

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILL 49

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

AN ACT

RELATING TO LABOR-MANAGEMENT COOPERATION 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 Employer-Employee Cooperation Act".

Section 2. PURPOSE OF ACT.--The purpose of the Public
Safety Employer-Employee Cooperation Act is to facilitate the
development of labor-management relationships built on trust,
mutual respect, open communications, bilateral and consensual
problem solving and share accountability and to offer dispute
resolution procedures that are fair, determinative, simple,
inexpensive and effective in dealing with issues swiftly. In
addition, the purpose includes ensuring that labor-management

1 cooperation fully utilizes the strengths of both parties to
2 serve the interests of the public to provide public safety in
3 a quality work environment.

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

13 Section 4. DEFINITIONS.--As used in the Public Safety
14 Employer-Employee Cooperation Act:

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

18 B. "appropriate governing body" means the
19 policymaking body or individual representing a public
20 employer as defined in Section 7 of the Public Safety
21 Employer-Employee Cooperation Act;

22 C. "board" means the public safety employer-
23 employee cooperation board;

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

1 E. "collective bargaining" means the act of
2 negotiating between a public employer and an exclusive
3 representative for the purpose of entering into a written
4 agreement regarding wages, hours and other terms and
5 conditions of employment;

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

10 G. "corrections officer" means a nonprobationary
11 employee of a juvenile or adult corrections facility of the
12 corrections department or the children, youth and families
13 department, whose duty is to hold in custody persons
14 adjudicated or convicted of crimes;

15 H. "exclusive representative" means a labor
16 organization that, as a result of certification, has the
17 right to represent all public safety employees in an
18 appropriate bargaining unit for the purposes of collective
19 bargaining;

20 I. "firefighter" means a nonprobationary employee
21 of a fire department who:

22 (1) works primarily to control and
23 extinguish fires;

24 (2) is responsible for the maintenance and
25 use of firefighting apparatus and equipment;

 (3) performs fire prevention and
investigation;

1 (4) handles fire communications and
2 dispatch; or

3 (5) provides rescue or emergency medical
4 services;

5 J. "impasse" means failure of a public employer
6 and an exclusive representative, after good-faith bargaining,
7 to reach agreement in the course of negotiating a collective
8 bargaining agreement;

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

14 L. "law enforcement officer" means an employee of
15 a law enforcement agency serving in a law enforcement
16 capacity for which formal training is required and who has
17 the power to make arrests;

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

21 N. "lockout" means an act by a public employer to
22 prevent its employees from going to work for the purpose of
23 resisting the demands of the employees' exclusive
24 representative or for the purpose of gaining a concession
25 from the exclusive representative;

O. "management employee" means an employee who is
engaged primarily in executive and management functions and

1 is charged with the responsibility of developing,
2 administering or effectuating management policies. An
3 employee shall not be deemed a management employee solely
4 because the employee participates in cooperative decision-
5 making programs on an occasional basis;

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

10 Q. "professional employee" means an employee whose
11 work is predominantly intellectual and varied in character
12 and whose work involves the consistent exercise of discretion
13 and judgment in its performance and requires knowledge of an
14 advanced nature in a field of learning customarily requiring
15 specialized study at an institution of higher education or
16 its equivalent. The work of a professional employee is of
17 such character that the output or result accomplished cannot
18 be standardized in relation to a given period of time;

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

23 S. "public safety employee" means a
24 nonprobationary employee of a public safety agency who is a
25 law enforcement officer, corrections officer, firefighter or
public school security guard who has taken the oath of office
for the respective position, and includes an employee

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1 temporarily transferred to a supervisory or administrative
2 position, but does not include a permanent management or
3 supervisory employee;

4 T. "public school security guard" means a
5 nonprobationary employee of the public schools employed for
6 the duty of ensuring the safety of students and other school
7 personnel;

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

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

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1 employee evaluation programs.

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

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

13 A. direct the work of, hire, promote, assign,
14 transfer, demote, suspend, discharge or terminate public
15 safety employees;

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

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

20 D. retain all rights not specifically limited by
21 a collective bargaining agreement or by the Public Safety
22 Employer-Employee Cooperation Act.

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

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

8 Section 8. PUBLIC SAFETY EMPLOYER-EMPLOYEE
9 COOPERATION BOARD--CREATED--TERMS--QUALIFICATIONS.--

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

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

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

1 employers.

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

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

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

11 (1) the designation of appropriate
12 bargaining units;

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

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

17 B. The board shall:

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

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

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

25 C. The board may issue subpoenas requiring, upon
reasonable notice, the attendance and testimony of
witnesses and the production of any evidence, including

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1 books, records, correspondence or documents relating to any
2 matter in question. The board may prescribe the form of
3 subpoena, but it shall adhere insofar as practicable to the
4 form used in civil actions in the district court. The
5 board may administer oaths and affirmations, examine
6 witnesses and receive evidence.

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

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

13 F. The board has the power to enforce provisions
14 of the Public Safety Employer-Employee Cooperation Act
15 through the imposition of appropriate administrative
16 remedies.

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

24 Section 10. LOCAL BOARD--CREATED.--
25

A. With the approval of the board, a public
employer other than the state may, by ordinance, resolution
or charter amendment, create a local board similar to the

1 public safety employer-employee cooperation board. Once
2 created and approved, the local board shall assume the
3 duties and responsibilities of the public safety employer-
4 employee cooperation board. A local board shall follow all
5 procedures and provisions of the Public Safety Employer-
6 Employee Cooperation Act that apply to the board unless
7 otherwise approved by the board.

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

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

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

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

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

2 A. A local board shall promulgate rules
3 necessary to accomplish and perform its functions and
4 duties as established in the Public Safety Employer-
5 Employee Cooperation Act, including the establishment of
6 procedures for:

7 (1) the designation of appropriate
8 bargaining units;

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

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

13 B. A local board shall:

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

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

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

23 C. A local board may issue subpoenas requiring,
24 upon 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 local board may prescribe the form

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

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

8 E. A local board has the power to enforce
9 provisions of the Public Safety Employer-Employee
10 Cooperation Act or a local collective bargaining ordinance,
11 resolution or charter amendment through the imposition of
12 appropriate administrative remedies.

13 Section 12. HEARING PROCEDURES.--

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

16 (1) information gathering and inquiry;

17 (2) adopting rules; and

18 (3) adjudicating disputes and enforcing

19 the provisions of the Public Safety Employer-Employee
20 Cooperation Act and rules adopted pursuant to that act.

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

C. The board or a local board may appoint a

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1 hearing examiner to conduct any adjudicatory hearing
2 authorized by the board or local board. At the conclusion
3 of the hearing, the examiner shall prepare a written
4 report, findings and recommendations, all of which shall be
5 submitted to the board or local board for its decision.

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

E. All adopted rules shall be filed in

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1 accordance with applicable state statutes.

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

7 Section 13. APPROPRIATE BARGAINING UNITS.--

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

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

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1 concerning the composition of the bargaining unit before
2 designating an appropriate bargaining unit.

3 C. The board or a local board shall not include
4 in any appropriate bargaining unit supervisors, managers or
5 confidential employees.

6 Section 14. ELECTIONS.--

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

22 B. Once a labor organization has filed a valid
23 petition with the board or a local board calling for a
24 representation election, other labor organizations may seek
25 to be placed on the ballot. Such an organization shall
file a petition containing the signatures of not less than
ten percent of the public safety employees in the

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1 appropriate bargaining unit no later than ten days after
2 the board or local board and the public employer post a
3 written notice that the petition containing the signatures
4 of not less than thirty percent of the public safety
5 employees has been filed by a labor organization.

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

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

23 E. No labor organization shall be certified as
24 an exclusive representative unless at least fifty percent
25 of the members of the bargaining unit vote in the election.

F. No election shall be conducted if an election
or runoff election has been conducted in the twelve-month

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1 period immediately preceding the proposed representation
2 election. No election shall be held during the term of an
3 existing collective bargaining agreement, except as
4 provided in Section 16 of the Public Safety Employer-
5 Employee Cooperation Act.

6 Section 15. EXCLUSIVE REPRESENTATION.--

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

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

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1 then in effect between the public employer and the
2 exclusive representative.

3 Section 16. DECERTIFICATION OF EXCLUSIVE
4 REPRESENTATIVE.--

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

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

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

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1 D. When an exclusive representative has been
2 certified but no collective bargaining agreement is in
3 effect, the board or a local board shall not accept a
4 request for a decertification election earlier than twelve
5 months subsequent to a labor organization's certification
6 as the exclusive representative.

7 Section 17. SCOPE OF BARGAINING.--

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

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

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

20 B. The obligation to collectively bargain
21 imposed by the Public Safety Employer-Employee Cooperation
22 Act shall not be construed as authorizing public employers
23 and exclusive representatives to enter into any agreement
24 that is in conflict with the provisions of any other
25 statute of this state. In the event of conflict between
the provisions of any other statute of this state and any
agreement entered into by the public employer and the

1 exclusive representative in collective bargaining, the
2 former shall prevail.

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

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

20 E. Any impasse resolution or agreement provision
21 by the state and an exclusive representative that requires
22 the expenditure of funds shall be contingent upon the
23 specific appropriation of funds by the legislature and the
24 availability of funds. Any impasse resolution or agreement
25 provision by a public employer other than the state or the
public schools and an exclusive representative that
requires the expenditure of funds shall be contingent upon

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1 the specific appropriation for wages by the appropriate
2 governing body and the availability of funds. Any
3 agreement provision by a local school board and an
4 exclusive representative that requires the expenditure of
5 funds shall be contingent upon ratification by the
6 appropriate governing body.

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

16 G. The following meetings shall be closed:

17 (1) meetings for the discussion of
18 bargaining strategy preliminary to collective bargaining
19 negotiations between a public employer and the exclusive
20 representative of the public safety employees of the public
21 employer;

22 (2) collective bargaining sessions; and

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

Section 18. IMPASSE RESOLUTION.--

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

4 (1) A request for the commencement of
5 initial negotiations shall be filed in writing by the
6 exclusive representative to the state no later than June 1
7 of the year in which negotiations are to take place.
8 Negotiations shall begin no later than July 1 of that year.

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

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

21 (4) The mediator shall provide services to
22 the parties until the parties reach agreement or the
23 mediator believes that mediation services are no longer
24 helpful or until December 15, whichever occurs first.

25 (5) If no agreement has been reached by
the parties prior to December 15, the unresolved issues
shall be resolved pursuant to the Uniform Arbitration Act

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1 by an arbitration panel consisting of one member appointed
2 by the exclusive representative, one member appointed by
3 the state and a third member appointed by the other two
4 members.

5 (6) The decision of the arbitration panel
6 shall be binding on both parties and shall be final and not
7 subject to appeal, unless the decision was found to be
8 arrived at through corruption, fraud, deception or
9 collusion, in which case it may be appealed to the district
10 court in the judicial district of the public employer.

11 B. If an impasse occurs, either party may
12 request from the board or local board that a mediator be
13 assigned to the negotiations unless the parties can agree
14 on a mediator. A mediator with the federal mediation and
15 conciliation service shall be assigned by the board or
16 local board to assist negotiations unless the parties agree
17 to another mediator.

18 C. A public employer other than the state may
19 enter into a written agreement with the exclusive
20 representative setting forth an alternative impasse
21 resolution procedure.

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

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

B. interfere with, restrain or coerce any public

1 safety employee in the exercise of any right guaranteed by
 2 the provisions of the Public Safety Employer-Employee
 3 Cooperation Act;

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

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

9 E. discharge or otherwise discriminate against a
 10 public safety employee because he has signed or filed an
 11 affidavit, petition, grievance or complaint or given any
 12 information or testimony pursuant to the provisions of the
 13 Public Safety Employer-Employee Cooperation Act or because
 14 a public safety employee is forming, joining or choosing to
 15 be represented by a labor organization;

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

18 G. refuse or fail to comply with any provision
 19 of the Public Safety Employer-Employee Cooperation Act or
 20 board rule; or

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

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

A. discriminate against a public safety employee
 with regard to labor organization membership because of

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1 race, color, religion, creed, age, sex or national origin;

2 B. interfere with, restrain or coerce any public
3 safety employee in the exercise of any right guaranteed by
4 the provisions of the Public Safety Employer-Employee
5 Cooperation Act;

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

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

10 E. refuse or fail to comply with any provision
11 of the Public Safety Employer-Employee Cooperation Act; or

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

14 Section 21. STRIKES AND LOCKOUTS PROHIBITED.--

15 A. No public safety employee or labor
16 organization shall engage in a strike. No labor
17 organization shall cause, instigate, encourage or support a
18 public safety employee strike. No public employer shall
19 cause, instigate or engage in any public safety employee
20 lockout.

21 B. A public employer may apply to the district
22 court for injunctive relief to end a strike, and an
23 exclusive representative of public safety employees
24 affected by a lockout may apply to the district court for
25 injunctive relief to end a lockout.

C. Any labor organization that causes,
instigates, encourages or supports a public safety employee

1 strike, walkout or slowdown may be decertified as the
2 exclusive representative for that appropriate bargaining
3 unit by either the board or a local board and shall be
4 barred from serving as the exclusive representative of any
5 bargaining unit of public safety employees for a period of
6 not more than one year.

7 Section 22. AGREEMENTS VALID--ENFORCEMENT.--All
8 collective bargaining agreements and other agreements
9 between public employers and exclusive representatives are
10 valid and enforceable according to their terms when entered
11 into in accordance with the provisions of the Public Safety
12 Employer-Employee Cooperation Act.

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

15 A. The board or a local board may request the
16 district court to enforce an order issued pursuant to the
17 Public Safety Employer-Employee Cooperation Act, including
18 those for appropriate temporary relief and restraining
19 orders. The court shall consider the request for
20 enforcement on the record made before the board or local
21 board. It shall uphold the action of the board or local
22 board and take appropriate action to enforce it unless it
23 concludes that the order is:

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

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

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1 (3) otherwise not in accordance with law.

2 B. Any person or party, including any labor
3 organization affected by a final rule, order or decision of
4 the board or a local board, may appeal to the district
5 court for further relief. All such appeals shall be based
6 upon the record made at the board or local board hearing.
7 All such appeals to the district court shall be taken
8 within thirty days of the date of the final rule, order or
9 decision of the board or local board. Actions taken by the
10 board or local board shall be affirmed unless the court
11 concludes that the action is:

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

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

16 (3) otherwise not in accordance with law.

17 Section 24. EXISTING COLLECTIVE BARGAINING

18 UNITS.--Bargaining units established prior to July 1, 1999
19 shall continue to be recognized as appropriate bargaining
20 units for the purposes of the Public Safety Employer-
21 Employee Cooperation Act. Bargaining units established
22 between July 1, 1999 and the effective date of that act
23 shall continue in effect only if the unit was established
24 through a representation election.

25 Section 25. EXISTING COLLECTIVE BARGAINING

AGREEMENTS.--Nothing in the Public Safety Employer-Employee
Cooperation Act shall be construed to annul or modify any

1 collective bargaining agreement entered into between any
2 public employer and any exclusive representative prior to
3 the effective date of the Public Safety Employer-Employee
4 Cooperation Act.

5 Section 26. EXISTING ORDINANCES PROVIDING FOR PUBLIC
6 SAFETY EMPLOYEE BARGAINING.--Any public employer other than
7 the state that subsequent to October 1, 1991 adopts by
8 ordinance, resolution or charter amendment a system of
9 provisions and procedures permitting public safety
10 employees to form, join or assist any labor organization
11 for the purpose of collective bargaining through exclusive
12 representatives freely chosen by its public safety
13 employees may operate under those provisions and procedures
14 rather than those set forth in the Public Safety Employer-
15 Employee Cooperation Act; provided that the employer shall
16 comply with the provisions of Sections 8, 9, 10, 11 and 12
17 of that act and provided the following provisions and
18 procedures are included in each ordinance, resolution or
19 charter amendment:

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

23 B. procedures for the identification of
24 appropriate bargaining units, certification elections and
25 decertification elections equivalent to those set forth in
the Public Safety Employer-Employee Cooperation Act;

C. the right of a labor organization to be

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1 certified as an exclusive representative;

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

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

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

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

14 H. impasse resolution procedures equivalent to
15 those set forth in Section 18 of the Public Safety
16 Employer-Employee Cooperation Act; and

17 I. prohibited practices for the public employer,
18 public safety employees and labor organizations that
19 promote the principles established in Sections 19, 20 and
20 21 of the Public Safety Employer-Employee Cooperation Act.

21 Section 27. APPROPRIATION.--Three hundred thousand
22 dollars (\$300,000) is appropriated from the general fund to
23 the public safety employer-employee cooperation board for
24 expenditure in fiscal year 2001 for the purpose of carrying
25 out the provisions of the Public Safety Employer-Employee
Cooperation Act. Any unexpended or unencumbered balance
remaining at the end of fiscal year 2001 shall revert to

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1 the general fund.

2 Section 28. SEVERABILITY.--If any part or application
3 of the Public Safety Employer-Employee Cooperation Act is
4 held invalid, the remainder or its application to other
5 situations or persons shall not be affected.

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

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