CHAPTER 179

LABOR RELATIONS

MINNESOTA LABOR RELATIONS ACT

179.01 DEFINITIONS; MINNESOTA LABOR RELATIONS ACT. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of sections 179.01 to 179.17, shall be given the meanings subjoined to them.

Subd. 2. **Person.** "Person" includes individuals, partnerships, associations, corporations, trustees, and receivers.

Subd. 3. **Employer.** "Employer" includes all persons employing others and all persons acting in the interest of an employer, but does not include the state, or any political or governmental subdivision thereof, nor any person subject to the Federal Railway Labor Act, as amended from time to time, nor the state or any political or governmental subdivision thereof except when used in section 179.13.

Subd. 4. **Employee.** "Employee" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice, as defined in section 179.12, on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home.

Subd. 5. **Representative of employees.** "Representative of employees" means a labor organization or one or more individuals selected by a group of employees as provided in section 179.16.

Subd. 6. **Labor organization.** "Labor organization" means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment.

Subd. 7. **Labor dispute.** "Labor dispute" includes any controversy concerning employment, tenure or conditions or terms of employment or concerning the association or right of representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants.

Subd. 8. **Strike.** "Strike" means the temporary stoppage of work by the concerted action of two or more employees as a result of a labor dispute.

Subd. 9. **Lockout.** "Lockout" is the refusal of the employer to furnish work to employees as a result of a labor dispute.

Subd. 10. **Commission.** "Commission" means the commission of three members which may be appointed by the governor to conduct hearings under this chapter.

Subd. 11. **Unfair labor practice.** "Unfair labor practice" means an unfair labor practice defined in sections 179.11 and 179.12.

Subd. 12. **Competent evidence.** "Competent evidence" means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable men as worthy of belief.

Subd. 13. **Agricultural products.** "Agricultural products" includes, but is not restricted to, horticultural, vitacultural, dairy, livestock, poultry, bee, and any farm products.

Subd. 14. **Processor.** "Processor" means the person who first processes or prepares agricultural products, or manufactures products therefrom, for sale after receipt thereof from the producer.

Subd. 15. **Marketing organization.** "Marketing organization" means any organization of producers or processors organized to engage in any activity in connection with the marketing or selling of agricultural products or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping or utilization thereof, or the manufacturing or marketing of the by-products thereof, or in connection with the manufacturing, selling or supply of machinery, equipment, or supplies for their members or patrons.

Subd. 16. **Professional strikebreaker.** "Professional strikebreaker" means any person who:

(a) Offers himself to an employer at whose place of business a labor dispute is presently in progress for the purpose of employment to replace an employee or employees involved in such labor dispute; and

(b) During a period of five years immediately preceding such offer, has, on more than one occasion, offered himself to employers for temporary employment for the purpose of replacing employees involved in labor disputes. For the purposes of this subdivision, "employment" shall mean the rendering of services for wages or other consideration. For the purposes of this subdivision, "offer" shall include arrangements made for or on behalf of employers by any person.

[1939 c 440 s 1; 1943 c 624 s 1, 5; 1973 c 149 s 1] (4254-21)

179.02 BUREAU OF MEDIATION SERVICES. There is hereby established in the department of labor and industry a bureau of mediation services, but not in any way subject to the control of the department. This bureau shall be under the supervision and control of a director. The office of director shall, as of the effective date of this act, be filled by the person then holding the office of labor conciliator and his term shall expire as of the date his term as labor conciliator would have expired. Thereafter the director shall be appointed by the governor with the advice and consent of the senate. He shall hold office for a term of four years. The governor may, from time to time, appoint special mediators to aid in the settlement of particular labor disputes or controversies who shall have the same power and authority as the director with respect to such dispute and such appointment shall be for the duration only of the particular dispute. Such special mediators shall be paid a per diem of $75 per day while so engaged and their necessary expenses. The director shall prepare a roster of persons qualified to act as such special mediators and keep the same revised at all times and available to the governor and the public.

The director may employ and discharge mediators, clerks and other employees as needed, fix their compensation, and assign them their duties. As of the effective date of this act the division of conciliation, heretofore established, shall be abolished, and all of its powers and duties transferred to the bureau of mediation services. Any matters pending in or by the division of conciliation as of such date shall then and thereafter be carried on in the name of the bureau of mediation services.

[1939 c 440 s 2; 1949 c 739 s 14; 1951 c 713 s 17; 1969 c 1129 art 2 s 1] (4254-22)

179.03 POLITICAL ACTIVITIES FORBIDDEN. Any mediator, under the provisions of sections 179.01 to 179.17, who exerts his influence, directly or indirectly, to induce any other person to adopt his political views, or to favor any particular candidate for office, or to contribute funds for political purposes shall forthwith be removed from his office or position by the authority appointing him; provided, that before removal the director of mediation services shall be entitled to a hearing before the governor, and any other employee shall be entitled to a similar hearing before the director of mediation services.

[1939 c 440 s 3; 1969 c 1129 art 2 s 2; 1974 c 139 s 1] (4254-23)

179.04 EXPENSES. The director of mediation services and his employees, or any special mediator, shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties. Vouchers for such expenses shall be itemized and sworn to by the person incurring the expense.

[1939 c 440 s 4; 1969 c 1129 art 2 s 3] (4254-24)

179.05 RULES AND REGULATIONS FOR HEARINGS. The director of mediation services shall adopt reasonable and proper rules and regulations relative to and regulating the conduct of the hearings. Such rules and regulations shall be printed and made available to the public and a copy delivered with each notice of hearing; provided, that every such rule or regulation shall be filed with the secretary of the state, and any change therein or additions thereto shall not take effect until 20 days after such filing.

[1939 c 440 s 5; 1969 c 1129 art 2 s 4] (4254-25)

179.06 COLLECTIVE BARGAINING AGREEMENTS. Subdivision 1. **Notices.** When any employee, employees, or representative of employees, or labor organization shall desire to negotiate a collective bargaining agreement, or make any change in any existing agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand, which notice shall follow the employer if the place of employment is changed, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavor in good faith to reach an agreement respecting such demand. An employer shall give a like notice to his employees, representative, or labor organizations of any intended change in any existing agreement. If no agreement is reached at the expiration of ten days after service of such notice, any employees, representative, labor organization, or employer may at any time thereafter petition the director of mediation services to take jurisdiction of the dispute and it shall be unlawful for any labor organization or representative to institute or aid in the conduct of a strike or for an employer to institute a lock-out, unless such petition has been served by the party taking such action upon the director and the other parties to the labor dispute at least ten days before the strike or lock-out becomes effective. Unless the strike or lock-out is commenced within 90 days from the date of service of the petition upon the director, it shall be unlawful for any of the parties to institute or aid in the conduct of a strike or lock-out without serving a new petition in the manner prescribed for the service of the original petition, provided that the 90-day period may be extended by written agreement of the parties filed with the director.

A petition by the employer shall be signed by him or his duly authorized officer or agent; and a petition by the employees shall be signed by their representative or its officers, or by the committee selected to negotiate with the employer. 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 dispute and the demands of the party who serves it. Upon receipt of a petition, the director shall fix a time and place for a conference with the parties to the labor dispute upon the issues involved in the dispute, and he shall then take whatever steps he deems most expedient to bring about a settlement of the dispute, including assisting in negotiating and drafting a settlement

agreement. It shall be the duty of all parties to a labor dispute to respond to the summons of the director for joint or several conferences with him and to continue in such conference until excused by the director, not beyond the ten-day period heretofore prescribed except by mutual consent of the parties.

Subd. 2. **Director, powers and duties.** The director may at the request of either party to a labor dispute render assistance in settling the dispute without the necessity of filing the formal petition referred to in subdivision 1. If the director takes jurisdiction of the dispute as a result of such a request, he shall then proceed as provided in subdivision 1.

[1939 c 440 s 6; 1941 c 469 s 1; 1955 c 837 s 1; 1969 c 1129 art 2 s 5] (4254-26)

179.07 LABOR DISPUTE AFFECTING PUBLIC INTERESTS; PROCEDURE. If the dispute is in any industry, business, or institution affected with a public interest, which includes, but is not restricted to, any industry, business, or institution engaged in supplying the necessities of life, safety, or health, so that a temporary suspension of its operation would endanger the life, safety, health, or well-being of a substantial number of people of any community, the provisions of section 179.06 shall apply and the director of mediation services shall also notify the governor who may appoint a commission of three to conduct a hearing and make a report on the issues involved and the merits of the respective contentions of the parties to the dispute. If the governor decides to appoint a commission, he shall so advise the director who shall immediately notify the parties to the labor dispute and also inform them of the date of the notification to the governor. The members of such commission shall on account of vocations, employment, or affiliations be representatives of employees, employers, and the public, respectively. Such report shall be filed with the governor not less than five days before the end of the 30-day period hereinafter provided and may be published as he may determine in one or more legal newspapers in the counties where the dispute exists. If and when the governor shall notify the director of his decision to appoint a commission, neither party to the dispute shall make any change in the situation affecting the dispute and no strike or lockout shall be instituted until 30 days shall have elapsed after the notification to the governor. In case the governor shall fail to appoint a commission within five days after the notification to him, this limitation on the parties shall be suspended and inoperative. If the governor shall thereafter appoint a commission, no strike or lockout having been instituted in the meantime, the limitation shall again become operative, but in no case for more than the 30-day period. The 30-day period may be extended by stipulation upon the record of the hearing before the commission or by written stipulation signed by the parties to the labor dispute and filed with the director. If so extended, the report of the commission shall be filed with the governor not less than five days before the end of the extended period.

[1939 c 440 s 7; 1941 c 469 s 2; 1969 c 1129 art 2 s 6] (4254-27)

179.08 POWERS OF COMMISSION APPOINTED BY GOVERNOR. (1) The commission appointed by the governor pursuant to the provisions of sections 179.01 to 179.17 shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may by its chairman administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing, but hearings shall be held in a county where the labor dispute has arisen or exists;

(2) In case of contumacy or refusal to obey a subpoena issued under clause (1) of 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, or application by the commission shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, there to produce evidence as so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by the court as a contempt thereof;

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

Any commissioners so appointed shall be paid a per diem of $75 and their necessary expenses while serving.

[*1939 c 440 s 8; 1941 c 469 s 3; 1969 c 1129 art 2 s 7*] *(4254-28)*

179.083 JURISDICTIONAL CONTROVERSIES. Whenever two or more labor organizations adversely claim for themselves or their members jurisdiction over certain classifications of work to be done for any employer or in any industry, or over the persons engaged in or performing such work and such jurisdictional interference or dispute is made the ground for picketing an employer or declaring a strike or boycott against him, the director of mediation services shall certify that fact to the governor. Upon receipt of such certification the governor, in his discretion, may appoint a labor referee to hear and determine the jurisdictional controversy. If the labor organizations involved in the controversy have an agreement between themselves defining their respective jurisdictions, or if they are affiliated with the same labor federation or organization which has by the charters granted to the contending organizations limited their jurisdiction, the labor referee shall determine the controversy in accordance with the proper construction of the agreement or of the provisions of the charters of the contending organizations. If there is no agreement or charter which governs the controversy, the labor referee shall make such decision as, in consideration of past history of the organization, harmonious operation of the industry, and most effective representation for collective bargaining, will best promote industrial peace. If the labor organizations involved in the controversy so desire, they may submit the controversy to a tribunal of the federation or labor organization which has granted their charters or to arbitration before a tribunal selected by themselves, provided the controversy is so submitted prior to the appointment by the governor of a labor referee to act in the controversy. After the appointment of the labor referee by the governor, or the submission of the controversy to another tribunal as herein provided, it shall be unlawful for any person or labor organization to call or conduct a strike or boycott against the employer or industry or to picket any place of business of the employer or in the industry on account of such jurisdictional controversy.

[*1943 c 624 s 6; 1969 c 1129 art 2 s 8*]

179.09 ARBITRATION. When a labor dispute arises which is not settled by mediation such dispute may, by written agreement of the parties, be submitted to arbitration on such terms as the parties may specify, including among other methods the arbitration procedure under the terms of sections 572.08 to 572.26 and arbitration under the voluntary industrial arbitration tribunal of the American arbitration association. If such agreement so provides, the director of mediation services may act as a member of any arbitration tribunal created by any such agreement and, if the agreement so provides, the director may appoint one or more of such arbitrators. Either or both of the parties to any such agreement or any arbitration tribunal created under any such agreement may apply to the director to have the tribunal designated as a temporary arbitration tribunal and, if so designated, the temporary arbitration tribunal shall have power to administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and the production of evidence, which subpoenas shall be enforced in the same manner as subpoenas issued by the commission under section 179.08. Any such temporary arbitration tribunal shall file with the director a copy of its report, duly certified by its chairman.

[*1939 c 440 s 9; 1957 c 633 s 24; 1969 c 1129 art 2 s 9*] *(4254-29)*

179.10 JOINING LABOR ORGANIZATIONS; UNITING FOR COLLECTIVE BARGAINING. Subdivision 1. **Employees' right of self-organization.** Employees shall have the right of self-organization and the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection; and such employees shall have the right to refrain from any and all such activities.

Subd. 2. **Employers associations.** Employers have the right to associate together for the purpose of collective bargaining.

[*1939 c 440 s 10; 1941 c 469 s 4*] *(4254-30)*

179.11 UNFAIR LABOR PRACTICES BY EMPLOYEES. It shall be an unfair labor practice:

(1) For any employee or labor organization to institute a strike if such strike

is a violation of any valid collective agreement between any employer and his employees or labor organization and the employer is, at the time, in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement;

(2) For any employee or labor organization to institute a strike if the calling of such strike is in violation of sections 179.06 or 179.07;

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

(4) For any person to picket or cause to be picketed a place of employment of which place the person is not an employee while a strike is in progress affecting the place of employment, unless the majority of persons engaged in picketing the place of employment at these times are employees of the place of employment;

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

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

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

(8) Unless the strike has been approved by a majority vote of the voting employees in a collective bargaining unit of the employees of an employer or association of employers against whom such strike is primarily directed, for any person or labor organization to cooperate in engaging in, promoting or inducing a strike. Such vote shall be taken by secret ballot at an election called by the collective bargaining agent for the unit, and reasonable notice shall be given to all employees in the collective bargaining unit of the time and place of election.

(9) For any person or labor organization to hinder or prevent by intimidation, force, coercion or sabotage, or by threats thereof, the production, transportation, processing or marketing by a producer, processor or marketing organization, of agricultural products, or to combine or conspire to cause or threaten to cause injury to any processor, producer or marketing organization, whether by withholding labor or other beneficial intercourse, refusing to handle, use or work on particular agricultural products, or by other unlawful means, in order to bring such processor or marketing organization against his or its will into a concerted plan to coerce or inflict damage upon any producer; provided that nothing in this subsection shall prevent a strike which is called by the employees of such producer, processor or marketing organization for the bona fide purpose of improving their own working conditions or promoting or protecting their own rights of organization, selection of bargaining representative or collective bargaining.

(10) The violation of clauses (2), (3), (4), (5), (6), (7), (8) and (9) are hereby declared to be unlawful acts.

[*1939 c. 440 s. 11; 1941 c. 469 s. 7; 1943 c. 624 ss. 2, 3*] *(4254-31)*

179.12 EMPLOYERS' UNFAIR LABOR PRACTICES. It shall be an unfair labor practice for an employer:

(1) To institute any lock-out of his employees in violation of any valid collective bargaining agreement between the employer and his employees or labor organization if the employees at the time are in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement;

(2) To institute any lock-out of his employees in violation of section 179.06 or 179.07;

(3) To encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, that this clause shall not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and his employees or a labor organization representing the employees as a bargaining agent, as provided by section 179.16;

(4) To discharge or otherwise to discriminate against an employee because he has signed or filed any affidavit, petition, or complaint or given any information or testimony under this chapter;

(5) To spy directly or through agents or any other persons upon any activities of employees or their representatives in the exercise of their legal rights;

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

(7) To engage or contract for the services of a person who is an employee of another if such employee is paid a wage which is less than is agreed to be paid by the engaging or contracting employer under an existing union contract for work of the same grade or classification;

(8) Wilfully and knowingly to utilize any professional strikebreaker to replace an employee or employees involved in a strike or lockout at a place of business located within this state;

(9) The violation of clauses (2), (4), (5), (6), (7), and (8) are hereby declared to be unlawful acts.

[1939 c 440 s 12; 1941 c 469 s 8; 1955 c 669 s 1; 1973 c 149 s 2] (4254-32)

179.13 INTERFERENCES WHICH ARE UNLAWFUL. Subdivision 1. It shall be unlawful for any person at any time to interfere with the free and uninterrupted use of public roads, streets, highways or methods of transportation or conveyance or to wrongfully obstruct ingress to and egress from any place of business or employment.

Subd. 2. It is an unfair labor practice for any employee or labor organization to commit an unlawful act as defined in subdivision 1.

[1939 c. 440 s. 13; 1943 c. 624 s. 4] (4254-33)

179.135 PROTECTION OF COLLECTIVE BARGAINING AGREEMENTS. Subdivision 1. **Agreement protected from intervention.** No employer holding a valid collective bargaining agreement with any labor organization recognized or certified by the director of mediation services or the National Labor Relations Board as the accredited bargaining representative for the employees or any group of employees of such employer shall be required to enter into negotiations with any other labor organization respecting the employees covered by the existing union agreement, so long as the existing agreement remains in full force and effect in accordance with its terms except where a successor labor organization has been certified as the representative of the employees covered by such agreement by the director of mediation services or the National Labor Relations Board and recognized by the employer.

Subd. 2. **Prohibition against violation.** The violation of the provisions of this section by any officer, business agent, employee or other representative of any labor organization is prohibited.

[1947 c 593 s 1, 2; 1969 c 1129 art 2 s 10]

179.14 INJUNCTIONS; TEMPORARY RESTRAINING ORDERS. When any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained in the district court of any county wherein such practice has occurred or is threatened. In any suit to enjoin any of the unfair labor practices set forth in sections 179.11 and 179.12, the provisions of sections 185.02 to 185.19 shall not apply. No court of the state shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of sections 179.11 and 179.12, as herein defined, except after hearing the testimony of witnesses in open court, with opportunity for cross-examination, in support of the allegations made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court to the effect that the acts set forth in sections 179.11 and 179.12 have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained. No temporary restraining order may be issued under the provisions of sections 179.01 to 179.17 except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony nor unless the temporary restraining order is returnable within seven days from the time it is granted which shall be noted on the order of the court. It shall be the duty of the court to give the trial or hearing of any suits or proceedings arising under this section precedence over all other civil suits which are ready for trial. Failure of the trial court

to decide a motion for a temporary injunction within seven days from the date the hearing thereon is concluded shall dissolve any restraining order issued therein without further order of the court. Failure of the trial court to decide any suit brought under this section within 45 days from the date the trial was ended shall dissolve any restraining order or temporary injunction issued therein without further order of the court.

[1939 c. 440 s. 14; 1941 c. 469 s. 5; 1943 c. 658 s. 1] (4254-34)

179.15 VIOLATORS NOT ENTITLED TO BENEFITS OF CERTAIN SECTIONS. Any employer, employee, or labor organization who has violated any of the provisions of sections 179.01 to 179.17 with respect to any labor dispute shall not be entitled to any of the benefits of sections 179.01 to 179.17 respecting such labor disputes and such employer, employee, or labor organization shall not be entitled to maintain in any court of this state an action for injunctive relief with respect to any matters growing out of that labor dispute, until he shall have in good faith made use of all means available under the laws of the state of Minnesota for the peaceable settlement of the dispute.

[1939 c. 440 s. 15] (4254-35)

179.16 REPRESENTATIVES FOR COLLECTIVE BARGAINING. Subdivision 1. **To be exclusive.** Representatives designated or selected for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment, provided, that any individual employee or group of employees shall have the right at any time to present grievances to their employer in person or through representatives of their own choosing.

Subd. 2. **Certification of group representative by director.** When a question concerning the representative of employees is raised by an employee, group of employees, labor organization, or employer the director of mediation services or any person designated by him shall, at the request of any of the parties, investigate such controversy and certify to the parties in writing, the name or names of the representatives that have been designated or selected. The director shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining and otherwise to effectuate the purpose of this chapter, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, plant unit; provided, that any larger unit may be decided upon with the consent of all employers involved; and provided that when a craft exists, composed of one or more employees then such craft shall constitute a unit appropriate for the purpose of collective bargaining for such employee or employees belonging to such craft and a majority of such employees of such craft may designate a representative for such unit. Two or more units may, by voluntary consent, bargain through the same agent or agents with an employer or employers, their agent or agents. Supervisory employees shall not be considered in the selection of a bargaining agent. In any such investigation, the director may provide for an appropriate hearing, and may take a secret ballot of employees or utilize any other suitable method to ascertain such representatives, but the director shall not certify any labor organization which is dominated, controlled, or maintained by an employer. If the director has certified the representatives as herein provided, he shall not be required to again consider the matter for a period of one year unless it appears to him that sufficient reason exists.

Subd. 3. **Witnesses; powers of director.** In the investigation of any controversy concerning the representative of employees for collective bargaining, the director of mediation services shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates directly to any matter involved in any such hearing, and the director or his representative may administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing, but hearings shall be held in a county where the question has arisen or exists.

Subd. 4. **Contempt of court.** In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey

is found or resides shall have jurisdiction to issue to such person an order requiring such person to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

[1939 c 440 s 16; 1941 c 469 s 6; 1969 c 1129 art 2 s 11, 12] (4254-36)

179.17 CITATION, LABOR RELATIONS ACT. Sections 179.01 to 179.17 may be cited as the Minnesota labor relations act.

[1939 c 440 s 19]

MINNESOTA LABOR UNION DEMOCRACY ACT

179.18 DEFINITIONS; MINNESOTA LABOR UNION DEMOCRACY ACT. Subdivision 1. **Persons.** "Persons" includes individuals, partnerships, associations, corporations, trustees, and receivers.

Subd. 2. **Labor organization.** "Labor organization" means any organization of employees or of persons seeking employment which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment, but shall not include any labor organization subject to the Federal Railway Labor Act as amended from time to time.

Subd. 3. **Employer.** "Employer" includes all persons employing others and all persons acting in the interest of an employer, but does not include the state or any political or governmental subdivision thereof, nor any person subject to the Federal Railway Labor Act, as amended from time to time.

Subd. 4. **Employee.** "Employee" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice as defined in section 179.12 on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home.

Subd. 5. **Representative of employees.** "Representative of employees" means any person acting or asserting the right to act for employees or persons seeking employment in collective bargaining or dealing with employers concerning grievances or terms or conditions of employments.

Subd. 6. **Competent evidence.** "Competent evidence" means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable men as worthy of belief.

[1943 c. 625 s. 1]

179.19 ELECTION OF OFFICERS OF LABOR ORGANIZATION. The officers of every labor organization shall be elected for such terms, not exceeding four years, as the constitution or by-laws may provide. The election shall be by secret ballot. The constitution or by-laws may provide for multiple choice voting, nomination by primaries or run-off elections, or other method of election by which selection by a majority may be obtained. In the absence of such provision, the candidate for any office receiving the largest number of votes cast for that office shall be declared elected. It is the duty of every labor organization and the officers thereof to hold an election for the purpose of electing the successor of every such officer prior to the expiration of his term. Any employee who is elected to a full time position in a labor organization shall be given a leave of absence for the duration of time he holds such office, without losing his seniority or his entitlement to any rights acquired as a result of his employment.

[1943 c 625 s 2; 1969 c 853 s 1]

179.20 NOTICE OF ELECTIONS GIVEN. Subdivision 1. **Publication.** No election required hereunder shall be valid unless reasonable notice thereof shall have been given to all persons eligible to vote thereat. Proof of publication of notice of an election in a trade union paper of general circulation among the membership of the union holding such election shall be conclusive proof of reasonable notice as required in this subdivision.

Subd. 2. **Plurality required.** No result of an election required hereunder shall be valid unless a plurality of the eligible persons voting thereat shall have cast their votes by secret ballot in favor of such result.

[1943 c. 625 s. 3]

179.21 REPORTS OF RECEIPTS AND DISBURSEMENTS. It is hereby made the duty of the officer of every labor organization who is charged with responsibility of money and property thereof to furnish to the members thereof in good standing a statement of the receipts and disbursements of the labor organization from the date of the next preceding statement and the assets and liabilities thereof to the date of the current statement. Such statement shall be furnished by such officer at the time prescribed by the constitution or laws of the labor organization, or it shall be furnished not later than the 1st day of July next following such calendar year.

[*1943 c. 625 s. 4*]

179.22 LABOR REFEREE. There is hereby created an office, to be known as labor referee. The governor may from time to time appoint labor referees for particular disputes as hereinafter provided. Such appointment shall be for the duration only of the particular dispute. Such labor referees shall be paid a per diem of $75 per day while so engaged, and their necessary expenses. When approved by him, the director of mediation services shall cause to be paid, from the appropriation to him, the amount due to the labor referees for services and expenses.

[*1943 c 625 s 5; 1969 c 1129 art 2 s 13*]

179.23 DIRECTOR TO CERTIFY VIOLATIONS TO GOVERNOR. Subdivision 1. **Certification to governor.** Whenever it reasonably appears to the director of mediation services that any labor organization has failed substantially to comply with any of the requirements of sections 179.18 to 179.25, he shall certify that fact to the governor and transmit to the governor all the information he has received with reference thereto.

Subd. 2. **Governor may appoint a labor referee.** Upon receipt of such certification by the director of mediation services, the governor, within five days from the date of such certification, shall appoint, if he deems it advisable, a labor referee to act in the dispute. If the governor does not appoint a labor referee within five days, he shall so notify the director and return the files to him, which shall close the dispute.

Subd. 3. **Qualification of labor referee.** Upon receipt of notice of appointment as labor referee, such officer shall qualify by taking his oath of office and filing the same in the office of the secretary of state. He shall also notify the director of mediation services in writing of the date of filing such oath.

Subd. 4. **Notice of time and place of hearing.** Within ten days from the date of his appointment, the labor referee shall fix the time and place of hearing upon the complaint and send notice thereof by registered mail to the labor organization and to the officers thereof who are charged in the complaint with dereliction of duties, the complainant and to such other persons as may be named as parties to the dispute.

Subd. 5. **Appearance; evidence.** Any party to or party affected by the dispute may appear at the hearing before the labor referee in person or by attorney or by other representative, and shall have the right to offer competent evidence and to be heard on the issues before any order herein provided is made. When all evidence has been adduced and the arguments heard, the labor referee shall prepare and file with the director of mediation services within 30 days from the close of testimony, his findings of fact and his order sustaining or dismissing the charges. If the charges are sustained, such labor organization is thereby disqualified from acting as the representative of employees until such disqualification has been removed as provided herein.

Subd. 6. **Removal of disqualification by labor organization.** Any labor organization which has been disqualified from acting as a representative of employees pursuant to subdivision 5 for failure to perform any duty imposed upon it by sections 179.18 to 179.25 may remove such disqualification by applying to the director of mediation services and submitting proof of performance of the duty for the non-performance of which the disqualification was imposed. Upon receipt of such application, the director shall notify all parties who participated in the hearing before the referee as adversary parties by mail of the filing of such application. If within 20 days after the mailing of such notice, written objection to the removal of such disqualification is filed with the director, he shall certify the dispute to the governor, and further proceedings shall thereupon be had in like manner hereinbefore provided for the determination of disputes. Thereupon the labor referee ap-

pointed for such proceedings shall make and file his order either confirming the prior order for disqualification or removing the disqualification, as the case may require. If no objection is so filed, the director shall make an order removing such disqualification.

Subd. 7. **Power of labor referee.** (1) The labor referee appointed by the governor pursuant to the provisions of sections 179.18 to 179.25 shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing, but hearings shall be held in a county where the dispute has arisen or exists.

(2) In case of contumacy or refusal to obey a subpoena issued under clause (1), the district court 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, on application by the labor referee shall have jurisdiction to issue to such person an order requiring such person to appear before the labor referee, there to produce evidence as so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[*1943 c 625 s 6; 1969 c 1129 art 2 s 14-18*]

179.24 UNLAWFUL ACTS. It is unlawful for any labor organization which has been disqualified under section 179.23, subdivision 5, to act as a representative of employees.

[*1943 c. 625 s.* 7]

179.25 CITATION, LABOR UNION DEMOCRACY ACT. Sections 179.18 to 179.25 may be cited as the Minnesota labor union democracy act.

[*1943 c 625 s 8*]

179.254 CONSTRUCTION WORKERS INSURANCE BENEFIT FUNDS, DEFINITIONS. Subdivision 1. For the purposes of sections 179.254 to 179.256, the following terms shall have the meanings subscribed to them.

Subd. 2. "Benefit fund" means any trust fund established and operated for the purpose of providing medical, hospitalization, and other types of insurance, and other health and welfare benefits for construction workers. It does not mean pension or retirement fund.

Subd. 3. "Construction worker" means any laborer or tradesman employed in the building or construction industry and engaged in, but not limited to, any of the following occupations: carpenters, electricians, plumbers, bricklayers, masons, steamfitters, pipefitters, iron workers, sheet metal workers, cement finishers, laborers, operating engineers, lathers, plasterers, painters, pipe coverers, and glasiers.

Subd. 4. "Member" means any construction worker who is qualified to receive benefits from a benefit fund under the rules of that fund.

[*1974 c 50 s 1*]

179.255 PAYMENTS INTO HOME BENEFIT FUND. Whenever a construction worker who is a member of a benefit fund works temporarily in a location such that contributions are made by or for him into another benefit fund, the trustees of the fund, or their agent, shall pay all such moneys to the trustees of the fund to which the construction worker is a member, except that such payment shall not exceed the rate of contribution to the fund in which the construction worker is a member. Payments may be made by check and shall be made promptly and regularly, at least once every 30 days. Each such payment from the trustees of one fund to the trustees of another shall be accompanied by a written statement including the name, address, and social security number of each construction worker for whom payment is made, the amount being paid for each worker, and the number of hours of work for which payment is being made.

[*1974 c 50 s 2*]

179.256 NOTIFICATION. Whenever a construction worker may qualify for the reimbursement of benefit payments to his home benefit fund as described in section 179.255, the trustees of the benefit fund of which he is a member, or their agent, shall so notify the trustees of the benefit fund to which payments will be

made during the temporary period of work. Such notification shall be made promptly in writing and shall include the name, address, and social security number of the construction worker and the starting date of his temporary period of work.

[*1974 c 50 s 3*]

179.257 APPLICATION. The provisions of sections 179.254 to 179.256 requiring the transfer of payments between benefit funds shall apply only to those benefit funds which are established, located and maintained within this state. However nothing contained herein shall be construed to discourage the legislature of another state or to prohibit the trustees of a benefit fund which is located in another state from providing, in accordance with sections 179.254 to 179.257 and on a wholly reciprocal basis, transfers between such foreign benefit fund or funds and a benefit fund located within the state of Minnesota.

[*1974 c 50 s 4*]

CERTAIN REPRESENTATION DISPUTES; STRIKES, BOYCOTTS PROHIBITED

179.26 DEFINITIONS; CERTAIN REPRESENTATION DISPUTES. When used in sections 179.26 to 179.29, unless the context clearly indicates otherwise, each of the following words: employee, labor organization, strike, and lockout shall have the meaning ascribed to it in section 179.01.

[*1945 c 414 s 1; 1949 c 299 s 1*]

179.27 STRIKES OR BOYCOTTS PROHIBITED. When certification of a representative of employees for collective bargaining purposes has been made by proper federal or state authority, it is unlawful during the effective period of such certification for any employee, representative of employees or labor organization to conduct a strike or boycott against the employer of such employees or to picket any place of business of the employer in order, by such strike, boycott or picketing, (1) to deny the right of the representative so certified to act as such representative or (2) to prevent such representative from acting as authorized by such certification, or (3) to interfere with the business of the employer in an effort to do either act specified in clauses (1) and (2) hereof.

[*1945 c. 414 s. 2*]

179.28 RECOVERY FOR TORT. Any employer injured through commission of any unlawful act as provided in section 179.27 shall have a cause of action against any employees, representative of employees, or labor organization committing such unlawful act, and shall recover in a civil action all damages sustained by him from such injury.

[*1945 c. 414 s. 3*]

179.29 DISTRICT COURT HAS JURISDICTION. The district court of any county in which the employer does any business shall have jurisdiction to entertain an action arising under sections 179.26 to 179.29. Such action shall be tried by the court with a jury unless a jury be waived.

[*1945 c. 414 s. 4*]

HOSPITALS; STRIKES PROHIBITED, COMPULSORY ARBITRATION REQUIRED

179.35 DEFINITIONS; HOSPITAL NO STRIKE AND ARBITRATION ACT. Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purposes of sections 179.35 to 179.39, shall be given the meanings subjoined to them.

Subd. 2. "Charitable hospital" includes all county and municipal hospitals and any hospital no part of the net income of which inures to the benefit of any private member, stockholder, or individual.

Subd. 3. "Hospital employee" includes any person employed in any capacity by a charitable hospital, except an employee whose services are performed exclusively in connection with the operation of a commercial or industrial enterprise owned or operated by the charitable hospital for the production of profit, irrespective of the purposes to which such profit may be applied, and not engaged in any activity affecting the essential functions of the hospital.

Subd. 4. "Labor dispute" includes any controversy concerning employment, tenure, conditions, or terms of employment or concerning the association or right

of representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants.

Subd. 5. "Strike" means the temporary stoppage of work by the concerted action of two or more hospital employees as a result of a labor dispute.

Subd. 6. "Lockout" means the refusal of a charitable hospital to furnish work to employees as a result of a labor dispute.

[*1947 c 335 s 1; 1973 c 626 s 1*]

179.36 STRIKES PROHIBITED. It is unlawful for any hospital employee or representative of the employee, as defined in Minnesota Statutes 1945, Section 179.01, Subdivision 5, to encourage, participate in, or cause any strike or work stoppage against or directly involving a charitable hospital.

[*1947 c 335 s 2*]

179.37 LOCKOUTS PROHIBITED. It is contrary to public policy and is hereby declared to be unlawful for any charitable hospital to institute, cause, or declare any lockout.

[*1947 c 335 s 3*]

179.38 ARBITRATION MANDATORY. In the event of the existence of any labor dispute which cannot be settled by negotiation between the charitable hospital employers and their employees, either such employers or employees may petition and avail themselves of the provisions of sections 179.01 to 179.17, insofar as sections are not inconsistent with the provisions of sections 179.35 to 179.39. If such dispute is not settled within ten days after submission to mediation, any unsettled issue of maximum hours of work, minimum hourly wage rates, and other conditions of employment concerning union security shall, upon service of written notice by either party upon the other party and the director of mediation services, be submitted to the determination of a board of arbitrators whose determination shall be final and binding upon the parties. The board of arbitrators shall be selected and proceed in the following manner, unless otherwise agreed between the parties: the employers shall appoint one arbitrator, the employees shall appoint one arbitrator, and the two arbitrators so chosen shall appoint a third arbitrator who shall act as chairman and who shall receive reasonable compensation for his work; but if said arbitrators are unable to agree upon the appointment of such third arbitrator within five days after submission to arbitration, the governor shall submit five names to the parties and the parties shall select the third arbitrator, who shall act as chairman, from the five submitted by the governor. The selection of the third arbitrator shall be by the process of elimination, with the parties taking turns at striking names from the list of five submitted by the governor, until only one name remains. If the parties are unable to agree with respect to which party shall take the first turn for the purpose of striking a name, it shall be decided by the flip of a coin. Each party shall be responsible for compensating the arbitrator of their choice, and the parties shall share equally the compensation paid to the third arbitrator. The board of arbitrators shall serve as a temporary arbitration tribunal and shall have the powers provided for commissioners under section 179.08. The board of arbitrators shall make its determination with all due diligence and shall file a copy of its report with the director of mediation services.

[*1947 c 335 s 4; 1969 c 1129 art 2 s 19; 1973 c 723 s 1*]

179.39 SECTIONS NOT APPLICABLE. The provisions of Minnesota Statutes 1945, Sections 185.02 to 185.19, shall not apply in the case of a threatened or existing strike or other work stoppage by hospital employees or in the case of a lockout by a charitable hospital, and such threatened or existing strike or other work stoppage or lockout may be enjoined by a court of equity.

[*1947 c 335 s 5*]

SECONDARY BOYCOTTS PROHIBITED

179.40 SECONDARY BOYCOTT; DECLARATION OF POLICY. As a guide to the interpretation and application of sections 179.40 to 179.47, the public policy of this state is declared to be:

To protect and promote the interests of the public, employees and employers alike, with due regard to the situation and to the rights of the others;

To promote industrial peace, regular and adequate income for employees, and uninterrupted production of goods and services; and

To reduce the serious menace to the health, morals and welfare of the people of this state arising from economic insecurity due to stoppages and interruptions of business and employment.

It is recognized that whatever may be the rights of disputants with respect to each other in any controversy, they should not be permitted, in their controversy, to intrude directly into the primary rights of third parties to earn a livelihood, transact business, and engage in the ordinary affairs of life by lawful means and free from molestation, interference, restraint or coercion. The legislature, therefore, declares that, in its considered judgment, the public good and the general welfare of the citizens of this state will be promoted by prohibiting secondary boycotts and other coercive practices in this state.

[*1947 c 486 s 1*]

179.41 SECONDARY BOYCOTT DEFINED. As used in sections 179.40 to 179.47, the term "secondary boycott" means any combination, agreement, or concerted action;

(a) to refuse to handle goods or to perform services for an employer because of a labor dispute, agreement, or failure of agreement between some other employer and his employees or a bona fide labor organization, or

(b) to cease performing or to cause any employees to cease performing any services for an employer, or to cause loss or injury to such employer or to his employees, for the purpose of inducing or compelling such employer to refrain from doing business with, or handling the products of, any other employer because of a dispute, agreement, or failure of agreement between the latter and his employees or a labor organization, or

(c) to cease performing or to cause any employer to cease performing any services for another employer, or to cause any loss or injury to such other employer, or to his employees, for the purpose of inducing or compelling such other employer to refrain from doing business with, or handling the products of, any other employer because of an agreement, dispute, or failure of agreement between the latter and his employees or a labor organization.

[*1947 c 486 s 2*]

179.42 UNLAWFUL ACT AND UNFAIR LABOR PRACTICE. It is an unlawful act and an unfair labor practice for any person or organization to combine with another, to cause loss or injury to an employer, to refuse to handle or work on particular goods or equipment or perform services for an employer, or to withhold patronage, or to induce, or to attempt to induce, another to withhold patronage or other business intercourse, for the purpose of inducing or coercing such employer to persuade or otherwise encourage or discourage his employees to join or to refrain from joining any labor union or organization or for the purpose of coercing such employer's employees to join or refrain from joining any labor union or organization.

[*1947 c 486 s 3*]

179.43 ILLEGAL COMBINATION; VIOLATION OF PUBLIC POLICY. A secondary boycott as hereinbefore defined is hereby declared to be an illegal combination in restraint of trade and in violation of the public policy of this state.

[*1947 c 486 s 4*]

179.44 UNFAIR LABOR PRACTICE. The violation of any provision of section 179.41 is hereby declared to be an unfair labor practice and an unlawful act.

[*1947 c 486 s 5*]

179.45 RIGHTS AND REMEDIES. Any person who shall be affected by, or subjected to, or threatened with a secondary boycott, or any of the acts declared to be unlawful by sections 179.40 to 179.47, shall have all the rights and remedies provided for in Minnesota Statutes 1945, Chapter 179, but shall not be restricted to such remedies.

[*1947 c 486 s 6*]

179.46 LIMITATIONS; FEDERAL ACT. Nothing in sections 179.40 to 179.47 shall be construed as requiring any person to work or perform services against his will for any other person, nor to prohibit a strike, picketing or bannering which is otherwise lawful under the statutes and laws of this state; nothing in sections 179.40 to 179.47 shall be construed to apply to the refusal by an employee to enter upon the premises of an employer other than his own employer when the employees

of such other employer are engaged in a strike which is not an unfair labor practice, but does not include any person subject to the Federal Railway Labor Act as amended from time to time.

[*1947 c 486 s 7*]

179.47 CONSTRUCTION OF SECTIONS 179.40 TO 179.47. Nothing contained in sections 179.40 to 179.47 is intended or shall be construed to repeal section 179.01 to 179.13 and 179.14 to 179.39, or any part or parts thereof.

[*1947 c 486 s 9*]

179.50 [Repealed, Ex1971 c 33 s 17]
179.51 [Repealed, Ex1971 c 33 s 17]
179.52 [Repealed, Ex1971 c 33 s 17]
179.521 [Repealed, Ex1971 c 33 s 17]
179.522 [Repealed, Ex1971 c 33 s 17]
179.53 [Repealed, Ex1971 c 33 s 17]
179.54 [Repealed, Ex1971 c 33 s 17]
179.55 [Repealed, Ex1971 c 33 s 17]
179.56 [Repealed, Ex1971 c 33 s 17]
179.57 [Repealed, Ex1971 c 33 s 17]
179.571 [Repealed, Ex1971 c 33 s 17]
179.572 [Repealed, Ex1971 c 33 s 17]
179.58 [Repealed, Ex1971 c 33 s 17]

PROHIBITING COERCION OF EMPLOYEE

179.60 INTERFERING WITH EMPLOYEE OR MEMBERSHIP IN UNION. It shall be unlawful for any person, company, or corporation, or any agent, officer, or employee thereof, to coerce, require, or influence any person to enter into any agreement, written or verbal, not to join, become, or remain a member of any lawful labor organization or association, as a condition of securing or retaining employment with such person, firm, or corporation. It shall be unlawful for any person, company, or corporation, or any officer or employee thereof, to coerce, require, or influence any person to contribute or pay to any person, company, or corporation, or any officer or employee thereof, any sum of money or other valuable thing for the sole purpose of securing or retaining employment with such person, firm, or corporation. It shall be unlawful for any two or more corporations or employers to combine, to agree to combine, or confer together for the purpose of interfering with any person in procuring, or in preventing him from procuring, employment, or to secure the discharge of any employee by threats, promises, circulating blacklists, or any other means whatsoever. It shall be unlawful for any company or corporation, or any agent or employee thereof, to blacklist any discharged employee, or by word or writing seek to prevent, hinder, or restrain a discharged employee, or one who has voluntarily left its employ, from obtaining employment elsewhere. Every person and corporation violating any of the foregoing provisions shall be guilty of a misdemeanor.

[*R L s 5097; 1921 c 389 s 1*] *(10378)*

PUBLIC EMPLOYMENT LABOR RELATIONS ACT OF 1971

179.61 PUBLIC POLICY. It is the public policy of this state and the purpose of sections 179.61 to 179.77 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.

[*Ex1971 c 33 s 1*]

179.62 CITATION. Sections 179.61 to 179.77 shall be known and may be cited as the public employment labor relations act of 1971.

[*Ex1971 c 33 s 2*]

179.63 DEFINITIONS. Subdivision 1. For the purposes of sections 179.61 to 179.77 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 community 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 a majority of those votes cast in the appropriate unit and has been certified pursuant to section 179.67.

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 the lesser of 14 hours per week or 35 percent of the normal work week in the employee's bargaining unit;

(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.

Subd. 8. "Confidential employee" means any employee who works 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 who actively participates in the meeting and negotiating on behalf of the public employer.

Subd. 9. "Supervisory employee", when the reference is to other than essential employees as defined in subdivision 11, 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 any of the aforesaid actions, 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. Any determination of "supervisory employee" may be appealed to the public employment relations board.

Subd. 9a. "Supervisory employee", when the reference is to essential employees, means the administrative head and his assistant of a municipality, municipal utility,

police or fire department, or 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, 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. Any determination of "supervisory employee" may be appealed to the public employment relations board.

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 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 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 subdivision 7, or defined in subdivisions 8, 9, or 14.

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 179.71, 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 except retirement contributions or benefits, and the employer's personnel policies affecting the working conditions of the employees. In the case of professional employees the term does not mean educational policies of a school district. The terms in both cases are subject to the provisions of section 179.66 regarding the rights of public employers and the scope of negotiations.

[*Ex1971 c 33 s 3; 1973 c 349 s 2; 1973 c 635 s 1-6; 1974 c 127 s 1*]

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 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 except as may be provided in subdivision 7.

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, analogous or reasonably similar. Such proceedings shall be undertaken without unnecessary delay. Any person may secure 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 179.68 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. Either a violation of section 179.68, subdivision 2, clause (9), or a refusal by the employer to request binding arbitration when requested by the exclusive representative pursuant to section 179.69, subdivision 3 or 5, is a defense to a violation of this section, except as to essential employees. As to all public employees,

no other unfair labor practice or violation of Laws 1973, Chapter 635 by a public employer shall be a 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.

[*Ex1971 c 33 s 4; 1973 c 635 s 7, 8*]

179.65 RIGHTS AND OBLIGATIONS OF EMPLOYEES. Subdivision 1. Nothing contained in sections 179.61 to 179.77 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. If no exclusive representative has been certified, any public employee individually, or group of employees through their representative, shall have the right of 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, by meeting with their public employer or his representative 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.

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. Except for employees included in section 179.63, subdivision 10, clause (c), who shall be exempt from contributing until January 1, 1975 only, all public employees who are not members of the exclusive representative may be required by said representative to contribute a fair share fee for services rendered by the exclusive representative, and the employer upon notification by the exclusive representative of such employees shall be obligated to check off said fee from the earnings of the employee and transmit the same to the exclusive representative. In no instance shall the required contribution exceed a pro rata share of the specific expenses incurred for services rendered by the representative in relationship to negotiations and administration of grievance procedures.

Subd. 3. Public employees who are professional employees as defined by section 179.63, subdivision 10, have the right to meet and confer with public employers regarding policies and matters not included under section 179.63, subdivision 18, pursuant to section 179.73.

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 exclusive representative. In the absence of an exclusive representative, public employees shall have the right to request and be allowed dues check off for the organization of their choice.

Subd. 6. Supervisory and confidential employees, principals and assistant principals may form their own organizations. An employer shall 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, in accordance with all other provisions of Laws 1973, Chapter 635, as though they were essential employees.

Subd. 7. An exclusive representative shall have the right to petition the director for arbitration under section 179.69, subdivision 3; provided the exclusive representative or the employer has first petitioned the director for mediation services as are available under section 179.69, subdivision 1.

[*Ex1971 c 33 s 5; 1973 c 635 s 9-14*]

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 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 179.63, subdivision 18, pursuant to section 179.73.

Subd. 4. A public employer has the obligation to meet and negotiate in good faith with the exclusive representative of the supervisory employees, confidential employees, principals and assistant principals, regarding grievance procedures and the terms and conditions of their 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. 5. Any provision of any contract required by section 179.70, 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, provided such rule, regulation, home rule charter, ordinance, or resolution is not in conflict with sections 179.61 to 179.66 and shall be returned to the arbitrator for an amendment to make the provision consistent with the statute, rule, regulation, charter, ordinance or resolution.

Subd. 6. Nothing in sections 179.61 to 179.77 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 179.69, subdivision 1.

Subd. 8. An employer shall have the right to petition the director for arbitration under section 179.69, subdivision 3; provided the exclusive representative or the employer has first petitioned the director for mediation services as are available under section 179.69, subdivision 1.

Subd. 9. An employer may hire and pay for arbitrators desired or required by the provisions of sections 179.61 to 179.77.

Subd. 10. A public employer must afford reasonable time off to elected officers or appointed representatives of the exclusive representative for the purposes of conducting the duties of the exclusive representative and must, upon request, provide for leaves of absence to elected or appointed officials of the exclusive repersentative.

[*Ex1971 c 33 s 6; 1973 c 635 s 15-17*]

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 Extra Session Laws 1971, Chapter 33 under any law that is repealed by Extra Session Laws 1971, Chapter 33 is hereby certified as the exclusive representative until such time as it is decertified or another representative is certified in its place pursuant to Extra Session Laws 1971, Chapter 33. Any teacher organization as defined by section 125.20, subdivision 3 who on the effective date of Extra Session Laws 1971, Chapter 33 has a majority of its members on a teacher's council in a school dis-

trict as provided in 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 sections 179.61 to 179.77.

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, 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.

Subd. 7. An employee organization shall be certified as the exclusive representative of an appropriate unit upon receiving a majority of those votes cast 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 votes cast 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 those votes cast 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 179.71.

[*Ex1971 c 33 s 7; 1973 c 635 s 18-20*]

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 sections 179.61 to 179.77 may bring an action in district court of the county wherein the practice is alleged to have occurred for injunctive relief and for damages caused by such unfair labor practice.

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 sections 179.61 to 179.77;

(2) dominating or interfering with the formation, existence or administration of any employee organization or contributing other support to it;

(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 sections 179.61 to 179.77;

(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 179.70;

(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

(9) refusing to comply with the provisions of a valid decision of a binding arbitration panel or arbitrator acting pursuant to sections 179.61 to 179.77;

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

(11) refusing to provide upon the request of the exclusive representative all information pertaining to the public employer's budget both present and proposed, revenues and other financing information. In the executive branch of state government, the provisions of this clause shall not be considered contrary to the budgetary requirements set forth in sections 16.14, 16.15 and 16.155.

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 sections 179.61 to 179.77;

(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 sections 179.61 to 179.77 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 sections 179.61 to 179.77;

(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 an unlawful strike;

(12) picketing which has an unlawful purpose such as secondary boycott;

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

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

(15) violating or refusing to comply with any lawful order or decision issued by the director of the board as authorized by sections 179.61 to 179.77.

[*Ex1971 c 33 s 8; 1973 c 494 s 9; 1973 c 635 s 21*]

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 179.71, subdivision 2 (a) and (b).

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 179.70.

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 agreement. 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 only certify a matter to the board when either or both parties, except for essential employees, petition for binding arbitration stating that an impasse has been reached and the director has determined that further mediation efforts under subdivision 1 would serve no purpose. Upon such petition and determination by the mediator, the parties shall each submit their respective final positions on matters not agreed upon. If the employer has petitioned for binding arbitration and the director has determined that an impasse has been reached said proceedings shall begin within 15 days thereof and be binding on both parties. The director shall determine the matters not agreed upon based upon his efforts to mediate the dispute. If the employee representative has petitioned for binding arbitration the employer shall have 15 days after the director of mediation has determined that an impasse has been reached to reject the request or agree to submit matters not agreed upon to binding arbitration. If the employer does not respond within 15 days it shall be regarded as a rejection and said rejection shall be a refusal by the employer within the meaning of section 179.64, subdivision 7. Under a

petition by either party the parties may stipulate 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 179.70 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, they shall each submit their respective final positions on those terms and conditions of employment not agreed upon by the parties to the director 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, except in the case of the executive branch of state government, where the final date for submission of final positions shall be November 15 of even-numbered years. Either or both parties except for essential employees may after this time petition the director for binding arbitration stating that an impasse has been reached and the director has determined that further mediation efforts under subdivision 1 would serve no purpose. If the employer has petitioned for binding arbitration said proceedings shall begin within 15 days thereof and be binding on both parties. The director shall determine the matters not agreed upon based upon his efforts to mediate the dispute. If the employee representative has petitioned for binding arbitration the employer shall have 15 days after the director of mediation has determined that an impasse has been reached to reject the request or agree to submit matters not agreed upon to binding arbitration. If the employer does not respond within 15 days it shall be regarded as a rejection and said rejection shall be a refusal by the employer within the meaning of section 179.64, subdivision 7. Under a petition by either party the parties may stipulate those agreed upon items to be excluded from arbitration. Notwithstanding a failure to comply with subdivisions 3, 4, and 5, the director may maintain jurisdiction under section 179.71, subdivision 2.

Subd. 6. Upon the director certifying a dispute under subdivision 3 or 5 to the board and under either subdivision 3 or 5 the employer has petitioned for binding arbitration or the employee representative has petitioned for binding arbitration and said petition has been agreed upon by the employer representative within the requisite 15 days, the board shall take jurisdiction of the matter and proceed in accordance with section 179.72. If the employer has not petitioned for binding arbitration under subdivision 3 or 5 or if the employer has not joined in an employee's petition for binding arbitration under subdivision 3 or 5, section 179.72, subdivision 6 shall not be applicable. If no petition has been filed within the time specified under subdivision 3 or 5, at any time thereafter the parties may invoke the provisions of subdivision 3 or 5 and section 179.72, subdivision 6 shall be applicable.

Subd. 7. [Repealed, 1973 c 635 s 37]

[Ex1971 c 33 s 9; 1973 c 635 s 22-24; 1974 c 114 s 1; 1974 c 128 s 1, 2]

179.70 CONTRACTS; GRIEVANCES; ARBITRATION. Subdivision 1. A written contract or memorandum of 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 duration of the contract shall be negotiable except in no event shall contracts be for a term exceeding three years. Any contract between employer school board and an exclusive representative of teachers shall in every instance be for an initial term of one year commencing on July 1, 1974, through June 30, 1975, and thereafter for a term of two years beginning on July 1 of each odd-numbered year. 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 179.71, subdivision 5, clause (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.

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 179.72, subdivision 7. Further, upon rendering any arbitration decision authorized or required by a grievance procedure the arbitrator shall transmit both to the board and to the director a copy of his decision and any written explanation thereof. Should any issues submitted to arbitration be settled voluntarily before the arbitrator issues his decision, notice of such settlement shall be made by the arbitrator in a report issued both to the board and to the director.

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.

[Ex1971 c 33 s 10; 1973 c 635 s 25; 1974 c 247 s 1]

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 sections 179.61 to 179.77;

(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, involvement of professions and skilled crafts and other occupational classifications, relevant administrative and supervisory levels of authority, geographical location, and the recommendation of the parties, and shall place particular importance upon the history and extent of organization and the desires of the petitioning employee representatives.

In addition, with regard to the inclusion or exclusion of supervisory employees, the director must find that an employee may perform or effectively recommend a majority of those functions referred to in section 179.63, subdivisions 9 or 9a, before an employee may be excluded as supervisory. However, in every case the administrative head, and his assistant, of a municipality, municipal utility, police or fire department shall be considered a supervisory employee.

He shall not designate an appropriate unit which includes employees subject to section 179.63, subdivision 11, with employees not included in section 179.63, 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 sections 179.61 to 179.77 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 subdivi-

sion 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 179.72, subdivision 6; or section 179.69, subdivision 6;

(b) issue notices, subpoenas and orders as may be required by law to carry out his duties under sections 179.61 to 179.77. Issuance of orders shall include those orders of the Minnesota public employment relations board;

(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 179.69, 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 sections 179.61 to 179.77;

(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 sections 179.61 to 179.77 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 179.70, 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 chapter 15; said grievance procedure to be available to any public employee employed in a unit not covered by a negotiated grievance procedure as contained in section 179.70, subdivision 1;

(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 179.69, 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 179.69.

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.

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.

[*Ex1971 c 33 s 11; 1973 c 635 s 26, 27*]

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 governor of the state of Minnesota. 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 governor of the state of Minnesota for the unexpired term. The board shall select one of its members to serve as chair-

man 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 179.63;

(b) to hear and decide appeals from determinations of the director relating to the appropriateness of a unit under section 179.67;

(c) to approve or disapprove the rules and regulations promulgated by the director under section 179.71, subdivision 5, clause (g).

Subd. 4. The board shall adopt rules pursuant to chapter 15 governing the presentation of issues relating to matters included in subdivision 3; and the taking of such appeals. All issues and appeals presented to the board shall be determined upon the record established by the director of mediation, except that the board at its discretion may request additional evidence when necessary or helpful.

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 179.69, subdivision 3, or submitted to the board as provided in section 179.69, 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 or arbitrator 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. 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 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 stautory 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 179.63, 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 179.63, 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 that all arbitration proceedings have been concluded, 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 end of the contract period as determined by section 179.70, subdivision 1.

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 and any written decision explaining the order to the board and to the director and to the appropriate representative or officer of the public employer and the employees. Should any issues submitted to arbitration be settled voluntarily before the arbitrator issues his decision, notice of such settlement shall be made by the arbitrator in a report issued both to the board and to the director.

Subd. 10. At the request of the exclusive representative to a dispute involving any essential employees, the board shall proceed in accordance with section 179.72 and the order shall be binding on both parties. The parties may stipulate those agreed upon items to be excluded from arbitration.

Subd. 11. [Repealed, 1973 c 635 s 37]

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 179.70, subdivision 1.

Subd. 13. [Repealed, 1973 c 635 s 37]

[*Ex1971 c 33 s 12; 1973 c 635 s 28-31; 1974 c 246 s 1; 1974 c 247 s 2*]

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 179.63, subdivision 18.

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 179.63, subdivision 18 relating to the services being provided

to the public. The 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 every four months.

Subd. 3. [Repealed, 1973 c 635 s 37]

Subd. 4. [Repealed, 1973 c 635 s 37]

Subd. 5. [Repealed, 1973 c 635 s 37]

[*Ex1971 c 33 s 13; 1973 c 35 s 41; 1973 c 635 s 32*]

179.74 STATE AND ITS EMPLOYEES; NEGOTIATIONS; 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, for purposes of sections 179.61 to 179.77, the commissioner of personnel or his representative. If the commissioner is succeeded in his personnel functions by another state officer, he shall be the employer of state employees for the purposes of sections 179.61 to 179.77.

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

Subd. 4. The commissioner of personnel shall meet and negotiate with the exclusive representative of appropriate units in the manner prescribed by sections 179.61 to 179.77; 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 composition. Regardless of unit determination, the governor may upon the unanimous written request of exclusive representatives of units and appointing authorities direct that negotiations be conducted for one or more appointing authorities in a common proceeding.

Subd. 5. The commissioner of personnel is authorized to and may enter into agreements. The provisions of said agreements which establish wages and economic fringe benefits shall be submitted to the legislature to be accepted, rejected or modified.

[*Ex1971 c 33 s 14; 1973 c 507 s 39, 45; 1973 c 635 s 33-35*]

179.75 APPLICATION OF SECTIONS 185.07 TO 185.19.

Subdivision 1. [Repealed, 1973 c 635 s 37]

Subd. 2. [Repealed, 1973 c 635 s 37]

Subd. 3. [Repealed, 1973 c 635 s 37]

Subd. 4. [Repealed, 1973 c 635 s 37]

Subd. 5. [Repealed, 1973 c 635 s 37]

Subd. 6. [Repealed, 1973 c 635 s 37]

Subd. 7. [Repealed, 1973 c 635 s 37]

Subd. 8. Minnesota Statutes 1971, Sections 185.07 to 185.19, shall apply to all public employees, including those specifically excepted from the definition of public employee in section 179.63, subdivision 7, except as sections 185.07 to 185.19 may be inconsistent with section 179.68.

Subd. 9. [Repealed, 1973 c 635 s 37]

[*Ex1971 c 33 s 15; 1973 c 635 s 36*]

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 provi-

sions 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.

[*Ex1971 c 33 s 16*]

179.77 [Repealed, 1973 c 635 s 37]