

FIRST REGULAR SESSION

SENATE BILL NO. 607

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SMITH.

Read 1st time February 27, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2149L.011

AN ACT

To repeal sections 105.500, 105.510, 105.520, 105.525, and 105.530, RSMo, and to enact in lieu thereof twenty-eight new sections relating to collective bargaining of public employees, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 105.500, 105.510, 105.520, 105.525, and 105.530, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 105.535, 105.537, 105.539, 105.541, 105.543, 105.545, 105.547, 105.549, 105.551, 105.553, 105.555, 105.557, 105.559, 105.561, 105.563, 105.565, 105.567, 105.569, 105.573, 105.575, 105.577, 105.579, 105.581, 105.583, 105.585, 105.587, 105.589, and 105.591, to read as follows:

105.535. 1. Sections 105.535 to 105.591 shall be known and may be cited as the "Public Employment Relations Act". Nothing in sections 105.535 to 105.591 shall be construed to permit any public employee to engage in or support a strike, nor to prohibit any public employee from joining or participating in any employee organization.

2. As used in sections 105.535 to 105.591, the following terms shall mean:

(1) "Arbitration", the procedure whereby the parties involved in an impasse submit their differences to a third party for a final and binding decision or as provided in sections 105.535 to 105.591;

(2) "Board", the public employment relations board established under section 105.539;

(3) "Confidential employee", any public employee who has access to confidential information subject to use by the public employer in

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 negotiating. Confidential employee also includes the personal
16 secretary of any elected official or person appointed to fill a vacancy
17 in an elective office, member of any board or commission, the
18 administrative officer, director, or chief executive officer of a public
19 employer or major division thereof, or the deputy or first assistant of
20 any of the foregoing;

21 (4) "Employee organization", an organization of any kind in
22 which public employees participate and which exists for the primary
23 purpose of representing public employees in their employment
24 relations;

25 (5) "Governing body", the board, council, or commission, whether
26 elected or appointed, of a political subdivision of this state, including
27 school districts and other special purpose districts, which determines
28 the policies for the operation of the political subdivision;

29 (6) "Impasse", the failure of a public employer and the employee
30 organization to reach agreement in the course of negotiations;

31 (7) "Mediation", assistance by an impartial third party to
32 reconcile an impasse between the public employer and the employee
33 organization through interpretation, suggestion, and advice;

34 (8) "Professional employee", any one of the following:

35 (a) Any employee engaged in work:

36 a. Predominantly intellectual and varied in character as opposed
37 to routine mental, manual, mechanical, or physical work;

38 b. Involving the consistent exercise of discretion and judgment
39 in its performance;

40 c. Of such a character that the output produced or the result
41 accomplished cannot be standardized in relation to a given period of
42 time; and

43 d. Requiring knowledge of an advanced type in a field of science
44 or learning customarily acquired by a prolonged course of specialized
45 intellectual instruction and study in an institution of higher learning
46 or a hospital, as distinguished from a general academic education or
47 from an apprenticeship or from training in the performance of routine
48 mental, manual, or physical processes;

49 (b) Any employee who:

50 a. Has completed the courses of specialized intellectual
51 instruction and study described in subparagraph d in paragraph (a) of

52 this subdivision; and

53 b. Is performing related work under the supervision of a
54 professional person to qualify the employee to become a professional
55 employee as defined in paragraph (a) of this subdivision;

56 (9) "Public employee", any individual employed by a public
57 employer, except individuals exempted under the provisions of section
58 105.537;

59 (10) "Public employer", the state of Missouri, its boards,
60 commissions, agencies, departments, and its political subdivisions
61 including school districts and other special purpose districts;

62 (11) "Strike", a public employee's refusal, in concerted action
63 with others, to report to duty, or a willful absence from the employee's
64 position, or a stoppage of work by the employee, or the employee's
65 abstinence in whole or in part from the full, faithful, and proper
66 performance of the duties of employment, for the purpose of inducing,
67 influencing or coercing a change in the conditions, compensation,
68 rights, privileges or obligations of public employment.

105.537. The following public employees shall be excluded from
2 the provisions of sections 105.535 to 105.591:

3 (1) Elected officials and persons appointed to fill vacancies in
4 elective offices, and members of any board or commission;

5 (2) Representatives of a public employer, including the
6 administrative officer, director or chief executive officer of a public
7 employer or major division thereof as well as the officer's or director's
8 deputy, first assistant, and any supervisory employees. As used in this
9 section, "supervisory employee" means any individual having authority
10 in the interest of the public employer to hire, transfer, suspend, layoff,
11 recall, promote, discharge, assign, reward or discipline other public
12 employees, or the responsibility to direct them, or to adjust their
13 grievances, or effectively to recommend such action, if, in connection
14 with the foregoing, exercise of such authority is not of a merely routine
15 or clerical nature, but requires the use of independent judgment. All
16 school superintendents, assistant superintendents, principals and
17 assistant principals shall be deemed to be supervisory employees;

18 (3) Confidential employees;

19 (4) Students working as part-time public employees twenty hours
20 per week or less, except graduate or other postgraduate students in

21 preparation for a profession who are engaged in academically related
22 employment as a teaching, research, or service assistant;

23 (5) Temporary public employees employed for a period of four
24 months or less;

25 (6) Commissioned and enlisted personnel of the Missouri
26 national guard;

27 (7) Judicial officers and confidential or supervisory employees
28 of the judicial branch;

29 (8) Patients and inmates employed, sentenced, or committed to
30 any state or local institution.

105.539. 1. There is established within the department of labor
2 and industrial relations a board to be known as the "Public
3 Employment Relations Board". The board shall consist of three
4 members appointed by the governor, with the advice and consent of the
5 senate. No more than two members shall be of the same political party.
6 No member shall engage in any political activity while holding office
7 and the members shall devote full time to their duties. One of the
8 initial members appointed under this section shall serve a term of four
9 years. The other initial members appointed under this section shall
10 serve staggered terms of two and three years as determined by the
11 governor at the time of appointment. Thereafter, the successor
12 members shall be appointed for a term of four years. The member
13 initially appointed for a term of four years shall serve as chairperson
14 and each of the member's successors shall also serve as chairperson.

15 2. Any vacancy occurring shall be filled in the same manner as
16 regular appointments are made.

17 3. In selecting the members of the board, consideration shall be
18 given to their knowledge, ability, and experience in the field of
19 labor-management relations. The chairperson and the remaining two
20 members shall each receive an annual salary as set by the general
21 assembly.

22 4. The board may employ such persons as are necessary for the
23 performance of its functions.

24 5. Members of the board and other employees of the board shall
25 be allowed their actual and necessary expenses incurred in the
26 performance of their duties. All expenses and salaries shall be paid
27 from appropriations by the general assembly.

105.541. The board shall:

2 **(1) Administer the provisions of sections 105.535 to 105.591;**

3 **(2) Collect, for public employers other than the state and its**
4 **boards, commissions, departments, and agencies, data, and conduct**
5 **studies relating to wages, hours, benefits, and other terms and**
6 **conditions of public employment and make the same available to any**
7 **interested person or organization;**

8 **(3) Establish minimum qualifications for arbitrators and**
9 **mediators, establish procedures for appointing, maintaining, and**
10 **removing from a list a person's representative of the public to be**
11 **available to serve as arbitrators and mediators, and establish**
12 **compensation rates for arbitrators and mediators;**

13 **(4) Hold hearings and administer oaths, examine witnesses and**
14 **documents, take testimony and receive evidence, issue subpoenas to**
15 **compel the attendance of witnesses and the production of records, and**
16 **delegate such power to a member of the board, persons appointed or**
17 **employed by the board, including administrative law judges for the**
18 **performance of its functions. The board may petition the circuit court**
19 **at the seat of government or of the county where a hearing is held to**
20 **enforce a board order compelling the attendance of witnesses and**
21 **production of records;**

22 **(5) Adopt rules in accordance with the provisions of chapter 536,**
23 **RSMo, as it may deem necessary to carry out the purposes of sections**
24 **105.535 to 105.591.**

105.543. Public employers shall have, in addition to all powers,
2 **duties, and rights established by constitutional provision, statute,**
3 **ordinance, charter, or special act, the exclusive power, duty, and the**
4 **right to:**

5 **(1) Direct the work of its public employees;**

6 **(2) Hire, promote, demote, transfer, assign and retain public**
7 **employees in positions within the public agency;**

8 **(3) Suspend or discharge public employees for proper cause;**

9 **(4) Maintain the efficiency of governmental operations;**

10 **(5) Relieve public employees from duties because of lack of work**
11 **or for other legitimate reasons;**

12 **(6) Determine and implement methods, means, assignments, and**
13 **personnel by which the public employer's operations are to be**

14 **conducted;**

15 **(7) Take such actions as may be necessary to carry out the**
16 **mission of the public employer;**

17 **(8) Initiate, prepare, certify, and administer its budget;**

18 **(9) Exercise all powers and duties granted to the public employer**
19 **by law.**

105.545. Public employees shall have the right to:

2 **(1) Organize, or form, join, or assist any employee organization;**

3 **(2) Negotiate collectively through a representative of their own**
4 **choosing;**

5 **(3) Engage in other concerted activities for the purpose of**
6 **collective bargaining or other mutual aid or protection insofar as any**
7 **such activity is not prohibited by sections 105.535 to 105.591 or any**
8 **other provision of law of this state;**

9 **(4) Refuse to join or participate in the activities of employee**
10 **organizations, including the payment of any dues, fees, assessments, or**
11 **service fees of any type.**

105.547. The public employer and the employee organization
2 **shall meet at reasonable times, including meetings reasonably in**
3 **advance of the public employer's budget-making process, to negotiate**
4 **in good faith with respect to wages, hours of employment, other**
5 **working conditions, and other matters mutually agreed**
6 **upon. Negotiations shall also include terms authorizing dues checkoff**
7 **for members of the employee organization and grievance procedures**
8 **for resolving any questions arising under the agreement, which shall**
9 **be embodied in a written agreement and signed by the parties. If an**
10 **agreement provides for dues checkoff, a member's dues may be checked**
11 **off only upon the member's written request and the member may**
12 **terminate the dues checkoff at any time by giving thirty days' written**
13 **notice. Such obligation to negotiate in good faith does not compel**
14 **either party to agree to a proposal or make a concession. All**
15 **retirement systems shall be excluded from the scope of negotiations.**

105.549. 1. It shall be a prohibited practice for any public
2 **employer, public employee or employee organization to willfully refuse**
3 **to negotiate in good faith with respect to the scope of negotiations as**
4 **defined in section 105.547.**

5 **2. It shall be a prohibited practice for a public employer or the**

6 employer's designated representative to willfully:

7 (1) Interfere with, restrain, or coerce public employees in the
8 exercise of rights granted by sections 105.535 to 105.591;

9 (2) Dominate or interfere in the administration of any employee
10 organization;

11 (3) Encourage or discourage membership in any employee
12 organization, committee, or association by discrimination in hiring,
13 tenure, or other terms or conditions of employment;

14 (4) Discharge or discriminate against a public employee because
15 the employee has filed an affidavit, petition, or complaint or given any
16 information or testimony under sections 105.535 to 105.591, or because
17 the employee has formed, joined, or chosen to be represented by any
18 employee organization;

19 (5) Refuse to negotiate collectively with representatives of
20 certified employee organizations as required in sections 105.535 to
21 105.591;

22 (6) Deny the rights accompanying certification or exclusive
23 recognition granted in sections 105.535 to 105.591;

24 (7) Refuse to participate in good faith in any agreed upon
25 impasse procedures or those set forth in sections 105.535 to 105.591;

26 (8) Engage in a lockout.

27 3. It shall be a prohibited practice for public employees or an
28 employee organization or for any person, union, or organization or
29 their agents to willfully:

30 (1) Interfere with, restrain, coerce, or harass any public
31 employee with respect to any of the employee's rights under sections
32 105.535 to 105.591 or in order to prevent or discourage the employee's
33 exercise of any such right, including, without limitation, all rights
34 under section 105.545;

35 (2) Interfere, restrain, or coerce a public employer with respect
36 to rights granted in sections 105.535 to 105.591 or with respect to
37 selecting a representative for the purposes of negotiating collectively
38 on the adjustment of grievances;

39 (3) Refuse to bargain collectively with a public employer as
40 required in sections 105.535 to 105.591;

41 (4) Refuse to participate in good faith in any agreed upon
42 impasse procedures or those set forth in sections 105.535 to 105.591;

43 (5) Violate section 105.553;

44 (6) Picket in a manner which interferes with ingress and egress
45 to the facilities of the public employer;

46 (7) Engage in, initiate, sponsor, or support any picketing that is
47 performed in support of a strike, work stoppage, boycott, or slowdown
48 against a public employer;

49 (8) Picket for any unlawful purpose.

50 4. The expressing of any views, argument, or opinion, or the
51 dissemination thereof, whether in written, printed, graphic, or visual
52 form, shall not constitute or be evidence of any unfair labor practice
53 under any of the provisions of sections 105.535 to 105.591 if such
54 expression contains no threat of reprisal or force or promise of benefit.

105.551. 1. Proceedings against a party alleging a violation of
2 section 105.549 shall be commenced by filing a complaint with the
3 board within ninety days of the alleged violation causing a copy of the
4 complaint to be served upon the accused party in the manner of an
5 original notice as provided in sections 105.535 to 105.591. The accused
6 party shall have ten days within which to file a written answer to the
7 complaint. However, the board may conduct a preliminary
8 investigation of the alleged violation, and if the board determines that
9 the complaint has no basis in fact, the board may dismiss the
10 complaint. The board shall promptly thereafter set a time and place for
11 hearing in the county where the alleged violation occurred. The
12 parties shall be permitted to be represented by counsel, summon
13 witnesses, and request the board to subpoena witnesses on the
14 requester's behalf. Compliance with the technical rules of pleading and
15 evidence shall not be required.

16 2. The board may designate an administrative law judge to
17 conduct the hearing. The administrative law judge has the powers as
18 may be exercised by the board for conducting the hearing and shall
19 follow the procedures adopted by the board for conducting the
20 hearing. The decision of the administrative law judge may be appealed
21 to the board and the board may hear the case de novo or upon the
22 record as submitted before the administrative law judge, utilizing
23 procedures governing appeals to the circuit court in this section so far
24 as applicable.

25 3. The board shall appoint a court reporter to report the

26 proceedings and the board shall fix the reasonable amount of
27 compensation for such service, which amount shall be taxed as other
28 costs.

29 4. The board shall file its findings of fact and conclusions of law
30 within sixty days of the close of any hearing, receipt of the transcript,
31 or submission of any briefs. If the board finds that the party accused
32 has committed a prohibited practice, the board may, within thirty days
33 of its decision, enter into a consent order with the party to discontinue
34 the practice, or after the thirty days following the decision may
35 petition the circuit court for injunctive relief under rules of civil
36 procedure.

37 5. The board's review of proposed decisions and the rehearing or
38 judicial review of final decisions is governed by the provisions of
39 chapter 536, RSMo.

105.553. 1. It shall be unlawful for any public employee or any
2 employee organization, directly or indirectly, to induce, instigate,
3 encourage, authorize, ratify, or participate in a strike against any
4 public employer.

5 2. It shall be unlawful for any public employer to authorize,
6 consent to, or condone a strike; or to pay or agree to pay any public
7 employee for any day in which the employee participates in a strike; or
8 to pay or agree to pay any increase in compensation or benefits to any
9 public employee in response to or as a result of any strike or any act
10 which violates subsection 1 of this section. It shall be unlawful for any
11 official, director, or representative of any public employer to authorize,
12 ratify, or participate in any violation of this subsection. Nothing in this
13 subsection shall prevent new or renewed bargaining and agreement
14 within the scope of negotiations as defined by sections 105.535 to
15 105.591, at any time after such violation of subsection 1 of this section
16 has ceased; but it shall be unlawful for any public employer or
17 employee organization to bargain at any time regarding suspension or
18 modification of any penalty provided in this section or regarding any
19 request by the public employer to a court for such suspension or
20 modification.

21 3. In the event of any violation or imminently threatened
22 violation of subsection 1 or 2 of this section, any citizen domiciled
23 within the jurisdictional boundaries of the public employer may

24 petition the circuit court of the county in which the violation occurs for
25 an injunction restraining such violation or imminently threatened
26 violation. Such action shall be governed by the rules of civil
27 procedure. However, the court shall grant a temporary injunction if it
28 appears to the court that a violation has occurred or is imminently
29 threatened. The plaintiff need not show that the violation or
30 threatened violation would greatly or irreparably injure the plaintiff,
31 and no bond shall be required of the plaintiff unless the court
32 determines that a bond is necessary in the public interest. Failure to
33 comply with any temporary or permanent injunction granted under this
34 section shall constitute a contempt of court. The punishment shall not
35 exceed five hundred dollars for an individual, or ten thousand dollars
36 for an employee organization or public employer, for each day during
37 which the failure to comply continues, or imprisonment in a county jail
38 not exceeding six months, or both. An individual or an employee
39 organization which makes an active good faith effort to comply fully
40 with the injunction shall not be deemed to be in contempt.

41 4. If a public employee is held to be in contempt of court for
42 failure to comply with an injunction under this section, or is convicted
43 of violating this section, the employee shall be ineligible for any
44 employment by the same public employer for a period of twelve
45 months. The employee's public employer shall immediately discharge
46 the employee, but upon the employee's request the court shall stay the
47 discharge to permit further judicial proceedings.

48 5. If an employee organization or any of its officers is held to be
49 in contempt of court for failure to comply with an injunction under this
50 section, or is convicted of violating this section, the employee
51 organization shall be immediately decertified, shall cease to represent
52 the bargaining unit, shall cease to receive any dues by checkoff, and
53 may again be certified only after twelve months have elapsed from the
54 effective date of decertification and only after a new compliance with
55 section 105.557. The penalties provided in this section may be
56 suspended or modified by the court, but only upon request of the public
57 employer and only if the court determines the suspension or
58 modification is in the public interest.

59 6. Each of the remedies and penalties provided by this section is
60 separate and several, and is in addition to any other legal or equitable

61 remedy or penalty.

105.555. 1. Board determination of an appropriate bargaining
2 unit shall be upon petition filed by a public employer, public employee,
3 or employee organization.

4 2. Within thirty days of receipt of a petition or notice to all
5 interested parties if on its own initiative, the board shall conduct a
6 public hearing, receive written or oral testimony, and promptly
7 thereafter file an order defining the appropriate bargaining unit. In
8 defining the unit, the board shall take into consideration, along with
9 other relevant factors, the principles of efficient administration of
10 government, the existence of a community of interest among public
11 employees, the history and extent of public employee organization,
12 geographical location, and the recommendations of the parties
13 involved.

14 3. Appeals from such order shall be governed by appeal
15 provisions provided in section 105.551.

16 4. Professional and nonprofessional employees shall not be
17 included in the same bargaining unit unless a majority of both agree.

105.557. 1. Board certification of an employee organization as
2 the exclusive bargaining representative of a bargaining unit shall be
3 upon a petition filed with the board by a public employer, public
4 employee, or an employee organization and an election conducted
5 under section 105.559.

6 2. The petition of an employee organization shall allege that:

7 (1) The employee organization has submitted a request to a
8 public employer to bargain collectively with a designated group of
9 public employees;

10 (2) The petition is accompanied by written evidence that thirty
11 percent of such public employees are members of the employee
12 organization or have authorized it to represent them for the purposes
13 of collective bargaining.

14 3. The petition of a public employee shall allege that an
15 employee organization which has been certified as the bargaining
16 representative does not represent a majority of such public employees
17 and that the petitioners do not want to be represented by an employee
18 organization or seek certification of an employee organization. The
19 petition shall be accompanied by written evidence that fifty percent of

20 such public employees support the petition.

21 4. The petition of a public employer shall allege that it has
22 received a request to bargain from an employee organization which has
23 not been certified as the bargaining representative of the public
24 employees in an appropriate bargaining unit.

25 5. The board shall investigate the allegations of any petition and
26 shall give reasonable notice of the receipt of such a petition to all
27 public employees, employee organizations, and public employers named
28 or described in such petitions or interested in the representation
29 questioned. The board shall thereafter call an election under section
30 105.559, unless:

31 (1) It finds that less than the percentage required under this
32 section of the public employees in the unit appropriate for collective
33 bargaining support the petition for decertification or for certification;
34 or

35 (2) The appropriate bargaining unit has not been determined
36 under section 105.555.

37 6. The hearing and appeal procedures shall be the same as
38 provided in section 105.551.

39 7. Any exclusive bargaining representative recognized by the
40 state board of mediation on the effective date of this section under
41 sections 105.500 to 105.530 or voluntarily recognized by a public
42 employer prior to the effective date of this section shall continue to be
43 recognized as the exclusive bargaining representative under this
44 section until such time as decertification occurs under this section.

105.559. 1. Upon the filing of a petition for certification of an
2 employee organization, the board shall submit a question to the public
3 employees at an election in an appropriate bargaining unit. The
4 question on the ballot shall permit the public employees to vote for no
5 bargaining representation or for any employee organization which has
6 petitioned for certification or which has presented proof satisfactory
7 to the board of support of ten percent or more of the public employees
8 in the appropriate unit.

9 2. If a majority of the votes cast on the question is for no
10 bargaining representation, the public employees shall not be
11 represented by an employee organization. If a majority of the votes
12 cast on the question is for a listed employee organization, then the

13 employee organization shall represent the public employees in an
14 appropriate bargaining unit.

15 3. If none of the choices on the ballot receive the vote of a
16 majority of the public employees voting, the board shall conduct a
17 runoff election among the two choices receiving the greatest number
18 of votes.

19 4. Upon written objections filed by any party to the election
20 within ten days after notice of the results of the election, if the board
21 finds that misconduct or other circumstances prevented the public
22 employees eligible to vote from freely expressing their preferences, the
23 board may invalidate the election and hold a second election for the
24 public employees.

25 5. Upon completion of a valid election in which the majority
26 choice of the employees voting is determined, the board shall certify
27 the results of the election and shall give reasonable notice of the order
28 to all employee organizations listed on the ballot, the public employers,
29 and the public employees in the appropriate bargaining unit.

30 6. A petition for certification or decertification as an exclusive
31 bargaining representative shall not be considered by the board for a
32 period of one year from the date of the certification or noncertification
33 of an exclusive bargaining representative or during the duration of a
34 collective bargaining agreement which shall not exceed three years. A
35 collective bargaining agreement with the state, its boards, commissions,
36 departments, and agencies shall be for two years and the provisions of
37 a collective bargaining agreement or arbitrators' award affecting state
38 employees shall not provide for renegotiations which would require the
39 refinancing of salary and fringe benefits for the second year of the term
40 of the agreement, except as provided in subsection 6 of section 105.563,
41 and the effective date of any such agreement shall be July first of
42 odd-numbered years, provided that if an exclusive bargaining
43 representative is certified on a date which will prevent the negotiation
44 of a collective bargaining agreement prior to July first of
45 odd-numbered years for a period of two years, the certified collective
46 bargaining representative may negotiate a one-year contract with a
47 public employer which shall be effective from July first of the
48 even-numbered year to July first of the succeeding odd-numbered year
49 when new contracts shall become effective. However, if a petition for

50 decertification is filed during the duration of a collective bargaining
51 agreement, the board shall award an election under this section not
52 more than one hundred eighty days nor less than one hundred fifty
53 days prior to the expiration of the collective bargaining agreement. If
54 an employee organization is decertified, the board may receive
55 petitions under section 105.557, provided that no such petition and no
56 election conducted under such petition within one year from
57 decertification shall include as a party the decertified employee
58 organization.

105.561. Upon the receipt by a public employer of a request from
2 an employee organization to bargain on behalf of public employees, the
3 duty to engage in collective bargaining shall arise if the employee
4 organization has been certified by the board as the exclusive
5 bargaining representative for the public employees in that bargaining
6 unit.

105.563. 1. The employee organization certified as the bargaining
2 representative shall be the exclusive representative of all public
3 employees in the bargaining unit and shall represent all public
4 employees fairly. However, any public employee may meet and adjust
5 individual complaints with a public employer. To sustain a claim that
6 a certified employee organization has committed a prohibited practice
7 by breaching its duty of fair representation, a public employee shall
8 establish by a preponderance of the evidence action or inaction by the
9 organization which was arbitrary, discriminatory, or in bad faith.

10 2. The employee organization and the public employer may
11 designate any individual as its representative to engage in collective
12 bargaining negotiations.

13 3. Negotiating sessions, strategy meetings of public employers or
14 employee organizations, mediation, and the deliberative process of
15 arbitrators shall be exempt from the provisions of chapter 610,
16 RSMo. However, the employee organization shall present its initial
17 bargaining position to the public employer at the first bargaining
18 session. The public employer shall present its initial bargaining
19 position to the employee organization at the second bargaining session,
20 which shall be held no later than two weeks following the first
21 bargaining session. Both sessions shall be open to the public and
22 subject to the provisions of chapter 610, RSMo. Hearings conducted by

23 arbitrators shall be open to the public.

24 4. The terms of a proposed collective bargaining agreement shall
25 be made available to the public by the public employer and reasonable
26 notice shall be given to the public employees by the employee
27 organization prior to a ratification election. The collective bargaining
28 agreement shall become effective only if ratified by a majority of those
29 voting by secret ballot.

30 5. Terms of any collective bargaining agreement may be enforced
31 by a civil action in the circuit court of the county in which the
32 agreement was made upon the initiative of either party.

33 6. No collective bargaining agreement or arbitrators' decision
34 shall be valid or enforceable if its implementation would be
35 inconsistent with any statutory limitation on the public employer's
36 funds, spending, or budget or would substantially impair or limit the
37 performance of any statutory duty by the public employer. A collective
38 bargaining agreement or arbitrators' award may provide for benefits
39 conditional upon specified funds to be obtained by the public employer,
40 but the agreement shall provide either for automatic reduction of such
41 conditional benefits or for additional bargaining if the funds are not
42 obtained or if a lesser amount is obtained.

43 7. If agreed to by the parties, nothing in sections 105.535 to
44 105.591 shall be construed to prohibit supplementary bargaining on
45 behalf of public employees in a part of the bargaining unit concerning
46 matters uniquely affecting those public employees or cooperation and
47 coordination of bargaining between two or more bargaining units.

48 8. The salaries of all public employees of the state under a merit
49 system and all other fringe benefits which are granted to all public
50 employees of the state shall be negotiated with the governor or the
51 governor's designee on a statewide basis, except those benefits which
52 are not subject to negotiations under the provisions of section 105.547.

53 9. A public employee or any employee organization shall not
54 negotiate or attempt to negotiate directly with a member of the
55 governing board of a public employer if the public employer has
56 appointed or authorized a bargaining representative for the purpose of
57 bargaining with the public employees or their representative, unless
58 the member of the governing board is the designated bargaining
59 representative of the public employer.

60 10. The negotiation of a proposed collective bargaining
61 agreement by representatives of a state public employer and a state
62 employee organization shall be complete not later than March fifteenth
63 of the year when the agreement is to become effective. The board shall
64 provide, by rule, a date on which any impasse item shall be submitted
65 to binding arbitration and for such other procedures as deemed
66 necessary to provide for the completion of negotiations of proposed
67 state collective bargaining agreements not later than March
68 fifteenth. The date selected for the mandatory submission of impasse
69 items to binding arbitration shall be sufficiently in advance of March
70 fifteenth to insure that the arbitrators' decision can be reasonably
71 made before March fifteenth.

72 11. (1) In the absence of an impasse agreement negotiated under
73 section 105.567 which provides for a different completion date, public
74 employees represented by a certified employee organization who are
75 teachers licensed under chapter 168, RSMo, and who are employed by
76 a public employer which is a school district shall complete the
77 negotiation of a proposed collective bargaining agreement not later
78 than May thirty-first of the year when the agreement is to become
79 effective. The board shall provide, by rule, a date on which impasse
80 items in such cases shall be submitted to binding arbitration and for
81 such other procedures as deemed necessary to provide for the
82 completion of negotiations of proposed collective bargaining
83 agreements not later than May thirty-first. The date selected for the
84 mandatory submission of impasse items to binding arbitration in such
85 cases shall be sufficiently in advance of May thirty-first to ensure that
86 the arbitrators' decision can be reasonably made before May thirty-
87 first.

88 (2) If the public employer is a community college, the following
89 apply:

90 (a) The negotiation of a proposed collective bargaining
91 agreement shall be completed not later than May thirty-first of the year
92 when the agreement is to become effective, absent the existence of an
93 impasse agreement negotiated under section 105.567 which provides for
94 a different completion date. The board shall adopt rules providing for
95 a date on which impasse items in such cases shall be submitted to
96 binding arbitration and for procedures for the completion of

97 negotiations of proposed collective bargaining agreements not later
98 than May thirty-first. The date selected for the mandatory submission
99 of impasse items to binding arbitration in such cases shall be
100 sufficiently in advance of May thirty-first to ensure that the arbitrators'
101 decision can be reasonably made by May thirty-first.

102 (b) Notwithstanding the provisions of paragraph (a) of
103 subdivision (2) of this subsection, the May thirty-first deadline may be
104 waived by mutual agreement of the parties to the collective bargaining
105 agreement negotiations.

105.565. An agreement with an employee organization which is
2 the exclusive representative of public employees in an appropriate unit
3 may provide procedures for the consideration of public employee
4 grievances and of disputes over the interpretation and application of
5 agreements. Negotiated procedures may provide for binding
6 arbitration of public employee grievances and of disputes over the
7 interpretation and application of existing agreements. An arbitrator's
8 decision on a grievance may not change or amend the terms,
9 conditions, or applications of the collective bargaining
10 agreement. Such procedures shall provide for the invoking of
11 arbitration only with the approval of the employee organization, and
12 in the case of an employee grievance, only with the approval of the
13 public employee. The costs of arbitration shall be shared equally by the
14 parties. Public employees of the state or public employees covered by
15 civil service shall follow the grievance procedures provided in a
16 collective bargaining agreement.

105.567. As the first step in the performance of their duty to
2 bargain, the public employer and the employee organization shall
3 endeavor to agree upon impasse procedures. Such agreement shall
4 provide for implementation of these impasse procedures not later than
5 one hundred twenty days prior to the certified budget submission date
6 of the public employer. However, if public employees represented by
7 the employee organization are teachers licensed under chapter 168,
8 RSMo, and the public employer is a school district, the agreement shall
9 provide for implementation of impasse procedures not later than one
10 hundred twenty days prior to May thirty-first of the year when the
11 collective bargaining agreement is to become effective. If the public
12 employer is a community college, the agreement shall provide for

13 implementation of impasse procedures not later than one hundred
14 twenty days prior to May thirty-first of the year when the collective
15 bargaining agreement is to become effective. If the parties fail to agree
16 upon impasse procedures under the provisions of this section, the
17 impasse procedures provided in sections 105.569 to 105.573 shall apply.

105.569. In the absence of an impasse agreement negotiated
2 under section 105.567 or the failure of either party to utilize its
3 procedures, one hundred twenty days prior to the certified budget
4 submission date, or one hundred twenty days prior to May thirty-first
5 of the year when the collective bargaining agreement is to become
6 effective if public employees represented by the employee organization
7 are teachers licensed under chapter 168, RSMo, and the public
8 employer is a school district, the board shall, upon request, appoint an
9 impartial and disinterested person to act as mediator. If the public
10 employer is a community college, and in the absence of an impasse
11 agreement negotiated under section 105.567 or the failure of either
12 party to utilize its procedures, one hundred twenty days prior to May
13 thirty-first of the year when the collective bargaining agreement is to
14 become effective, the board, upon the request of either party, shall
15 appoint an impartial and disinterested person to act as mediator. It
16 shall be the function of the mediator to bring the parties together to
17 effectuate a settlement of the dispute, but the mediator shall not
18 compel the parties to agree.

105.573. 1. If an impasse persists ten days after the mediator has
2 been appointed, after the findings of fact and recommendations are
3 made public by the fact-finder, the parties may continue to negotiate
4 or, the board shall have the power, upon request of either party, to
5 arrange for arbitration, which shall be binding. The request for
6 arbitration shall be in writing and a copy of the request shall be served
7 upon the other party.

8 2. Each party shall submit to the board within four days of
9 request a final offer on the impasse items with proof of service of a
10 copy upon the other party. Each party shall also submit a copy of a
11 draft of the proposed collective bargaining agreement to the extent to
12 which agreement has been reached and the name of its selected
13 arbitrator. The parties may continue to negotiate all offers until an
14 agreement is reached or a decision rendered by the panel of

15 arbitrators. As an alternative procedure, the two parties may agree to
16 submit the dispute to a single arbitrator. If the parties cannot agree on
17 the arbitrator within four days, the selection shall be made under
18 subsection 5 of this section. The full costs of arbitration under this
19 provision shall be shared equally by the parties to the dispute.

20 3. The submission of the impasse items to the arbitrators shall
21 be limited to those issues upon which the parties have not reached
22 agreement. With respect to each such item, the arbitration board
23 award shall be restricted to the final offers on each impasse item
24 submitted by the parties to the arbitration board.

25 4. The panel of arbitrators shall consist of three members
26 appointed in the following manner:

27 (1) One member shall be appointed by the public employer;

28 (2) One member shall be appointed by the employee
29 organization;

30 (3) One member shall be appointed mutually by the members
31 appointed by the public employer and the employee organization. The
32 last member appointed shall be the chairperson of the panel of
33 arbitrators. No member appointed shall be an employee of the parties;

34 (4) The public employer and employee organization shall each
35 pay the fees and expenses incurred by the arbitrator each
36 selected. The fee and expenses of the chairperson of the panel and all
37 other costs of arbitration shall be shared equally.

38 5. If the third member has not been selected within four days of
39 notification as provided in subsection 2 of this section, a list of three
40 arbitrators shall be submitted to the parties by the board. The two
41 arbitrators selected by the public employer and the employee
42 organization shall determine by lot which arbitrator shall remove the
43 first name from the list submitted by the board. The arbitrator having
44 the right to remove the first name shall do so within two days and the
45 second arbitrator shall have one additional day to remove one of the
46 two remaining names. The person whose name remains shall become
47 the chairperson of the panel of arbitrators and shall call a meeting
48 within ten days at a location designated by the chairperson.

49 6. If a vacancy should occur on the panel of arbitrators, the
50 selection for replacement of such member shall be in the same manner
51 and within the same time limits as the original member was chosen. No

52 final selection under subsection 9 of this section shall be made by the
53 board until the vacancy has been filled.

54 7. The panel of arbitrators shall at no time engage in an effort to
55 mediate or otherwise settle the dispute in any manner other than that
56 prescribed in this section.

57 8. From the time of appointment until such time as the panel of
58 arbitrators makes its final determination, there shall be no discussion
59 concerning recommendations for settlement of the dispute by the
60 members of the panel of arbitrators with parties other than those who
61 are direct parties to the dispute. The panel of arbitrators may conduct
62 formal or informal hearings to discuss offers submitted by both parties.

63 9. The panel of arbitrators shall consider, in addition to any
64 other relevant factors, the following factors:

65 (1) Past collective bargaining contracts between the parties
66 including the bargaining that led up to such contracts;

67 (2) Comparison of wages, hours and conditions of employment of
68 the involved public employees with those of other public employees
69 doing comparable work, giving consideration to factors peculiar to the
70 area and the classifications involved;

71 (3) The interests and welfare of the public, the ability of the
72 public employer to finance economic adjustments and the effect of such
73 adjustments on the normal standard of services;

74 (4) The power of the public employer to levy taxes and
75 appropriate funds for the conduct of its operations.

76 10. The chairperson of the panel of arbitrators may hold
77 hearings and administer oaths, examine witnesses and documents, take
78 testimony and receive evidence, issue subpoenas to compel the
79 attendance of witnesses and the production of records, and delegate
80 such powers to other members of the panel of arbitrators. The
81 chairperson of the panel of arbitrators may petition the circuit court
82 at the seat of government or of the county in which any hearing is held
83 to enforce the order of the chairperson compelling the attendance of
84 witnesses and the production of records.

85 11. A majority of the panel of arbitrators shall select within
86 fifteen days after its first meeting the most reasonable offer, in its
87 judgment, of the final offers on each impasse item submitted by the
88 parties.

89 12. The selections by the panel of arbitrators and items agreed
90 upon by the public employer and the employee organization, shall be
91 deemed to be the collective bargaining agreement between the parties.

92 13. The determination of the panel of arbitrators shall be by
93 majority vote and shall be final and binding subject to the provisions
94 of subsection 6 of section 105.563. The panel of arbitrators shall give
95 written explanations for its selection and inform the parties of its
96 decision.

 105.575. Any employee organization and public employer may sue
2 or be sued as an entity under the provisions of sections 105.535 to
3 105.591. Service upon the public employer shall be in accordance with
4 law or the rules of civil procedure. Nothing in sections 105.535 to
5 105.591 shall be construed to make any individual or the individual's
6 assets liable for any judgment against a public employer or an
7 employee organization.

 105.577. Any notice required under the provisions of sections
2 105.535 to 105.591 shall be in writing, but service thereof shall be
3 sufficient if mailed by certified mail, return receipt requested
4 addressed to the last known address of the parties, unless otherwise
5 provided in sections 105.535 to 105.591. Refusal of restricted certified
6 mail by any party shall be considered service. Prescribed time periods
7 shall commence from the date of the receipt of the notice. Any party
8 may at any time execute and deliver an acceptance of service in lieu of
9 mailed notice.

 105.579. 1. Every employee organization which is certified as a
2 representative of public employees under the provisions of sections
3 105.535 to 105.591 shall file with the board a registration report, signed
4 by its president or other appropriate officer. The report shall be in a
5 form prescribed by the board and shall be accompanied by two copies
6 of the employee organization's constitution and bylaws. A filing by a
7 national or international employee organization of its constitution and
8 bylaws shall be accepted in lieu of a filing of such documents by each
9 subordinate organization. All changes or amendments to such
10 constitutions and bylaws shall be promptly reported to the board.

11 2. Every employee organization shall file with the board an
12 annual report and an amended report whenever changes are made. The
13 reports shall be in a form prescribed by the board, and shall provide

14 the following information:

15 (1) The names and addresses of the organization, any parent
16 organization or organizations with which it is affiliated, the principal
17 officers, and all representatives;

18 (2) The name and address of its local agent for service of process;

19 (3) A general description of the public employees the
20 organization represents or seeks to represent;

21 (4) The amounts of the initiation fee and monthly dues members
22 shall pay;

23 (5) A pledge, in a form prescribed by the board, that the
24 organization will comply with the laws of the state and that it will
25 accept members without regard to age, race, sex, religion, national
26 origin, or physical disability as provided by law;

27 (6) A financial report and audit.

28 3. The constitution or bylaws of every employee organization
29 shall provide that:

30 (1) Accurate accounts of all income and expenses shall be kept,
31 and an annual financial report and audit shall be prepared. Such
32 accounts shall be open for inspection by any member of the
33 organization, and loans to officers and agents shall be made only on
34 terms and conditions available to all members;

35 (2) Business or financial interests of its officers and agents, their
36 spouses, minor children, parents or otherwise, that conflict with the
37 fiduciary obligation of such persons to the organization shall be
38 prohibited;

39 (3) Every official or employee of an employee organization who
40 handles funds or other property of the organization, or trust in which
41 an organization is interested, or a subsidiary organization, shall be
42 bonded. The amount, scope, and form of the bond shall be determined
43 by the board.

44 4. The governing rules of every employee organization shall
45 provide for periodic elections by secret ballot subject to recognized
46 safeguards concerning the equal right of all members to nominate, seek
47 office, and vote in such elections, the right of individual members to
48 participate in the affairs of the organization, and fair and equitable
49 procedures in disciplinary actions.

50 5. The board shall prescribe rules necessary to govern the

51 establishment and reporting of trusteeships over employee
52 organizations. Establishment of such trusteeships shall be permitted
53 only if the constitution or bylaws of the organization set forth
54 reasonable procedures.

55 6. An employee organization that has not registered or filed an
56 annual report, or that has failed to comply with other provisions of
57 sections 105.535 to 105.591 shall not be certified. Certified employee
58 organizations failing to comply with sections 105.535 to 105.591 may
59 have such certification revoked by the board. Prohibitions may be
60 enforced by injunction upon the petition of the board to the circuit
61 court of the county in which the violation occurs. Complaints of
62 violation of this section shall be filed with the board.

63 7. Upon the written request of any member of a certified
64 employee organization, the auditor of state may audit the financial
65 records of the certified employee organization.

105.581. An employee organization shall not make any direct
2 contribution out of the dues collected from members of the employee
3 organization to any political party or to any candidate for elective
4 public office, including any funds distributed through local or regional
5 dues rebates, without the written consent of the member. Any
6 employee organization which violates the provisions of this section or
7 fails to file any required report or affidavit or files a false report or
8 affidavit shall, upon conviction, be subject to a fine of not more than
9 two thousand dollars. Any person who willfully violates this section,
10 or who makes a false statement knowing it to be false, or who
11 knowingly fails to disclose a material fact shall, upon conviction, be
12 subject to a fine of not more than one thousand dollars or imprisoned
13 for not more than thirty days or shall be subject to both such fine and
14 imprisonment. Each individual required to sign affidavits or reports
15 under this section shall be personally responsible for filing such report
16 or affidavit and for any statement contained therein the individual
17 knows to be false. Nothing in this section shall be construed to prohibit
18 voluntary contributions by individuals to political parties or
19 candidates. Nothing in this section shall be construed to limit or deny
20 any civil remedy which may exist as a result of action which may
21 violate this section.

105.583. If any provision of sections 105.535 to 105.591

2 jeopardizes the receipt by the state or any of its political subdivisions
3 of any federal grant-in-aid funds or other federal allotment of money,
4 the provisions of sections 105.535 to 105.591 shall, insofar as the fund
5 is jeopardized, be deemed to be inoperative.

105.585. A provision of law of this state which is inconsistent
2 with any term or condition of a collective bargaining agreement which
3 is made final under sections 105.535 to 105.591 shall supersede the term
4 or condition of the collective bargaining agreement unless otherwise
5 provided by the general assembly. A provision of a proposed collective
6 bargaining agreement negotiated according to sections 105.535 to
7 105.591 which conflicts with a provision of law of this state shall not
8 become a provision of the final collective bargaining agreement until
9 the general assembly has amended a provision of law of this state to
10 remove the conflict.

105.587. Copies of collective bargaining agreements entered into
2 between the state and the state employees' bargaining representatives
3 and made final under sections 105.535 to 105.591 shall be filed with the
4 secretary of state and be made available to the public at cost.

105.589. A supervisory member, as defined in section 105.537, of
2 any department or agency employed by the state of Missouri shall not
3 be granted a voluntary reduction to a nonsupervisory rank or grade
4 during the six months preceding retirement of the member. A member
5 of any department or agency employed by the state of Missouri who
6 retires in less than six months after voluntarily requesting and
7 receiving a reduction in rank or grade from a supervisory to a
8 nonsupervisory position shall be ineligible for a benefit to which the
9 member is entitled as a nonsupervisory member but is not entitled as
10 a supervisory member.

105.591. 1. Unless the context otherwise requires, the following
2 words mean:

3 (1) "Mediation", a process in which an impartial person attempts
4 to facilitate the resolution of a dispute by promoting voluntary
5 agreement of the parties to the dispute. Mediation shall be deemed to
6 commence upon the mediator's receipt of notice of assignment and shall
7 be deemed to conclude when the dispute is resolved;

8 (2) "Mediator", a member or employee of the board or any other
9 person appointed or requested by the board to assist parties in

10 resolving disputes involving collective bargaining impasses, contested
11 cases, other agency cases, or contract grievances.

12 **2. A mediator shall not be required to testify in any judicial,**
13 **administrative, or grievance proceeding regarding any matters**
14 **occurring in the course of a mediation, including any verbal or written**
15 **communication or behavior, other than facts relating exclusively to the**
16 **timing or scheduling of mediation. A mediator shall not be required to**
17 **produce or disclose any documents, including notes, memoranda, or**
18 **other work product, relating to mediation, other than documents**
19 **relating exclusively to the timing or scheduling of mediation. This**
20 **subsection shall not apply in any of the following circumstances:**

21 **(1) The testimony, production, or disclosure is required by**
22 **statute;**

23 **(2) The testimony, production, or disclosure provides evidence**
24 **of an ongoing or future criminal activity;**

25 **(3) The testimony, production, or disclosure provides evidence**
26 **of child abuse under section 568.060, RSMo.**

 [105.500. Unless the context otherwise requires, the
2 following words and phrases mean:

3 (1) "Appropriate unit" means a unit of employees at any
4 plant or installation or in a craft or in a function of a public body
5 which establishes a clear and identifiable community of interest
6 among the employees concerned;

7 (2) "Exclusive bargaining representative" means an
8 organization which has been designated or selected by majority of
9 employees in an appropriate unit as the representative of such
10 employees in such unit for purposes of collective bargaining;

11 (3) "Public body" means the state of Missouri, or any officer,
12 agency, department, bureau, division, board or commission of the
13 state, or any other political subdivision of or within the state.]

 [105.510. Employees, except police, deputy sheriffs,
2 Missouri state highway patrolmen, Missouri national guard, all
3 teachers of all Missouri schools, colleges and universities, of any
4 public body shall have the right to form and join labor
5 organizations and to present proposals to any public body relative
6 to salaries and other conditions of employment through the

7 representative of their own choosing. No such employee shall be
8 discharged or discriminated against because of his exercise of such
9 right, nor shall any person or group of persons, directly or
10 indirectly, by intimidation or coercion, compel or attempt to compel
11 any such employee to join or refrain from joining a labor
12 organization, except that the above excepted employees have the
13 right to form benevolent, social, or fraternal
14 associations. Membership in such associations may not be
15 restricted on the basis of race, creed, color, religion or ancestry.]

[105.520. Whenever such proposals are presented by the
2 exclusive bargaining representative to a public body, the public
3 body or its designated representative or representatives shall meet,
4 confer and discuss such proposals relative to salaries and other
5 conditions of employment of the employees of the public body with
6 the labor organization which is the exclusive bargaining
7 representative of its employees in a unit appropriate. Upon the
8 completion of discussions, the results shall be reduced to writing
9 and be presented to the appropriate administrative, legislative or
10 other governing body in the form of an ordinance, resolution, bill
11 or other form required for adoption, modification or rejection.]

[105.525. Issues with respect to appropriateness of
2 bargaining units and majority representative status shall be
3 resolved by the state board of mediation. In the event that the
4 appropriate administrative body or any of the bargaining units
5 shall be aggrieved by the decision of the state board of mediation,
6 an appeal may be had to the circuit court of the county where the
7 administrative body is located or in the circuit court of Cole
8 County. The state board of mediation shall use the services of the
9 state hearing officer in all contested cases.]

[105.530. Nothing contained in sections 105.500 to 105.530
2 shall be construed as granting a right to employees covered in
3 sections 105.500 to 105.530 to strike.]

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