accept or reject the decision and order; if the public employer takes no action within the ten day period the order shall be deemed to have been accepted and shall be final. The public employer may reject the order by certification to the director and if so rejected the order shall be of no force or effect.

Subd. 10. At the request of both parties to a dispute involving other than essential employees, the parties may agree that the decision of an arbitration panel established under this section shall be binding on both notwithstanding the provisions of subdivision 9 of this section. The parties may stipulate those agreed upon items to be excluded from arbitration.

Subd. 11. At the request of both parties to a dispute involving any essential employees, the board shall consider only the final positions of the parties in establishing an arbitration panel and the panel shall make its decision and order in terms of either of the final positions and the order shall be binding on both notwithstanding the provisions of subdivision 9 of this section. The parties may stipulate those agreed upon items to be excluded from arbitration.

Subd. 12. The parties to an arbitration proceeding may at any time prior to or after issuance of an order of the arbitration panel, agree and settle upon terms and conditions of employment regardless of the terms and conditions of employment determined by the order. The parties shall, if so agreeing and settling, execute a written contract or memorandum of contract pursuant to section 10, subdivision 1.

Subd. 13. This section shall not apply to any state employee, confidential employee, supervisory employee, principal and assistant principal, nor shall any such employees derive any rights from this section.

Sec. 13. [179.73] **POLICY CONSULTANTS.** Subdivision 1. The legislature recognizes that professional employees possess knowledge, expertise, and dedication which is helpful and necessary to the operation and quality of public services and which may assist public employers in developing their policies. It is, therefore, the policy of this state to encourage close cooperation between public employers and professional employees by providing for discussions and the mutual exchange of ideas regarding all matters not specified under section 3, subdivision 18 of this act.

Subd. 2. The professional employees shall select a representative to meet and confer with a representative or committee of the public employer on matters not specified under section 3, subdivision 18 relating to the services being provided to the public. The

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public employer shall provide the facilities and set the time for such conferences to take place, provided that the parties shall meet together at least once four months.

Subd. 3. Any suggestion or recommendation regarding those matters referred to in subdivision 1 may be brought before consultants for their consideration and advisory opinions.

Subd. 4. Upon the petition of a public employer or an organized group of professional employees, the public employment relations board shall submit a list of qualified consultants experienced in the subjects to be taken under advisement. The public employer and the representative of the professional employees shall each select one consultant, or upon mutual agreement jointly select one consultant, who shall meet with the parties and join in the consideration of matters presented. At the conclusion of their discussions and presentations, the consultants shall submit advisory opinions to the parties regarding the matters presented to it.

Subd. 5. Consultants to the parties shall be compensated equally by the parties involved at a rate not to exceed a total of \$100 per day, and all other necessary expenses except as may be otherwise agreed to by the parties.

Sec. 14. [179.74] STATE AND ITS EMPLOYEES; NEGOTIATING TEAM; APPROPRIATE UNITS. Subdivision 1. For purposes of this section the term "appointing authority" has the meaning given it by section 43.01, subdivision 11.

Subd. 2. The employer of state employees shall be the employee's appointing authority for purposes of this act.

Subd. 3. In all negotiations between the state and exclusive representatives the state shall be represented by a negotiating team consisting of the commissioner of administration or his representative, and the director of civil service or his representative. The attorney general, and each appointing authority shall cooperate with the negotiating team in conducting negotiations and shall make available such personnel and other resources as are necessary to enable the team to conduct effective negotiations.

Subd. 4. The negotiating team shall meet and negotiate with the exclusive representative of appropriate units in the manner prescribed by this act; provided, however, that the director of mediation services shall define appropriate units of state employees as all the employees under the same appointing authority except where professional, geographical or other considerations affecting employment relations clearly require appropriate units of some other compensation. Regardless of unit determination, the governor may upon the unanimous written request of exclusive

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representatives of units and appointing authorities direct that negotiations be conducted for one or more appointing authorities in a common proceeding.

Subd. 5. The negotiating team is authorized to and may enter into tentative agreements to be submitted to the legislature.

Sec. 15. [179.75] **PENALTIES AND ENFORCEMENT.** Subdivision 1. The district courts of this state are hereby vested with jurisdiction to enjoin and restrain violations or threatened violations of this act.

Subd. 2. A temporary restraining order may be issued without notice and hearing upon a proper showing that a violation of section 4 by any employer, union, employee organization, or representatives or members of an employer, union or employee organization is imminent or occurring. It shall not be necessary to allege or prove that an adequate remedy at law does not exist to obtain such temporary restraining order nor shall the court be required to inquire into the equities of the parties.

Subd. 3. A permanent restraining order or an injunction may be issued prohibiting threatened or actual violations of any provisions of this act upon a finding after notice to all parties and a hearing that such threat or violation exists. It shall not be necessary to prove or have findings of fact relating to the equities of the parties, but laches shall in any case be a good defense.

Subd. 4. The court may enforce its orders and punish violations of such restraining orders or injunctions as are authorized by subdivisions 2 and 3 of this section the same as in any case of enforcement or violation of the court's restraining orders or injunctions. In addition to such penalties as the court may assess for violations of its order under this section, the court shall order the decertification of any exclusive representative found in violation of any court order and the order shall prohibit recertification for a period not to exceed two years from the time of the court's order. Such orders shall deny to any employee organization found in violation of the court's orders issued pursuant to this section its right to dues check off for a period of two years.

Subd. 5. The court may at any time appoint a referee to hear all parties to a suit brought under this section. The compensation of a referee shall be fixed by the court and shall be payable from the general revenue funds of the county in which the suit is venued. Upon the conclusion of hearings on each case or at any time requested by the court, the referee shall transmit to the court all papers relating to the case together with his findings in writing. The court may then with or without further hearings or inquiry make its findings and issue its permanent

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restraining order or injunction or dissolve a temporary restraining order as authorized by this section.

Subd. 6. Any employer, employee, or employee organization affected or involved in a violation or threatened violation of any provisions of this act, or the public employment relations board through the attorney general of the state by direction of the governor, may bring suit under this section.

Subd. 7. The court may assess the costs of the action against any party found in violation of any provisions of this act as the court may deem just in the premises.

Subd. 8. Minnesota Statutes 1969, Sections 185.07 to 185.18, shall not be held to apply to any public employee, including those specifically excepted from the definition of public employee in section 3, subdivision 7.

Subd. 9. In addition to the jurisdiction and powers granted to district courts by this section, the district courts shall have jurisdiction to hear and decide appeals from arbitration decisions rendered under any grievance procedure provided by section 10, subdivision 1, and orders made or issued by any arbitration panel under section 12 on the grounds that the award or order violates the provisions of section 12, subdivision 7, relating to the scope of the award or order. The arbitration panel decisions and orders shall be deemed to be those of the board and appeal from such arbitration panel decisions and orders shall be as an appeal from an administrative decision or order under Minnesota Statutes, Chapter 606.

Sec. 16. **[179.76] INDEPENDENT REVIEW.** It shall be the public policy of the state of Minnesota that every public employee should be provided with the right of independent review, by a disinterested person or agency, of any grievance arising out of the interpretation of or adherence to terms and conditions of employment. When such review is not provided under statutory, charter, or ordinance provisions for a civil service or merit system, the governmental agency may provide for such review consistent with the provisions of law or charter. If no other procedure exists for the independent review of such grievances, the employee may present his grievance to the public employment relations panel under procedures established by the board.

Sec. 17. **REPEALS.** Minnesota Statutes 1969, Sections 125.19, 125.20, 125.21, 125.22, 125.23, 125.24, 125.25, 125.26, 179.50, 179.51, 179.52, 179.521, 179.522, 179.53, 179.54, 179.55, 179.56, 179.57, 179.571, 179.572, 179.58, 418.21, 418.22, 418.23, and 418.24 are repealed.

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Sec. 18. **EFFECTIVE DATES.** Subdivision 1. Section 12, Subdivision 1, is effective on March 1, 1972.

Subd. 2. Sections 7 and 9, subdivisions 1 and 7 are effective on May 1, 1972.

Subd. 3. All other sections of this act are effective on July 1, 1972.

Subd. 4. Negotiations in process begun under any procedure contained in statutes repealed or amended by this act may continue until their conclusion, but in no event beyond July 1, 1972.

Sec. 19. **SEVERABILITY OF PROVISIONS.** Subdivision 1. The provisions of this act shall be severable, and if any provision thereof or the application of any such provision under any circumstances is held invalid, it shall not affect any other provisions of this act or the application of any provision thereof under different circumstances.

Subd. 2. If the appointment procedure provided for in section 12, subdivision 1, is held invalid for any reason, the appointments required to be made by section 12, subdivision 1, shall be made by the governor.

Approved November 3, 1971.

EXTRA SESSION
CHAPTER 34—S.F.No.28

[Not Coded]

An act relating to Steele county; authorizing certain additional tax levies; amending Laws 1963, Chapter 572, Section 3.

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

Section 1. Laws 1963, Chapter 572, Section 3, is amended to read:

Sec. 3. **STEELE COUNTY; ADDITIONAL TAX LEVIES.** The county of Steele, for the purposes aforesaid, is hereby authorized to levy by resolution of the county board, on or before December 15, 1965, a tax of not to exceed one mill on the taxable value of all property in such county for each of the years 1965 to

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