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SENATE BILL 49

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Mary Jane Garcia

AN ACT

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

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

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

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

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

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

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

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

19 C. "board" means the public safety employee labor
20 relations board;

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

25 E. "collective bargaining" means the act of
negotiating between a public employer and an exclusive
representative for the purpose of entering into a written

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1 agreement regarding wages, hours and other terms and
2 conditions of employment;

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

7 G. "exclusive representative" means a labor
8 organization that, as a result of certification, has the
9 right to represent all public safety employees in an
10 appropriate bargaining unit for the purposes of collective
11 bargaining;

12 H. "fact-finding" means the procedure following
13 mediation whereby the parties involved in an impasse submit
14 their differences to a third party for an advisory
15 recommendation;

16 I. "impasse" means failure of a public employer
17 and an exclusive representative, after good-faith bargaining,
18 to reach agreement in the course of negotiating a collective
19 bargaining agreement;

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

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

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1 L. "lockout" means an act by a public employer to
2 prevent its employees from going to work for the purpose of
3 resisting the demands of the employees' exclusive
4 representative or for the purpose of gaining a concession
5 from the exclusive representative;

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

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

17 O. "professional employee" means an employee whose
18 work is predominantly intellectual and varied in character
19 and whose work involves the consistent exercise of discretion
20 and judgment in its performance and requires knowledge of an
21 advanced nature in a field of learning customarily requiring
22 specialized study at an institution of higher education or
23 its equivalent. The work of a professional employee is of
24 such character that the output or result accomplished cannot
25 be standardized in relation to a given period of time;

 P. "public employer" means the state or any
political subdivision of the state, including municipalities

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1 having adopted home rule charters, and not including any
2 government of a tribe or pueblo;

3 Q. "public safety employee" means a regular,
4 nonprobationary law enforcement, corrections, firefighting,
5 rescue, or emergency medical services employee or a regular
6 public school security guard;

7 R. "strike" means a public safety employee's
8 refusal, in concerted action with other public safety
9 employees, to report for duty or his willful absence in whole
10 or in part from the full, faithful and proper performance of
11 the duties of employment for the purpose of inducing,
12 influencing or coercing a change in the conditions,
13 compensation, rights, privileges or obligations of public
14 employment; and

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

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

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

- 12 A. direct the work of, hire, promote, assign,
13 transfer, demote, suspend, discharge or terminate public
14 safety employees;
- 15 B. determine qualifications for employment and
16 the nature and content of personnel examinations;
- 17 C. take actions as may be necessary to carry out
18 the mission of the public employer in emergencies; and
- 19 D. retain all rights not specifically limited by
20 a collective bargaining agreement or by the Public Safety
21 Employee Bargaining Act.

22 Section 7. APPROPRIATE GOVERNING BODY--PUBLIC
23 EMPLOYER.--The appropriate governing body of any public
24 employer shall be the policymaking individual or body
25 representing the public employer. In the case of the
state, the appropriate governing body shall be the governor
or his designee or, in the case of a constitutionally

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1 created body, the constitutionally designated head of that
2 body. At the local level, the appropriate governing body
3 shall be the elected or appointed representative body or
4 individual charged with management of the local public
5 body. In the event of dispute, the board shall determine
6 the appropriate governing body.

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

9 A. The "public safety employee labor relations
10 board" is created. The board shall consist of three
11 members appointed by the governor. The governor shall
12 appoint one member recommended by organized labor
13 representatives actively involved in representing public
14 safety employees, one member recommended by public
15 employers actively involved in collective bargaining and
16 one member jointly recommended by the other two appointees.

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

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

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

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

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

9 (1) the designation of appropriate
10 bargaining units;

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

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

15 B. The board shall:

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

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

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

23 C. The board may issue subpoenas requiring, upon
24 reasonable notice, the attendance and testimony of
25 witnesses and the production of any evidence, including
books, records, correspondence or documents relating to any
matter in question. The board may prescribe the form of

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1 subpoena, but it shall adhere insofar as practicable to the
2 form used in civil actions in the district court. The
3 board may administer oaths and affirmations, examine
4 witnesses and receive evidence.

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

8 E. The board may hire such personnel or contract
9 with such third parties as it deems necessary to assist it
10 in carrying out its functions.

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

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

21 Section 10. LOCAL BOARD--CREATED.--

22 A. With the approval of the board, a public
23 employer other than the state may, by ordinance, resolution
24 or charter amendment, create a local board similar to the
25 public safety employee labor relations board. Once created
and approved, the local board shall assume the duties and
responsibilities of the public safety employee labor

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1 relations board. A local board shall follow all procedures
2 and provisions of the Public Safety Employee Bargaining Act
3 that apply to the board unless otherwise approved by the
4 board.

5 B. The local board shall be composed of three
6 members appointed by the public employer. One member shall
7 be appointed on the recommendation of individuals
8 representing labor, one member shall be appointed on the
9 recommendation of individuals representing management and
10 one member shall be appointed on the recommendation of the
11 first two appointees.

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

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

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

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

A. A local board shall promulgate rules
necessary to accomplish and perform its functions and

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1 duties as established in the Public Safety Employee
2 Bargaining Act, including the establishment of procedures
3 for:

4 (1) the designation of appropriate
5 bargaining units;

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

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

10 B. A local board shall:

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

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

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

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

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1 witnesses and receive evidence.

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

5 E. A local board has the power to enforce
6 provisions of the Public Safety Employee Bargaining Act or
7 a local collective bargaining ordinance, resolution or
8 charter amendment through the imposition of appropriate
9 administrative remedies.

10 Section 12. HEARING PROCEDURES.--

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

- 13 (1) information gathering and inquiry;
 - 14 (2) adopting rules; and
 - 15 (3) adjudicating disputes and enforcing
- 16 the provisions of the Public Safety Employee Bargaining Act
17 and rules adopted pursuant to that act.

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

24 C. The board or a local board may appoint a
25 hearing examiner to conduct any adjudicatory hearing
authorized by the board or local board. At the conclusion
of the hearing, the examiner shall prepare a written

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1 report, findings and recommendations, all of which shall be
2 submitted to the board or local board for its decision.

3 D. No rule proposed to be adopted by the board
4 or a local board that affects any person or governmental
5 entity outside of the board or local board and its staff
6 shall be adopted, amended or repealed without public
7 hearing and comment on the proposed action before the board
8 or local board. The public hearing shall be held after
9 notice of the subject matter of the rule, the action
10 proposed to be taken, the time and place of the hearing,
11 the manner in which interested persons may present their
12 views and the method by which copies of the proposed rule,
13 proposed amendment or repeal of an existing rule may be
14 obtained. All meetings of the board shall be held in Santa
15 Fe. All meetings of local boards shall be held in the
16 county of residence of the local public employer. Notice
17 shall be published once at least thirty days prior to the
18 hearing date in a newspaper of general circulation in the
19 state or, in the case of a local board hearing, in a
20 newspaper of general circulation in the county, and notice
21 shall be mailed at least thirty days prior to the hearing
22 date to all persons who have made a written request for
23 advance notice of hearings.

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

F. A verbatim record made by electronic or other
suitable means shall be made of every rulemaking and

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1 adjudicatory hearing. The record shall not be transcribed
2 unless required for judicial review or unless ordered by
3 the board or local board.

4 Section 13. APPROPRIATE BARGAINING UNITS.--

5 A. The board or a local board shall, upon
6 receipt of a petition for a representation election filed
7 by a labor organization, designate the appropriate
8 bargaining units for collective bargaining. Appropriate
9 bargaining units shall be established on the basis of
10 "occupational groups", a clear and identifiable community
11 of interest in employment terms and conditions and related
12 personnel matters among the public safety employees
13 involved. The parties, by mutual agreement, may
14 consolidate occupational groups. Essential factors in
15 determining appropriate bargaining units shall include the
16 principles of efficient administration of government, the
17 history of collective bargaining and the assurance to
18 public safety employees of the fullest freedom in
19 exercising the rights guaranteed by the Public Safety
20 Employee Bargaining Act.

21 B. Within thirty days of a disagreement arising
22 between a public employer and a labor organization
23 concerning the composition of an appropriate bargaining
24 unit, the board or a local board shall hold a hearing
25 concerning the composition of the bargaining unit before
designating an appropriate bargaining unit.

C. The board or a local board shall not include

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1 in any appropriate bargaining unit supervisors, managers or
2 confidential employees.

3 Section 14. ELECTIONS.--

4 A. Whenever, in accordance with rules prescribed
5 by the board or a local board, a petition is filed by a
6 labor organization containing the signatures of at least
7 thirty percent of the public safety employees in an
8 appropriate bargaining unit, the board or local board shall
9 conduct a secret ballot representation election to
10 determine whether and by which labor organization the
11 public safety employees in the appropriate bargaining unit
12 shall be represented. The ballot shall contain the names
13 of any labor organization submitting a petition containing
14 signatures of at least ten percent of the public safety
15 employees within the appropriate bargaining unit. The
16 ballot shall also contain a provision allowing the public
17 safety employee to indicate whether he desires to be
18 represented by a labor organization.

19 B. Once a labor organization has filed a valid
20 petition with the board or a local board calling for a
21 representation election, other labor organizations may seek
22 to be placed on the ballot. Such an organization shall
23 file a petition containing the signatures of not less than
24 ten percent of the public safety employees in the
25 appropriate bargaining unit no later than ten days after
the board or local board and the public employer post a
written notice that the petition containing the signatures

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1 of not less than thirty percent of the public safety
2 employees has been filed by a labor organization.

3 C. As an alternative to the provisions of
4 Subsection A of this section, the board or a local board
5 may establish an alternative appropriate procedure for
6 determining majority status. The board or local board
7 shall not certify any appropriate bargaining unit if the
8 public employer objects to the certification without an
9 election.

10 D. Within fifteen days of an election in which
11 no labor organization receives a majority of the votes
12 cast, a runoff election between the two choices receiving
13 the largest number of votes cast shall be conducted. The
14 board or a local board shall certify the results of the
15 election, and, where a labor organization receives a
16 majority of the votes cast, the board or local board shall
17 certify the labor organization as the exclusive
18 representative of all public safety employees in the
19 appropriate bargaining unit.

20 E. No labor organization shall be certified as
21 an exclusive representative unless at least sixty percent
22 of the members of the bargaining unit vote in the election.

23 F. No election shall be conducted if an election
24 or runoff election has been conducted in the twelve-month
25 period immediately preceding the proposed representation
election. No election shall be held during the term of an
existing collective bargaining agreement, except as

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1 provided in Section 16 of the Public Safety Employee
2 Bargaining Act.

3 Section 15. EXCLUSIVE REPRESENTATION.--

4 A. A labor organization that has been certified
5 by the board or a local board as representing the public
6 safety employees in the appropriate bargaining unit shall
7 be the exclusive representative of all public safety
8 employees in the appropriate bargaining unit. The
9 exclusive representative shall act for all public safety
10 employees in the appropriate bargaining unit and negotiate
11 a collective bargaining agreement covering all public
12 safety employees in the appropriate bargaining unit. The
13 exclusive representative shall represent the interests of
14 all public safety employees in the appropriate bargaining
15 unit without discrimination or regard to membership in the
16 labor organization.

17 B. This section does not prevent a public safety
18 employee, acting individually, from presenting a grievance
19 without the intervention of the exclusive representative.
20 At any hearing on a grievance brought by a public safety
21 employee individually, the exclusive representative shall
22 be afforded the opportunity to be present and make its
23 views known. Any adjustment made shall not be inconsistent
24 with or in violation of the collective bargaining agreement
25 then in effect between the public employer and the
exclusive representative.

Section 16. DECERTIFICATION OF EXCLUSIVE

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REPRESENTATIVE.--

A. Any member of a labor organization or the labor organization itself may initiate decertification of a labor organization as the exclusive representative if thirty percent of the public safety employees in the appropriate bargaining unit make a written request to the board or a local board for a decertification election. Decertification elections shall be held in a manner prescribed by rule of the board.

B. When there is a collective bargaining agreement in effect, a request for a decertification election shall be made to the board or a local board no earlier than ninety days and no later than sixty days before the expiration of the collective bargaining agreement; provided, however, that a request for an election may be filed at any time after the expiration of the third year of a collective bargaining agreement with a term of more than three years.

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

D. When an exclusive representative has been certified but no collective bargaining agreement is in effect, the board or a local board shall not accept a

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1 request for a decertification election earlier than twelve
2 months subsequent to a labor organization's certification
3 as the exclusive representative.

4 Section 17. SCOPE OF BARGAINING.--

5 A. Except for retirement programs provided
6 pursuant to the Public Employees Retirement Act or the
7 Educational Retirement Act, public employers and exclusive
8 representatives:

9 (1) shall bargain in good faith on wages,
10 hours and other terms and conditions of employment and
11 other issues agreed to by the parties. However, neither
12 the public employer nor the exclusive representative shall
13 be required to agree to a proposal or to make a concession;
14 and

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

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

C. Payroll deduction of the exclusive

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1 representative's membership dues shall be a mandatory
2 subject of bargaining if either party chooses to negotiate
3 the issue. The amount of dues shall be certified in
4 writing by an official of the labor organization and shall
5 not include special assessments, penalties or fines of any
6 type. The duty of the public employer to honor payroll
7 deductions shall continue until the authorization is
8 revoked in writing by the public safety employee in
9 accordance with the negotiated agreement and for so long as
10 the labor organization is certified as the exclusive
11 representative. During the time that a board certification
12 is in effect for a particular appropriate bargaining unit,
13 the public employer shall not deduct dues for any other
14 labor organization.

15 D. Negotiations at the state level shall be
16 conducted by occupational groups on all issues.

17 E. Any agreement provision by the state and an
18 exclusive representative that requires the expenditure of
19 funds shall be contingent upon the specific appropriation
20 of funds by the legislature and the availability of funds.
21 Any agreement provision by a public employer other than the
22 state or the public schools and an exclusive representative
23 that requires the expenditure of funds shall be contingent
24 upon the specific appropriation for wages by the
25 appropriate governing body and the availability of funds.
Any agreement provision by a local school board and an
exclusive representative that requires the expenditure of

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1 funds shall be contingent upon ratification by the
2 appropriate governing body.

3 F. Every agreement shall include a grievance
4 procedure to be used for the settlement of disputes
5 pertaining to employment terms and conditions and related
6 personnel matters. The grievance procedure shall provide
7 for a final and binding determination. The final
8 determination shall constitute an arbitration award within
9 the meaning of the Uniform Arbitration Act. The costs of
10 any arbitration proceeding conducted pursuant to this
11 section shall be shared equally by the parties.

12 G. The following meetings shall be closed:

13 (1) meetings for the discussion of
14 bargaining strategy preliminary to collective bargaining
15 negotiations between a public employer and the exclusive
16 representative of the public safety employees of the public
17 employer;

18 (2) collective bargaining sessions; and

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

23 Section 18. IMPASSE RESOLUTION.--

24 A. The following negotiations and impasse
25 procedures shall be followed by the state and exclusive
representatives for state public safety employees:

(1) A request for the commencement of

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1 initial negotiations shall be filed in writing by the
2 exclusive representative to the state no later than June 1
3 of the year in which negotiations are to take place.
4 Negotiations shall begin no later than July 1 of that year.

5 (2) In subsequent years, negotiations
6 agreed to by the parties shall begin no later than August 1
7 following the submission of written notice to the state by
8 the exclusive representative no later than July 1 of the
9 year in which negotiations are to take place.

10 (3) If an impasse occurs during
11 negotiations between the parties and if no agreement is
12 reached by the parties by October 15, either party may
13 request mediation services from the board. A mediator from
14 the federal mediation and conciliation service shall be
15 assigned by the board to assist negotiations unless the
16 parties agree to another mediator.

17 (4) The mediator shall provide services to
18 the parties until the parties reach agreement or the
19 mediator believes that mediation services are no longer
20 helpful or until October 31, whichever occurs first. If
21 the mediator determines that mediation services are no
22 longer helpful or if the October 31 deadline passes, the
23 mediator shall request that the board assign a fact-finder
24 to the negotiations.

25 (5) The fact-finder shall commence fact-
finding hearings no later than November 15. The fact-
finder shall prepare written findings and recommendations

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1 and submit them to the parties and the board no later than
2 December 10.

3 (6) The board shall publish the fact-
4 finder's report if the parties have not reached agreement
5 by December 15.

6 (7) If no agreement has been reached by
7 the parties prior to December 15, the unresolved issues
8 shall be resolved pursuant to the Uniform Arbitration Act
9 by an arbitration panel consisting of one member appointed
10 by the exclusive representative, one member appointed by
11 the state and a third member appointed by the other two
12 members.

13 B. The following impasse procedure shall be
14 followed by all public employers and exclusive
15 representatives, except the state and the state's exclusive
16 representatives:

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

24 (2) If the impasse continues after a
25 sixty-day mediation period, either party may request from
the board or local board that a fact-finder be assigned to
the negotiations.

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1 (3) The fact-finder shall conduct hearings
2 and submit written findings and recommendations to the
3 parties and the board or local board. If the parties have
4 not reached agreement within ten days after receipt of the
5 fact-finder's report, the board or local board shall
6 publish the report.

7 C. A public employer other than the state may
8 enter into a written agreement with the exclusive
9 representative setting forth an alternative impasse
10 resolution procedure.

11 Section 19. PUBLIC EMPLOYERS--PROHIBITED
12 PRACTICES.--No public employer or his representative shall:

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

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

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

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

25 E. discharge or otherwise discriminate against a
public safety employee because he has signed or filed an
affidavit, petition, grievance or complaint or given any

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1 information or testimony pursuant to the provisions of the
2 Public Safety Employee Bargaining Act or because a public
3 safety employee is forming, joining or choosing to be
4 represented by a labor organization;

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

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

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

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

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

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

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

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

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

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

3 Section 21. STRIKES AND LOCKOUTS PROHIBITED.--

4 A. No public safety employee or labor
5 organization shall engage in a strike. No labor
6 organization shall cause, instigate, encourage or support a
7 public safety employee strike. No public employer shall
8 cause, instigate or engage in any public safety employee
9 lockout.

10 B. A public employer may apply to the district
11 court for injunctive relief to end a strike, and an
12 exclusive representative of public safety employees
13 affected by a lockout may apply to the district court for
14 injunctive relief to end a lockout.

15 C. Any labor organization that causes,
16 instigates, encourages or supports a public safety employee
17 strike, walkout or slowdown may be decertified as the
18 exclusive representative for that appropriate bargaining
19 unit by either the board or a local board and shall be
20 barred from serving as the exclusive representative of any
21 bargaining unit of public safety employees for a period of
22 not more than one year.

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

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1 Employee Bargaining Act.

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

4 A. The board or a local board may request the
5 district court to enforce an order issued pursuant to the
6 Public Safety Employee Bargaining Act, including those for
7 appropriate temporary relief and restraining orders. The
8 court shall consider the request for enforcement on the
9 record made before the board or local board. It shall
10 uphold the action of the board or local board and take
11 appropriate action to enforce it unless it concludes that
12 the order is:

13 (1) arbitrary, capricious or an abuse of
14 discretion;

15 (2) not supported by substantial evidence
16 on the record considered as a whole; or

17 (3) otherwise not in accordance with law.

18 B. Any person or party, including any labor
19 organization affected by a final rule, order or decision of
20 the board or a local board, may appeal to the district
21 court for further relief. All such appeals shall be based
22 upon the record made at the board or local board hearing.
23 All such appeals to the district court shall be taken
24 within thirty days of the date of the final rule, order or
25 decision of the board or local board. Actions taken by the
board or local board shall be affirmed unless the court
concludes that the action is:

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1 (1) arbitrary, capricious or an abuse of
2 discretion;

3 (2) not supported by substantial evidence
4 on the record taken as a whole; or

5 (3) otherwise not in accordance with law.

6 Section 24. EXISTING COLLECTIVE BARGAINING

7 UNITS.--Bargaining units established prior to July 1, 1999
8 shall continue to be recognized as appropriate bargaining
9 units for the purposes of the Public Safety Employee
10 Bargaining Act. Bargaining units established between July
11 1, 1999 and the effective date of that act shall continue
12 in effect only if the unit was established through a
13 representation election.

14 Section 25. EXISTING COLLECTIVE BARGAINING

15 AGREEMENTS.--Nothing in the Public Safety Employee
16 Bargaining Act shall be construed to annul or modify any
17 collective bargaining agreement entered into between any
18 public employer and any exclusive representative prior to
19 the effective date of the Public Safety Employee Bargaining
20 Act.

21 Section 26. EXISTING ORDINANCES PROVIDING FOR PUBLIC

22 SAFETY EMPLOYEE BARGAINING.--Any public employer other than
23 the state that subsequent to October 1, 1991 adopts by
24 ordinance, resolution or charter amendment a system of
25 provisions and procedures permitting public safety
employees to form, join or assist any labor organization
for the purpose of collective bargaining through exclusive

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1 representatives freely chosen by its public safety
2 employees may operate under those provisions and procedures
3 rather than those set forth in the Public Safety Employee
4 Bargaining Act; provided that the employer shall comply
5 with the provisions of Sections 8, 9, 10, 11 and 12 of that
6 act and provided the following provisions and procedures
7 are included in each ordinance, resolution or charter
8 amendment:

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

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

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

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

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

25 F. a requirement that grievance procedures
culminating with binding arbitration be negotiated;

 G. a requirement that payroll deduction for the

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1 exclusive representative's membership dues be negotiated if
2 requested by the exclusive representative;

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

6 I. prohibited practices for the public employer,
7 public safety employees and labor organizations that
8 promote the principles established in Sections 19, 20 and
9 21 of the Public Safety Employee Bargaining Act.

10 Section 27. APPROPRIATION.--Three hundred thousand
11 dollars (\$300,000) is appropriated from the general fund to
12 the public safety employee labor relations board for
13 expenditure in fiscal year 2001 for the purpose of carrying
14 out the provisions of the Public Safety Employee Bargaining
15 Act. Any unexpended or unencumbered balance remaining at
16 the end of fiscal year 2001 shall revert to the general
17 fund.

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

22 Section 29. EFFECTIVE DATE.--The effective date of
23 the provisions of this act is July 1, 2000.