

SECOND REGULAR SESSION

SENATE BILL NO. 1115

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS BRAY, JUSTUS, GREEN, COLEMAN AND SMITH.

Read 1st time February 11, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4944S.02I

AN ACT

To repeal sections 105.500, 105.510, 105.520, 105.525, and 105.530, RSMo, and to enact in lieu thereof ten new sections relating to good faith employee negotiations.

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Section A. Sections 105.500, 105.510, 105.520, 105.525, and 105.530, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 37.040, 105.500, 105.510, 105.520, 105.525, 105.526, 105.527, 105.529, 105.530, and 105.540, to read as follows:

37.040. 1. Within thirty days of the effective date of this section, the commissioner of administration shall appoint a chief negotiator to serve within the office of administration to represent the state in any negotiations and the administration of all labor contracts entered into by the state under the provisions of sections 105.500 to 105.540, RSMo. The commissioner of administration may employ personnel to assist the chief negotiator.

2. The chief negotiator shall:

(1) Negotiate or supervise the negotiations of labor contracts on a statewide basis;

(2) Be responsible for the administration of all collective bargaining agreements;

(3) Be vested with authority on all mandatory topics of bargaining to negotiate the contracts; and

(4) Prepare an annual report, including recommendations, for submission to the governor and general assembly regarding wages,

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

17 **hours, and conditions of employment.**

105.500. 1. Sections 105.500 to 105.540 shall be known and may be
2 cited as the "Public Employment Relations Act". Nothing in sections
3 105.500 to 105.540 shall be construed to permit any public employee to
4 engage in or support a strike, nor to prohibit any public employee from
5 joining or participating in any employee organization.

6 2. As used in sections 105.500 to 105.540, unless the context otherwise
7 requires, the following words and phrases mean:

8 (1) "Appropriate unit" [means], a unit of employees at any plant or
9 installation or in a craft or in a function of a public body which establishes a clear
10 and identifiable community of interest among the employees concerned;

11 (2) "Arbitration", the procedure whereby the parties involved in
12 an impasse or grievance dispute submit their differences to a third
13 party for a final and determinative decision;

14 (3) "Collective bargaining", "to negotiate in good faith", or "good
15 faith negotiations", to perform the mutual obligation of the public body,
16 by its representatives, and the representatives of its employees to
17 negotiate in good faith at reasonable times and places with respect to
18 wages, hours, and other terms and conditions of employment and the
19 continuation, modification, or deletion of an existing provision of a
20 collective bargaining agreement, with the intention of reaching an
21 agreement, or to resolve questions arising under an agreement. This
22 includes executing a written contract incorporating the terms of any
23 agreement reached. The obligation to bargain collectively shall not
24 mean that either party is compelled to agree to a proposal nor shall it
25 require the making of a concession;

26 (4) "Confidential employee", any public employee who works in
27 the personnel offices of a public body and deals with information to be
28 used by the public body in collective bargaining, or any employee who
29 works in a close, continuing relationship with public officers or
30 representatives personally participating in employee negotiations on
31 behalf of the employer, including their personal secretaries;

32 (5) "Employee organization", an organization of any kind in
33 which public employees participate and which exists for the primary
34 purpose of representing public employees in their employment
35 relations;

36 (6) "Exclusive bargaining representative" [means], an organization which

37 has been designated or selected by a majority of employees in an appropriate unit
38 as the representative of such employees in such unit for purposes of collective
39 bargaining;

40 **(7) "Governing body", the board, council, or commission, whether**
41 **elected or appointed, of a political subdivision of this state, including**
42 **school districts and other special purpose districts, which determines**
43 **the policies for the operation of the political subdivision;**

44 **(8) "Impasse", the failure of a public body and the exclusive**
45 **bargaining representative to reach agreement in the course of**
46 **negotiations;**

47 **(9) "Mediation", assistance by an impartial third party to**
48 **reconcile an impasse between the public body and the exclusive**
49 **bargaining representative regarding good faith negotiations;**

50 **(10) "Professional employee", any employee engaged in work**
51 **predominantly intellectual and varied in character rather than routine**
52 **mental, manual, mechanical, or physical work; involving the consistent**
53 **exercise of discretion and judgment in its performance; of such a**
54 **character that the output produced or the result accomplished cannot**
55 **be standardized in relation to a given period of time; and requiring**
56 **knowledge of an advanced type in a field of science or learning**
57 **customarily acquired by a prolonged course of specialized intellectual**
58 **instruction and study in an institution of higher learning or a hospital,**
59 **as distinguished from a general academic education or from an**
60 **apprenticeship or from training in the performance of routine mental,**
61 **manual, or physical processes; or any employee who has completed the**
62 **course of specialized intellectual instruction and study described above**
63 **and is performing related work under the supervision of a professional**
64 **person to qualify to become a professional employee as defined above;**

65 **[(3)] (11) "Public body" [means] or "public employer", the state of**
66 **Missouri, or any officer, agency, department, bureau, division, board or**
67 **commission of the state, or any other political subdivision of or within the state,**
68 **including school districts and public higher educational institutions;**

69 **(12) "Public employee", any individual employed by a public**
70 **employer, except individuals exempted under the provisions of section**
71 **105.510;**

72 **(13) "Strike", a public employee's refusal in concerted action with**
73 **others, to report to duty, or the willful absence from one's position, the**

74 **stoppage of work or the abstinence in whole or in part from the full,**
75 **faithful and proper performance of the duties of employment, for the**
76 **purpose of inducing, influencing or coercing a change in the conditions**
77 **or compensations or the rights, privileges or obligations of public**
78 **employment. Nothing contained in sections 105.500 to 105.540 shall be**
79 **construed to limit, impair or affect the right of any public employee to**
80 **the expression or communication of a view, grievance, complaint or**
81 **opinion on any matter related to the conditions or compensation of**
82 **public employment or their betterment, so long as the same is not**
83 **designed to and does not interfere with the full, faithful and proper**
84 **performance of the duties of employment;**

85 (14) "Supervisor", an employee who devotes a substantial amount
86 of work time to supervisory duties, who customarily and regularly
87 directs the work of two or more other employees and who has the
88 authority in the interest of the employer to hire, promote or discipline
89 other employees or to recommend such actions effectively but shall not
90 include individuals who perform merely routine, incidental or clerical
91 duties or who occasionally assume supervisory or directory roles or
92 whose duties are substantially similar to those of their subordinates
93 and shall not include lead employees, charge nurses, professional
94 nurses required by state licensure to provide care and to direct the
95 care provided to patients or clients, or employees who participate in
96 peer review, employee involvement programs or occasional employee
97 evaluation programs.

105.510. 1. Employees[, except police, deputy sheriffs, Missouri state
2 highway patrolmen, Missouri national guard, all teachers of all Missouri schools,
3 colleges and universities,] of any public body shall have the right to form and join
4 labor organizations and to present proposals to any public body relative to
5 salaries and other conditions of employment through the representative of their
6 own choosing. No such employee shall be discharged or discriminated against
7 because of his **or her** exercise of such right, nor shall any person or group of
8 persons, directly or indirectly, by intimidation or coercion, compel or attempt to
9 compel any such employee to join or refrain from joining a labor organization[,
10 except that the above excepted employees have the right to form benevolent,
11 social, or fraternal associations]. Membership in such associations may not be
12 restricted on the basis of race, creed, color, religion or ancestry.

13 **2. (1) Public employees may refuse to join or participate in the**
14 **activities of an employee organization, including the payment of any**
15 **dues, fees, assessments, or service fees of any type, except to the extent**
16 **that agreements between the public body and the representative**
17 **require, as a condition of employment, the payment of a service fee in**
18 **lieu of, and in an amount not greater than, dues which are payable by**
19 **members of the employee organization to cover the cost of negotiation,**
20 **contract administration and other activities of the employee**
21 **organization which are germane to its functions as the**
22 **representative. The representative shall, as a condition of receiving**
23 **such service fees, provide the following protections to persons required**
24 **to pay such fees who object to paying all or a portion thereof:**

25 **(a) Written notice of the fee which will be payable, expressed in**
26 **a dollar amount or a percentage of the dues payable by members, and**
27 **the basis upon which the representative has determined such fee;**

28 **(b) An opportunity to challenge such determination; and**

29 **(c) Escrowing of any portion of the service fee paid by a**
30 **challenging employee which is reasonably in dispute pending the**
31 **determination;**

32 **(2) An agreement may require the payment of a service fee**
33 **commencing thirty days after the beginning of employment or the**
34 **effective date of such agreement, whichever is later;**

35 **(3) The agreement entered into between the employer and the**
36 **representative shall include a provision for the checkoff of initiation**
37 **fees and dues to the representative or the payment of a service fee in**
38 **lieu thereof as authorized by this section;**

39 **3. The following public employees shall be excluded from the**
40 **provisions of sections 105.500 to 105.540:**

41 **(1) Elected officials and persons appointed to fill vacancies in**
42 **elected offices, and members of any board or commission with respect**
43 **to service on such board or commission;**

44 **(2) Representatives of a public body, including the**
45 **administrative officer, director or chief executive officer of a public**
46 **body, or major division thereof as well as his or her deputy, first**
47 **assistant and any supervisory employees;**

48 **(3) Confidential employees;**

49 **(4) Temporary public employees employed for a fixed period of**

50 **four months or less;**

51 **(5) Judges of the supreme court, judges of the court of appeals,**
52 **circuit judges, and associate circuit judges;**

53 **(6) Employees of any legislative body of the public employer**
54 **whose principal duties are directly related to the legislative functions**
55 **of the body;**

56 **(7) Patients and inmates employed, sentenced or committed to**
57 **any state or local institution.**

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

13 **2. Any bargaining unit or exclusive representative of an**
14 **appropriate unit of a public body, other than the state, recognized**
15 **prior to May 29, 2007, shall continue to be recognized as appropriate**
16 **for purposes of sections 105.500 to 105.540. Bargaining units of public**
17 **bodies, other than the state, established between May 29, 2007, and the**
18 **effective date of the rules promulgated by the board of mediation under**
19 **section 105.525 shall continue to be recognized if the exclusive**
20 **representative was voluntarily recognized through a bargained**
21 **agreement or recognized through a union representation election**
22 **conducted by the board of mediation. Exclusive representatives of**
23 **state bargaining units certified prior to the effective date of the rules**
24 **promulgated by board under section 105.525 shall continue to be**
25 **recognized until board certification of an employee organization as the**
26 **exclusive representative of a majority of employees in the preexisting**
27 **bargaining unit in accordance with the procedures of sections 105.500**
28 **to 105.540. A state employee included in a bargaining unit established**
29 **under this section shall no longer be in an appropriate preexisting**

30 **bargaining unit upon the certification of an election by the board in**
31 **accordance with section 105.525.**

32 **3. Nothing in sections 105.500 to 105.540 shall be construed to**
33 **annul or modify any collective bargaining agreement entered into**
34 **between a public body, other than the state, and the exclusive**
35 **representative of an appropriate unit of that public body prior to the**
36 **effective date of sections 105.500 to 105.540. Collective bargaining**
37 **agreements entered into between the state and the exclusive**
38 **representative shall continue to apply to an employee until the**
39 **employee is no longer in a preexisting bargaining unit represented by**
40 **the exclusive representative.**

41 **4. The board determination of an appropriate bargaining unit of**
42 **a public body, other than the state, shall be upon petition filed by an**
43 **employee organization.**

44 **5. Within thirty days of receipt of a petition, the board shall**
45 **conduct a public hearing, receive written or oral testimony, and**
46 **promptly thereafter file an order defining the appropriate bargaining**
47 **unit. Any bargaining unit of a public body, other than the state,**
48 **consisting solely of uniformed firefighters or uniformed police officers**
49 **shall be presumptively appropriate. The board determination of an**
50 **appropriate unit shall not be subject to judicial review.**

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

9 **2. When a petition is filed by an employee or employee**
10 **organization containing the signatures of at least thirty percent of the**
11 **employees in an appropriate unit, the board shall conduct a secret**
12 **ballot representation election. The ballot shall contain the name of any**
13 **employee organization proposed in the petition containing signatures**
14 **of at least thirty percent of the public employees within the**
15 **appropriate unit and a choice of no representation.**

16 **3. If none of the choices receive a majority of the employees**

17 voting, the board shall conduct a runoff election among the two choices
18 receiving the greatest number of votes within fifteen days unless
19 objections are timely filed in accordance with this section in which
20 case the runoff election shall be conducted within fifteen days of the
21 board's determination of the validity of such objections.

22 4. Upon written objections filed by any party within ten days
23 after notice of the results of the election, the board may invalidate the
24 election and hold a subsequent election if the board finds that
25 misconduct or other circumstances prevented the employees from
26 freely expressing their preferences.

27 5. Upon completion of a valid election, the board shall certify an
28 exclusive bargaining representative which is the majority choice of the
29 employees voting and give notice to all interested parties.

30 6. A petition for decertification or certification of 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 unless the collective bargaining
35 agreement has been in effect for more than three years or the petition
36 for decertification is filed not more than two hundred ten days and not
37 less than one hundred eighty days prior to the expiration of the
38 collective bargaining agreement.

39 7. When a petition of a public employee is filed containing at
40 least thirty percent of the signatures that allege that a certified or
41 recognized employee organization does not represent a majority of such
42 public employees, and that the petitioners do not want to be
43 represented by any employee organization, or seek certification of a
44 different employee organization, the board shall give notice to
45 interested parties and call an election within thirty days of receipt of
46 the petition unless it finds that less than thirty percent of the public
47 employees in the appropriate unit support the petition for
48 decertification.

49 8. The board of mediation shall adopt rules and regulations
50 pertaining to the following:

51 (1) The certification and decertification of exclusive bargaining
52 representatives;

53 (2) Impasse procedures as provided in section 105.527;

54 **(3) Grievance procedures regarding actions and decisions of the**
55 **board of mediation;**

56 **(4) The payment of fees and assessments;**

57 **(5) The holding of hearings, administering of oaths, receiving of**
58 **evidence, and examining of witnesses;**

59 **(6) The collection of data relating to wages, hours and benefits**
60 **of public employees;**

61 **(7) The maintenance of a list of qualified mediators and**
62 **arbitrators and respective compensation rates of such persons;**

63 **(8) The enforcement of good faith negotiation rights as provided**
64 **under sections 105.500 to 105.540; and**

65 **(9) Such other matters necessary to implement the provisions of**
66 **sections 105.500 to 105.530.**

67 **9. (1) Any rule or portion of a rule, as that term is defined in**
68 **section 536.010, RSMo, that is created under the authority delegated in**
69 **this section shall become effective only if it complies with and is**
70 **subject to all of the provisions of chapter 536, RSMo, and, if applicable,**
71 **section 536.028, RSMo. This section and chapter 536, RSMo, are**
72 **nonseverable and if any of the powers vested with the general assembly**
73 **pursuant to chapter 536, RSMo, to review, to delay the effective date,**
74 **or to disapprove and annul a rule are subsequently held**
75 **unconstitutional, then the grant of rulemaking authority and any rule**
76 **proposed or adopted after August 28, 2008, shall be invalid and void;**

77 **(2) If any agreement or decision made under sections 105.500 to**
78 **105.540, requires a change in any rule applicable to an agency, such**
79 **agency shall promptly initiate procedures necessary to modify such**
80 **rule in compliance with the provisions of this subsection.**

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

7 **2. The employee organization certified as the bargaining**
8 **representative shall be the exclusive representative of all public**
9 **employees in the bargaining unit and shall represent all public**
10 **employees fairly. However, any public employee may meet and adjust**

11 individual complaints with a public employer. To sustain a claim that
12 a certified employee organization has committed a prohibited practice
13 by breaching its duty of fair representation, a public employee shall
14 establish by a preponderance of the evidence, action, or inaction by the
15 organization which was arbitrary, discriminatory, or in bad faith.

16 3. The employee organization and the public employer may
17 designate any individual as its representative to engage in collective
18 bargaining negotiations.

19 4. Negotiating sessions, strategy meetings of public employers or
20 employee organizations, mediation, and the deliberative process of
21 arbitrators shall be closed meetings under the provisions of chapter
22 610, RSMo. However, the employee organization shall present its initial
23 bargaining position to the public employer at the first bargaining
24 session. The public employer shall present its initial bargaining
25 position to the employee organization at the second bargaining session,
26 which shall be held no later than two weeks following the first
27 bargaining session. Both sessions shall be open to the public and
28 subject to the provisions of chapter 610, RSMo. Hearings conducted by
29 impasse arbitrators shall be open to the public.

30 5. The terms of a proposed collective bargaining agreement shall
31 be made available to the public by the public employer and reasonable
32 notice shall be given to the public employees by the employee
33 organization prior to a ratification election. The collective bargaining
34 agreement shall become effective only if ratified by a majority of those
35 voting by secret ballot.

36 6. Terms of any collective bargaining agreement may be enforced
37 by a civil action in the circuit court of the county in which the
38 agreement was made upon the initiative of either party.

39 7. No collective bargaining agreement or arbitrators' decision
40 shall be construed to require a public employer to violate any statutory
41 or constitutional limitation on the public employer's funds, spending,
42 or budget. A collective bargaining agreement or arbitrators' award
43 may provide for benefits conditional upon specified funds to be
44 obtained by the public employer, but the agreement shall provide
45 either for automatic reduction of such conditional benefits or for
46 additional bargaining if the funds are not obtained or if a lesser
47 amount is obtained.

48 8. If agreed to by the parties, nothing in sections 105.500 to
49 105.540 shall be construed to prohibit supplementary bargaining on
50 behalf of public employees in a part of the bargaining unit concerning
51 matters uniquely affecting those public employees or cooperation and
52 coordination of bargaining between two or more bargaining units.

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.

 105.527. 1. A request for negotiations shall be filed in writing by
2 an exclusive bargaining representative. The public employer and the
3 employee organization shall meet at reasonable times, including
4 meetings reasonably in advance of the public employer's budget making
5 process, to negotiate in good faith. Such obligation to negotiate in good
6 faith does not compel either party to agree to a proposal or make a
7 concession.

8 2. As the first step in the performance of their duty to bargain,
9 the public employer and the employee organization shall endeavor to
10 agree upon impasse procedures. Such agreement shall provide for
11 implementation of these impasse procedures not later than one
12 hundred twenty days prior to the certified budget submission date of
13 the public employer. In the absence of a negotiated impasse agreement,
14 if an impasse occurs during negotiations, and if no agreement is
15 reached by the parties by the date specified in this subsection, either
16 party may submit a request for mediation to the state board of
17 mediation. The parties involved shall mutually agree upon a mediator
18 or request the board to appoint an impartial mediator and such
19 appointment shall occur within ten days of such request.

20 3. The mediator shall provide services to the parties until the
21 parties reach agreement, the mediator believes that mediation services
22 are no longer helpful, or after the passage of thirty days, whichever
23 occurs first. If the mediator determines that mediation services are no
24 longer helpful or if the thirty-day deadline occurs, either party may
25 submit the unresolved issues to arbitration by an arbitrator. The board

26 shall provide the parties with a list of seven qualified arbitrators. Each
27 party shall alternately strike one name from the list with the party
28 submitting the impasse to arbitration making the first strike until one
29 name remains who shall be the arbitrator for the parties involved in
30 the dispute.

31 4. Each party shall submit a final offer on each separate item
32 remaining at impasse to the arbitrator and the other party. The
33 arbitrator shall determine that either the final offer of the employer or
34 the final offer of the exclusive representative on each separate issue
35 shall be incorporated into the agreement, provided that the arbitrator
36 shall not amend the offer of either party on any issue.

37 5. The arbitrator shall begin hearings no later than thirty days
38 after the request for arbitration in accordance with procedures
39 prescribed by the board and the provisions of sections 435.350 to
40 435.470, RSMo, except section 435.460, RSMo, shall be applicable to the
41 proceedings of the arbitrator. The arbitrator shall render a decision
42 in writing no later than sixty days after initiation of arbitration. The
43 costs of such arbitration shall be borne equally by the parties. All time
44 limits in this section may be extended by mutual agreement of the
45 parties.

46 6. The procedures set forth in this section for collective
47 bargaining and the resolutions of impasses reached in collective
48 bargaining shall be followed by state and local public bodies and
49 exclusive bargaining representatives of employees of state and local
50 government bodies provided that local public bodies and such exclusive
51 bargaining representatives shall determine collective bargaining time
52 tables by mutual agreement of the parties, depending upon the fiscal
53 year of the local public body.

105.529. 1. Any portion of a final agreement which requires the
2 public body to appropriate funds shall be subject to constitutional and
3 statutory law and in the case of the state, be addressed in the budget
4 submitted by the governor to the general assembly where it shall
5 proceed through the formal appropriations process. Any political
6 subdivision may adopt reasonable procedures which reflect the nature
7 of such political subdivision's budget process and fiscal year.

8 2. In case of any conflict between the provisions of section
9 37.040, RSMo, and sections 105.500 to 105.540 and any other law, the

10 particular provisions of section 37.040, RSMo, and sections 105.500 to
11 105.540 in conflict which cannot be harmonized shall prevail over
12 general provisions in any other law, and where those particular
13 provisions of sections 105.500 to 105.540 are in conflict with the
14 particular provisions in any other law, the law later enacted shall
15 prevail.

16 3. The agreement shall remain in effect for the term specified
17 therein. Upon the expiration of an agreement, the terms of such
18 agreement shall remain in effect until superseded by a new agreement.

19 4. The provisions of sections 105.500 to 105.540, are hereby
20 declared to be severable. Should any of the provisions of sections
21 105.500 to 105.540, be declared unconstitutional or in conflict with some
22 other provision of law, the remaining provisions of sections 105.500 to
23 105.540, shall continue to be the law of the state relative to public
24 employment relations.

25 5. Any employee organization and public employer may sue or be
26 sued as an entity under the provisions of sections 105.500 to
27 105.540. Service upon the public employer or upon the exclusive
28 bargaining representative shall be in accordance with the Missouri
29 rules of civil procedure, except that for purposes of actions and
30 proceedings by or against exclusive bargaining representatives under
31 sections 105.500 to 105.540, the circuit courts shall be deemed to have
32 jurisdiction of an exclusive bargaining representative in the circuit in
33 which such organization maintains its principal office, or in any circuit
34 in which its duly authorized officers or agents are engaged in
35 representing or acting for employee members. Nothing in sections
36 105.500 to 105.540, shall be construed to make any individual or such
37 individual's assets liable for any judgment against a public employer
38 or an exclusive bargaining representative.

105.530. [Nothing contained in sections 105.500 to 105.530 shall be
2 construed as granting a right to employees covered in sections 105.500 to 105.530
3 to strike.] 1. It shall be unlawful for public employees to strike. If a
4 strike occurs, the public body may initiate an action for injunctive
5 relief in the circuit court of jurisdiction where the strike occurs.

6 2. It shall be unlawful for any public body to authorize, consent
7 to or condone an illegal strike.

8 3. It shall be a prohibited practice for any public employer,

9 public employee or employee organization to willfully refuse to
10 negotiate in good faith with respect to the scope of negotiations as
11 defined in section 105.527.

12 4. It shall be a prohibited practice for a public employer or the
13 employer's designated representative to willfully:

14 (1) Interfere with, restrain, or coerce public employees in the
15 exercise of rights granted by sections 105.500 to 105.540;

16 (2) Dominate or interfere in the administration of any employee
17 organization;

18 (3) Encourage or discourage membership in any employee
19 organization, committee, or association by engaging in discrimination
20 in hiring, tenure, or in relation to other terms or conditions of
21 employment;

22 (4) Discharge or discriminate against a public employee because
23 the employee has filed an affidavit, petition, or complaint, given any
24 information or testimony under sections 105.500 to 105.540, or the
25 employee has formed, joined, or chosen to be represented by any
26 employee organization;

27 (5) Refuse to negotiate collectively with representatives of
28 certified employee organizations as required in sections 105.500 to
29 105.540;

30 (6) Deny the rights accompanying certification or exclusive
31 recognition granted in sections 105.500 to 105.540;

32 (7) Refuse to participate in good faith in any agreed upon
33 impasse procedures or those set forth in sections 105.500 to 105.540;

34 (8) Engage in a lockout.

35 5. It shall be a prohibited practice for public employees, an
36 employee organization, or any person, union, or organization or their
37 agents to willfully:

38 (1) Interfere with, restrain, coerce, or harass any public
39 employee with respect to any of the employee's rights under sections
40 105.500 to 105.540 in order to prevent or discourage the employee's
41 exercise of any such right, including, without limitation, all rights
42 under section 105.510;

43 (2) Interfere, restrain, or coerce a public employer with respect
44 to the rights granted in sections 105.500 to 105.540 or with respect to
45 selecting a representative for the purposes of negotiating collectively

46 on the adjustment of grievances;

47 (3) Refuse to bargain collectively with a public employer as
48 required in sections 105.500 to 105.540;

49 (4) Refuse to participate in good faith in any agreed upon
50 impasse procedures or those set forth in sections 105.500 to 105.540;

51 (5) Picket in a manner which interferes with ingress and egress
52 to the facilities of the public employer;

53 (6) Engage in, initiate, sponsor, or support any picketing that is
54 performed in support of a strike, work stoppage, boycott, or slowdown
55 against a public employer;

56 (7) Picket for any unlawful purpose.

105.540. 1. Proceedings against a party alleging a violation of
2 section 105.530 shall be commenced by filing a complaint with the state
3 board of mediation within ninety days of the alleged violation causing
4 a copy of the complaint to be served upon the accused party in
5 accordance with the Missouri rules of civil procedure. 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 shall have the
18 powers as may be exercised by the board for conducting the hearing
19 and shall follow the procedures adopted by the board for conducting
20 the hearing. The decision of the administrative law judge may be
21 appealed to the board and the board may hear the case de novo or upon
22 the 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.**

✓

Bill

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