

BUREAU OF MEDIATION SERVICES, 1999

GUIDE TO

M I N N E S O T A

*Bureau of
Mediation Services*

1999

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November 1998

Bureau of Mediation Services

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STATE OF MINNESOTA

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
SAINT PAUL 55155

ARNE H. CARLSON
GOVERNOR

To the Incoming Administration:

Welcome to state government and the Bureau of Mediation Services. You have assumed leadership of a very important and effective resource for employers and labor organizations in Minnesota.

The past eight years in Minnesota have been marked by very positive and constructive public sector labor-management relationships. The number and length of labor disputes leading to work stoppages in the public sector during this period has been among the lowest for any comparable period in our recent history. In large part, this is due to the hard work, competence and credibility of the Minnesota Bureau of Mediation Services. In addition to holding labor disputes to a minimum, a constructive labor-management climate contributes to our ability to foster and sustain strong economic development for the state.

Among the accomplishments of the Bureau of Mediation Services in this endeavor are:

- Effective mediation efforts that have kept work stoppages to an extremely low level, particularly in the public sector. For example, in K-12 public education there have been no teacher strikes since 1992.
- A matching grant program that has successfully promoted joint labor-management cooperation. Nine labor-management councils in Minnesota currently receive matching grants from the Bureau of Mediation Services.
- An aggressive program to assist employers and unions in forming joint committees at the work-site level. Approximately 48 such committees have been established in the past two fiscal years.
- A proactive training program available to labor-management practitioners that teaches conflict resolution skills and interest-based collective bargaining techniques.
- A very successful and innovative program promoting the use of alternative dispute resolution techniques designed to avoid costly litigation. Examples of efforts in this area include public policy issues in transportation, environment and land use, as well as disputes in the areas of human rights discrimination and K-12 special education.

These accomplishments have been achieved without an increase in staff of the Bureau of Mediation Services.

Minnesota has justly earned a nationwide reputation for support of constructive labor-management relationships. With continued leadership from the Bureau of Mediation Services, I am confident that even further contributions to the state's labor-management climate and economic development can be made.

Warmest regards,

A handwritten signature in black ink that reads "Arne H. Carlson".

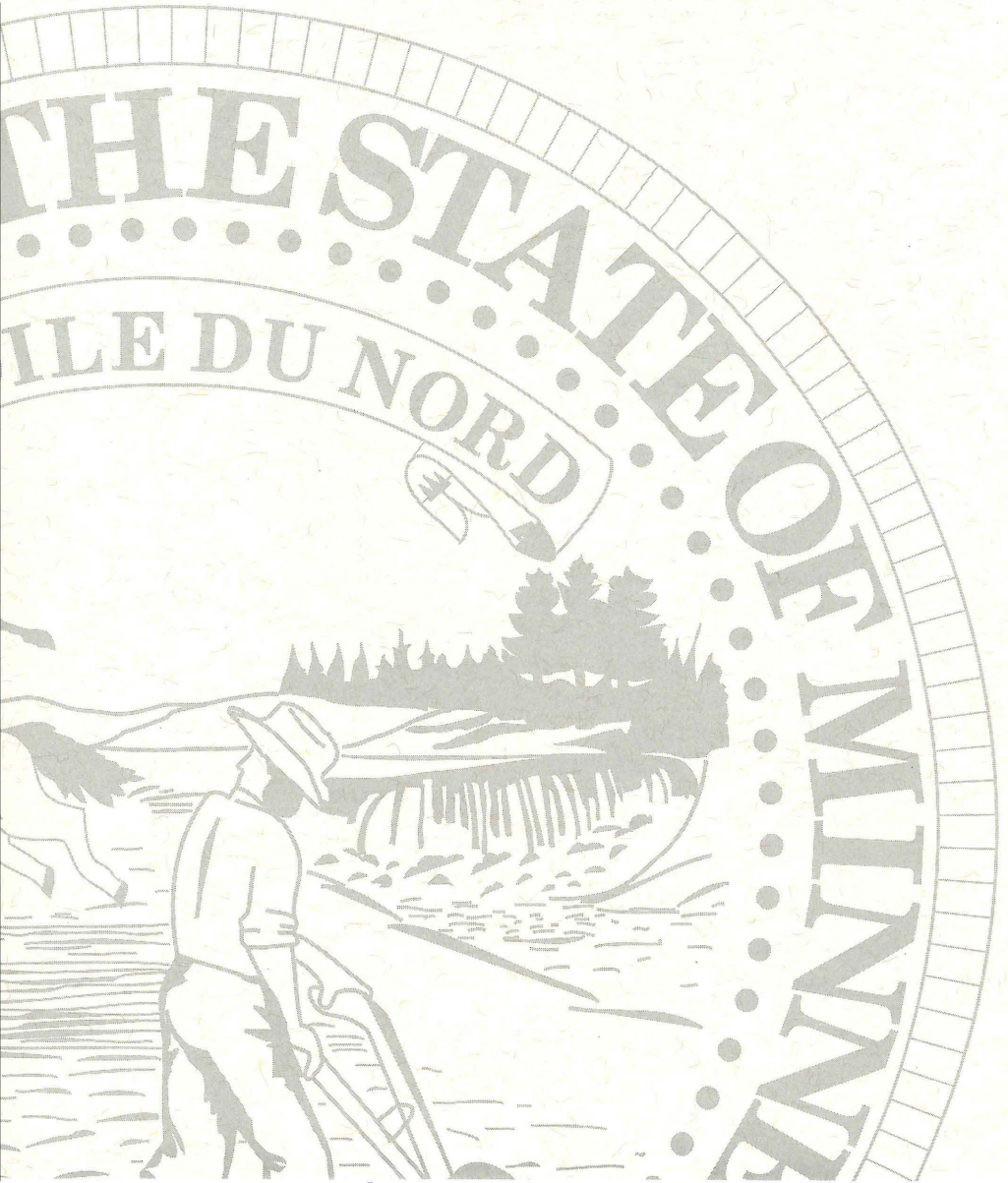
ARNE H. CARLSON
Governor

2 Summary Description of the BMS

BMS

BUREAU OF MEDIATION SERVICES

1380 Energy Lane, Suite 2, St. Paul, MN 55108



The Bureau of Mediation Services

History

In 1939, the state legislature enacted the Minnesota Labor Relations Act (MLRA) as a means of peacefully settling disputes resulting from the growing size and strength of Minnesota's labor movement. The Act recognized that a sound economy is aided by a constructive labor-management environment. To administer the Act, the legislature created the Division of Conciliation, the forerunner of the present Bureau of Mediation Services (BMS). The Division was to perform four functions: conciliation/mediation, arbitration, bargaining unit determinations, and bargaining unit certification elections.

Over the years, growth in the state's economy and union representation, increased complexity of contract negotiations, and growing acceptance of mediation caused the legislature to pass additional laws affecting labor-management relations. As a result, the Division was renamed the Bureau of Mediation Services with additional responsibility to administer these laws. Enactment of the Public Employment Labor Relations Act of 1971 (PELRA) and its subsequent amendments have further expanded the role of the BMS.

In 1993, the legislature transferred the MN Office of Dispute Resolution to the BMS.

Mission

The labor relations mission of the BMS is to enhance the quality and character of union-management relationships so that labor disputes are reduced. This mission is fulfilled by anticipating future needs and responding to requests for programs to improve labor-management relationships through competent, proactive and innovative ways including:

- resolving collective bargaining and grievance disputes
- resolving issues of representation and bargaining structure
- supporting, facilitating and training area and worksite committees
- providing training and information
- maintaining a roster of arbitrators

The public dispute resolution mission of the Office of Dispute Resolution is to promote the use of means other than litigation for resolving non labor-management disputes involving public agencies in Minnesota. The mission is accomplished through mediation, group facilitation, education and training.

Organization

The BMS has the following programs:

- Mediation
- Representation
- Arbitrator Referral
- Labor-Management Cooperation
- Labor Relations Training
- Office of Dispute Resolution

Mediation Unit

The majority of BMS staff resources are devoted to the mediation of collective bargaining disputes. The disputes are either a result of the parties' inability to agree on terms and conditions for a labor contract or as a result of an alleged violation of the terms and conditions of an existing labor contract. The former is referred to as "contract mediation" and the latter as "grievance mediation."

Contract Mediation

Contract mediation usually starts when negotiations between the parties become non-productive or cease altogether. Labor or management may petition the BMS for the services of a mediator. The mediator convenes a meeting to help the parties find a basis for resolving the dispute on terms that are acceptable to both parties. The mediator examines and analyzes positions and interests to ensure that both parties have a clear understanding of the issues before them. Attempts are made to identify priorities and focus the parties' efforts on problems that must be solved for an agreement. The mediator works to foster an atmosphere that is conducive to idea-sharing and problem-solving.

Grievance Mediation

Grievance mediation is a significant and growing area of BMS services. Using traditional mediation procedures and techniques, mediators assist labor and management in the resolution of disputes over contract

interpretation or employee discipline which might otherwise be submitted to arbitration. Resolution of grievance disputes through the mediation process tends to improve the overall climate of labor relations and avoids the financial costs and win/lose outcome of arbitration.

With a success rate of over 80%, grievance mediation has resulted in substantial cost and time savings for both management and labor as well as more stable and peaceful relationships.

Interest-Based Collective Bargaining

The BMS offers training and mediation services in Interest-Based Collective Bargaining (IBCB). IBCB is a facilitated, collaborative problem-solving negotiating process that creates effective solutions while improving the working relationship between labor and management. It uses issues, interests, options and standards in contrast to traditional bargaining which focuses on labor and management positions and pressures to achieve settlement. Other terms for IBCB are: win-win, best practices, mutual gain, principled and integrative. Before engaging in IBCB, the BMS requires both negotiating teams to complete a two-hour exploratory session and a one-day training session.

Representation Unit

The BMS establishes groupings or units of employees which are appropriate for the purpose of collective bargaining and determines whether the employees within those groups desire to be represented by a labor union. When the employer and a labor union cannot agree as to the makeup of the appropriate unit or the employees to be included, the issue is resolved by the BMS. The issue is addressed at a public hearing where the employer and the labor union provide evidence and testimony in support of their respective positions. The BMS then resolves the issues based on the hearing record.

Following the unit determination process, the BMS may conduct a secret ballot election among the employees within the appropriate unit to resolve the question of representation. A labor union receiving a majority of the votes cast at the election is certified as the exclusive representative for the employees and thereby gains the right to collectively bargain with the employer over their terms and conditions of employment. When questions of appropriate unit placement arise after an original certification, the BMS conducts unit clarification hearings in a forum similar to that used in the original certification proceeding.

Fair Share Fee Challenges

Labor unions may assess public employees who are represented by the union, but who are non-members, a fair share fee. The fee reflects the costs of representing employees who do not voluntarily support the union through dues. Employees assessed such a fee may challenge the fee under certain conditions. The BMS is responsible for resolving the challenges.

Union Democracy Act Elections

Upon request, the BMS assists labor organizations by supervising elections to select union officers or ratify contracts.

Arbitrator Referral

The BMS maintains a roster of up to 60 neutral arbitrators. Names from the roster are forwarded to labor and management representatives upon written request. Referrals from this list are made for both contract and grievance disputes. Arbitrators selected for membership on the BMS roster must meet rigorous standards of professional experience in labor relations, arbitration hearings and awards, and must demonstrate a reputation in the labor relations community for high standards of competence, ethics and integrity.

Labor-Management Co-op Unit

Background

In 1987 the legislature authorized the BMS to assist labor and management in establishing and operating joint labor-management partnerships at the worksite. Through this process, labor and management representatives collaboratively address problems and develop plans for improving the relationships and operation of the organization.

Worksite Labor - Management Committees

The BMS supports the development of worksite committees by:

- assisting management and union leaders to assess their readiness to form a partnership
- providing the partnership committee with professional, technical and facilitation assistance
- training committee members in conflict resolution skills and techniques and other customized training programs
- assisting committees in evaluating their effectiveness and in making adjustments in their operations

Area/Industry Labor-Management Councils

Councils provide programs and services that seek to improve labor-management relations within a specific industry or geographic region. Nine area/industry labor-management councils are currently operating within Minnesota.

The BMS assists in coordinating and evaluating the need for new councils. During developmental stages, the BMS helps a council to organize and train its board members and design needed programs and services.

Labor-Management Grant Program

Upon application, councils may be awarded matching grant funds to help implement their programs and services. The BMS also works with councils to establish a long-range plan to help assure their continued viability. Councils may provide assistance to worksites within their geographic or industrial areas.

Labor-Management Safety & Health Committees

In 1992, the legislature required all employers with 25 or more employees to have a labor-management safety and health committee. The BMS and the Department of Labor and Industry are jointly prepared to assist in organizing these committees, and to provide technical assistance and customized training.

Office of Dispute Resolution

The Office of Dispute Resolution originated within the MN State Planning Agency in 1985. It was the fourth office of its type to be created nationally to assist public agencies resolve a broad range of disputes without litigation.

Services are available to all public agencies in Minnesota - local through federal. Many services are provided without cost and include:

- Mediation of disputes, other than labor disputes, involving public agencies. Mediation is growing in popularity among agencies because it is expedient, cost efficient, less adversarial than litigation and addresses the real issues in dispute not just the legal points. The process gives parties control over the procedures to be used during mediation as well as the outcome.

- Facilitation of public or group meetings of an informational, fact-finding, regulatory or policy development nature. A neutral facilitator increases the productivity of meetings by keeping the discussion on track, transforming anger and frustration into meaningful commentary and input and providing a "safe" setting for participants to state their true feelings about the issues under consideration.

- Dispute resolution skill-building seminars for public employees and elected officials. Seminar participants learn how to negotiate more effectively on the job and build consensus among group members.

Casework Examples

The following examples typify the broad range of disputes referred to the Office:

Mediation:

Environmental - natural resource management, facility siting

Land Use - zoning issues, annexation

Transportation - highway design standards, route selection, property acquisition and relocation

Social Service - facility closure or management, reimbursement policies

Administration - programmatic and staffing relationships between public agencies

Special Education - disputes between parents and school districts involving the appropriate education of learners with disabilities

Facilitation

Public Meetings - commentary on environmental impact statements, permits and proposed developments

Multi-Party - discussions to explore options or develop policies, procedures or draft legislation

Negotiated Rule-Making - development of rules through a consensus-building process involving affected parties

For additional information, contact the Bureau at: Phone 612-649-5421;
Fax: 643-3013 or the Office of Dispute Resolution at: Phone 612-296-2633;
Fax 297-7200; TDD: Metro 297-5353; Non-Metro 1-800-627-3529

*The Fiftieth
Anniversary
History of the
Minnesota
Bureau of
Mediation
Services*

BMS
50

Introduction

The Bureau of Mediation Services (BMS) has been instrumental in resolving labor disputes in the state of Minnesota for fifty years. Because so much BMS work is behind the scenes, clients and friends often know little about the Bureau's history and activities since it was established in 1939. To commemorate its 50th anniversary, the BMS commissioned the Labor Education Service, Industrial Relations Center of the University of Minnesota, to produce a booklet highlighting the history and activities of the agency.

In short, the history of the BMS is a history of intervention into labor relations on a proactive basis — with commendable results. Time and again the Bureau has moved conflict from the streets to the bargaining table, achieved a signed agreement, and averted or resolved a strike. The history of labor relations in Minnesota, therefore, cannot be told without the history of the BMS. They are intimately intertwined. The evidence strongly indicates that the Bureau has played, and will continue to perform, a necessary and significant role in our state's labor relations.

We would like to thank Carol Clifford, Jan Johnson and Deanna Matteson of the Bureau of Mediation Services and Joyce Hegstrom and Vickie Lachelt of the Labor Education Service for their valuable assistance in this project.

Thomas Breslin
Chuck Davis
Tony DeAngelis

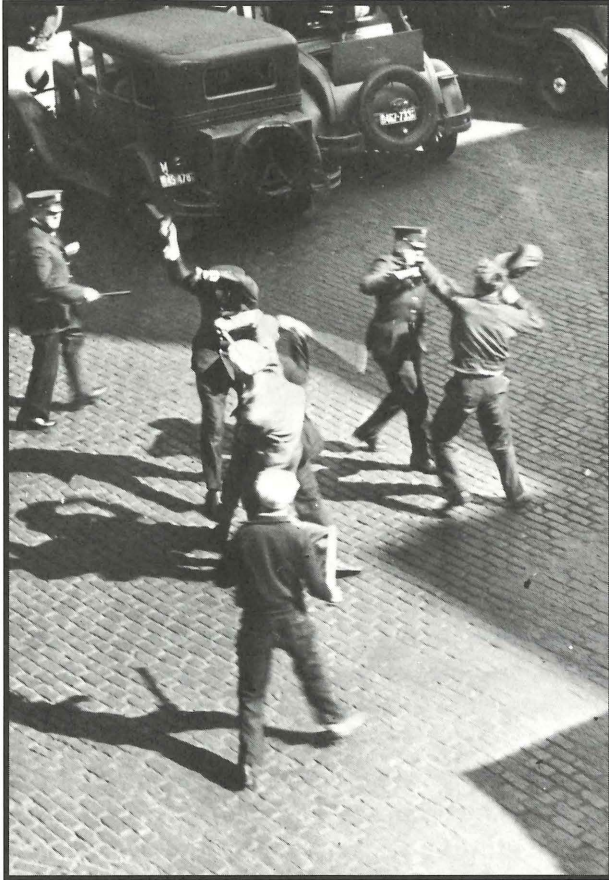
Historical Background

The 1930's were a time of fundamental change in labor-management relations, not only in Minnesota, but throughout the nation. America was in an economic depression that left more men and women unemployed than ever before. The national jobless rate approached twenty-five percent. In Minnesota, the Minnesota Federation of Labor estimated that thirty percent of its members were unemployed and that an additional seventeen percent worked only part-time.

In 1935, Congress passed the most important piece of labor legislation in American history. The National Labor Relations Act (commonly referred to as the Wagner Act) was enacted guaranteeing the rights of workers to organize and bargain collectively. It also established the National Labor Relations Board (NLRB) to administer the Act.

While these legislative developments were taking place nationally, labor unions were experiencing unprecedented growth in Minnesota, beginning with an increase in organizing activity during 1933. Flour, mill, grain processing, and cereal plant workers began organizing on a state-wide basis. In Austin, where a sit-down strike took place at the Hormel plant, Governor Floyd B. Olson played an important role in leading labor and management to a resolution of their dispute.

Few will disagree that 1934 was a turning point in Minnesota labor history. Union organizing activity increased across the state as the Great Depression continued. Many workers turned to unions for the security that federal legislation could not provide. State highway workers organized for the first time, prompting other city and county workers to do the same. In the Twin Cities, newspaper workers organized, forming the foundation of the American Newspaper Guild. Guild organizing activities in



In a scene all too typical of labor disputes in that era, striking Minneapolis truck drivers confront police and Citizen's Alliance forces in 1934.

Duluth led to a long strike, marked by police intervention with clubs and tear gas, before the union finally won recognition.

The most significant local event, however, occurred in Minneapolis where the Teamsters struck for recognition. They were confronted by the Citizens' Alliance, a group of employers opposed to unionization and collective bargaining in any form. The first strike took place in May 1934. An agreement was reached, but soon fell apart and the strike that followed in July was marked by rallies attended

by nearly twenty thousand supporters.

Most serious, though, was the death of two strikers and a Citizens' Alliance member, and injuries to dozens more as a result of confrontations with the police. Governor Olson tried initially to have the issue settled through mediation, but after the violence he could no longer delay. Though he was widely viewed as sympathetic to the strikers, Olson finally called in the National Guard and declared martial law. The strike lasted thirty-six days and was resolved through federal government intervention.

Governor Olson's actions in the 1930's created a precedent for labor relations in Minnesota. In future decades, state government would continue to play an important and expanded role in attempting to resolve disputes between labor and management.

The growing wave of unionization was not confined to the private sector. Teachers organized, forming the State Federation of Teachers, and local government workers participated in the formation of the American Federation of State, County and Municipal Employees (AFSCME). Union labor grew in numbers and influence in all areas of the work force and throughout Minnesota.

The growing size and strength of Minnesota's labor movement had an impact on the political process. In 1939, after considering five different bills supported by different groups, the Minnesota Legislature passed labor legislation unlike any other in the country. The State of Minnesota was to engage in a bold social experiment, enacting a law whose stated goal was "...the avoidance and settlement of labor disputes and the promotion of industrial peace."

The Minnesota Labor Relations Act (MLRA) was innovative in design and contained features that would not appear at the federal level for years. The

authors of the MLRA realized two important yet seemingly contradictory facts: First, that a basic ingredient for a sound economy is a trouble free labor-management environment; and second, that given the nature of labor-management relations, conflict is inevitable. In an effort to reconcile this dilemma, the Minnesota law prohibited strikes or lockouts until specific impasse procedures were observed. The major features of the MLRA included provisions for the following: Conciliation, arbitration, a cooling-off period, fact-finding provisions, and a listing of unfair labor practices. This made the MLRA broader, more comprehensive, and better able to meet its goal of preserving and maintaining industrial peace than any other state or federal labor law. In addition, the MLRA was the only state law in the country to deal with jurisdictional disputes.

To administer the Act, the legislature created the Division of Conciliation in 1939, the forerunner to the Bureau of Mediation Services (BMS). The Division was to perform four basic functions: conciliation or mediation, arbitration, bargaining unit determinations, and bargaining unit certification elections.

From the first year of its existence, the Division of Conciliation maintained a heavy volume of activity. The first budget allowed for only one conciliator and a clerical staff. It was clear, however, that more than one conciliator would be needed to effectively handle the caseload. In 1939, 742 notices affecting 50,858 employees were received, and by year's end the Bureau employed three conciliators, as well as established a roster of twenty additional conciliators who could be utilized on an ad hoc basis.

From the beginning, Lloyd Haney, the first conciliator, realized that the MLRA would forever

*From its
Beginning
to the
Present*

change labor-management dynamics in Minnesota; and that his position involved more than acting simply as Labor Conciliator. For the Division of Conciliation to be successful, it would be necessary to educate both labor and management on the operational features of the Act. Therefore, he arranged a series of lectures around the state, from the Twin Cities to Winona and Red Wing in the south, to the mining cities of Hibbing and Virginia in the north. These lectures were designed to make management and labor aware of the Act's provisions and to ensure compliance with it.

Initially, the MLRA did not receive support from either labor or management. In June, 1939, thirty-five delegates to the St. Paul Trades and Labor Assembly signed a resolution denouncing the new law as an "unjustified interference with labor's rights and privileges and as an instrument calculated to hamper labor in its objectives." They also asked that the Legislature repeal sections of the Act dealing with the ten day cooling off period and the listing of labor's unfair labor practices. Later in that same year at the Minnesota Federation of Labor convention in Duluth, a resolution was passed asking Governor Stassen to repeal the Act. Similarly, there were attempts by management to have the MLRA repealed. The Allen Shoe Co. in Minneapolis tested the constitutionality of the Act and the Conciliator's authority to certify bargaining agents. This case went to the state Supreme Court, where both the constitutionality of the Act and the authority of the conciliator were upheld.

The Division of Conciliation's ability to deal with public interest disputes was also tested early. In February, 1940, workers at the Northern States Power plant in St. Paul represented by the International Brotherhood of Electrical Workers

filed an intent to strike notice with the Division of Conciliation. In accordance with the public interest provisions of the Act, the issue was referred to the Governor who appointed a fact-finding commission. The three member panel heard testimony on the issues of pay, shift premium, and vacation benefits. The report released by this fact-finding commission was instrumental in avoiding a work stoppage.

Early efforts of the Labor Conciliator were also quite successful. Comparing a three year period ending in June, 1939 prior to the enactment of MLRA, with a three year period ending in June, 1942, strikes in Minnesota fell by forty-four percent.

This drop in strike activity compared with a five percent reduction nationally. In addition, Minnesota work days lost due to strikes and the number of workers involved in strike activity declined significantly.

The Division of Conciliation remained active during World War II. The decision to consider defense production as a matter of public interest, and a general feeling of patriotism, all contributed to a lower number of strikes, while earnest efforts on the part of labor and management to resolve their differences through conciliation and mediation took place. During 1943 and 1944, the Bureau received 150 intent to strike notices. However, only seven strikes actually occurred, and none were of long duration.

After the war, labor conflict increased dramatically in Minnesota and throughout the United States. The years 1945 and 1946 were the busiest in the history of the Division of Conciliation. The number of strike notices rose from 161 in 1944 to 463 in 1945. The following year saw another increase in strike notices, to 681. The number of actual strikes in Minnesota from 1945 to 1946 increased to fifty-four,

the greatest number since 1937.

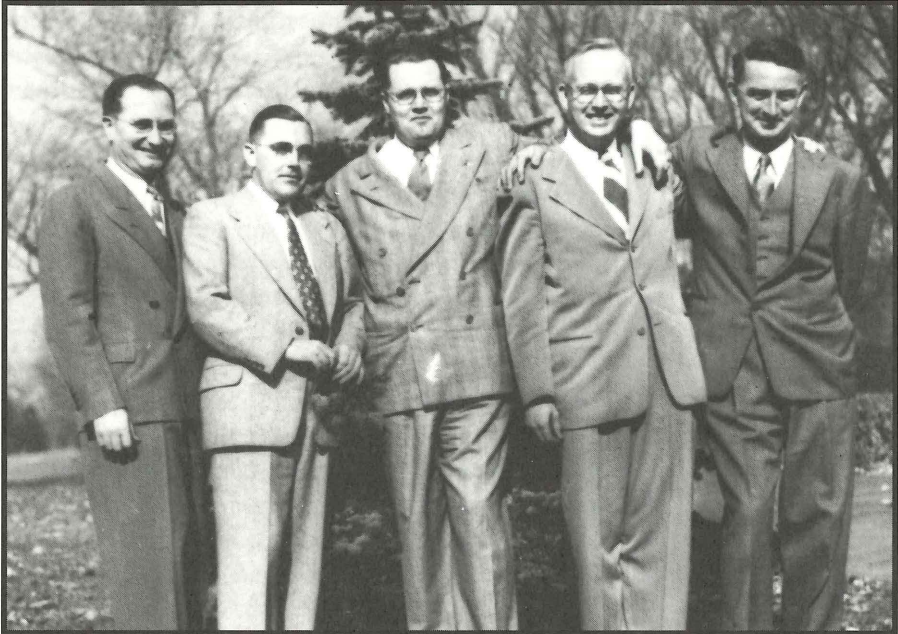
In 1946, workers at the St. Paul Northern States Power plant again threatened to strike, and once again the public interest fact-finding provisions of the MLRA were utilized successfully. As in the first threatened strike of the utility workers, pay and vacation benefits were at issue. Fact-finding proved successful in helping the parties arrive at a settlement. Much of the credit for avoiding a strike was given to labor conciliator Leonard Johnson and William Gyseden, the labor representative to the fact-finding panel.

In November, 1946, the St. Paul Men's and Women's Federations of Teachers went on strike. This was the first organized teachers' strike in the nation's history. The issues were a minimum pay scale, retroactive pay, and most significantly, general improvements in what the teachers called the deplorable conditions of St. Paul public schools. Teachers' picket lines were honored by school engineers and janitors, and the strike lasted a month before they won raises and better working conditions. As a result of the work stoppage, over one million dollars was allocated to the school system for improvements.

In addition to increased strike activity, 1946 arbitration cases doubled over the previous year and conciliation notices increased from 64 to 100. Despite this dramatic increase in labor unrest, the Division of Conciliation continued to perform exceptionally well. By 1949, the Division of Conciliation had settled ninety-two percent of potential strikes through mediation.

An evaluation of the MLRA and the Division of Conciliation was conducted in 1949 by Jack Stieber, an industrial relations graduate student at the University of Minnesota. He surveyed labor and

management leaders and members of the community who had served on public interest fact-finding commissions. A large majority of those responding to the survey felt that the Act served to decrease the num-



ber of strikes and improved the collective bargaining atmosphere in Minnesota. There was, however, some sentiment from both sides that changes were desirable. Business leaders favored changes to make the MLRA more like the federal Taft-Hartley Act of 1947. Labor leaders, on the other hand, favored changes in the arbitration provisions of the MLRA. Twenty-nine percent of the labor leaders polled and thirty-two percent of the business leaders felt that the MLRA should be repealed altogether. Some of this dissatisfaction, however, may have been due to the fact that the MLRA was still relatively new; and that in the ten years since its passage, many of those

In 1950, members of the Conciliation staff included (left to right): Vern Buck, Halver Haugen, Harry Hanson (Labor Conciliator), Herb Lyons, and Bill Sampson.

surveyed may not have been sufficiently exposed to the Act.

Even with the dissenting opinions, the majority participating in the survey called the Act "fair". Among the conclusions noted by Stieber were: A general decline in industrial conflict since the MLRA was passed, and a feeling among labor, management, and academic observers that the Act had been administered very well by the Division of Conciliation.

The late 1950's saw an increase in strike activity in Minnesota. During Governor Orville Freeman's third term, strikes occurred in all areas of the economy and in all regions of the state. In the Twin Cities, there was a three week strike between Twin City Rapid Transit Co. and Local 1005 of the Amalgamated Transit Union, representing drivers, mechanics, and clerical staff. The work stoppage significantly affected commuter travel and businesses in both downtown areas. William Sampson from the state Division of Conciliation worked with staff from the Federal Mediation and Conciliation Service to resolve the dispute. After a series of twenty-six mediation sessions, the strike was settled.

Additionally, in the late 1950's, there was a sharp rise in union representation activities by the Division of Conciliation. This was due, in large part, to the growth in public sector employee organizing efforts; which had begun in earnest in 1957.

The frequency of strike activity in Minnesota declined significantly in the early 1960's. This occurred despite rapid industrial growth, especially in the outstate areas. Minnesota ranked first among industrial states in the least amount of time lost to strikes; and its rate of time lost to strikes was one-third the national average. In 1963, Minnesota's percentage of time lost to strikes was at its lowest level

for any year since 1942. The only states with a better record in this area were in New England, the Dakotas, Wyoming, and a few southern states that had not yet developed large nonagricultural based economies. The Division of Conciliation was doing an excellent job in minimizing industrial strife. Minnesota was beginning to develop a national reputation for having a strong and able labor mediation service.

The continued success of the Division of Conciliation, however, was to be tested once again. In the mid-1960's the caseload doubled from 1965 to 1966 and continued to grow in the following years. There were four reasons for this increase:

- A growing acceptability of the concept of mediation by labor and management;
- Continued economic growth in the state (especially on the Iron Range), resulting in increases in size and influence of organized labor;
- Increased complexity of contract negotiations; and
- A rise in the number of notices received from bargaining units representing public employees.

In 1969 the Minnesota legislature changed the name of the Division of Conciliation to the Bureau of Mediation Services (BMS).

In 1974, the United States Congress amended the NLRA by extending coverage to health care workers. The passage of the Health Care Amendments meant that the state's Charitable Hospitals Act, which was passed in 1949, would be preempted by federal law. The change was not a popular one in Minnesota. Both hospital management and unions representing health care workers appealed to the NLRB to cede jurisdiction to the BMS. Their requests, however, were denied.

The Public Employment Labor Relations Act of

*The
Emergence
of the Public
Employment
Labor
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Act*

1971 (PELRA) meant significant change in labor-management relations for employees in Minnesota's public sector. Its development was long in coming, marked by a series of court cases, amendments to existing laws, and a series of actual and threatened strikes. The development of PELRA can be traced to 1951, when negotiations between the Public School Employees Union (representing 450 custodial employees) and the Minneapolis School Board stalled over the issue of wages, leading ultimately to a strike. The striking custodians were supported and soon followed by the Men's and Women's Teachers locals. This led to Minneapolis schools being closed for twenty-three days in January and February of 1951. The School Board applied to the courts for relief, but the state Supreme Court upheld the custodians' right to strike, finding that public employees in Minnesota, with the exception of essential employees did, indeed, have a common law right to strike. The court, in its opinion, expressed strong reservations regarding its role in labor relations: "It is our province in this case to determine the application of legislative action, not to revise it. Whatever our individual opinions may be as to the wisdom of the present law or the necessity of further legislation, our duty here is simply to apply the law objectively as we find it."

In the minds of many legislators, the Court's opinion opened the door for new labor legislation. They quickly passed the Minnesota No Strike Act in 1951, sponsored by two Minneapolis legislators, George French and Charles Root. The new law prohibited strikes by public employees and limited their reinstatement and pension rights. It also created "Adjustment Panels" for addressing grievances. As a result, collective bargaining in the public sector was reduced to "the expression of a view, grievance, com-

plaint or opinion" in matters of compensation or conditions of employment. There were no provisions for bargaining unit determination or impasse resolution.

Six years after passage of the No Strike Act, the legislature passed amendments allowing for representation elections and bargaining unit determination. This gave public employees some cause for optimism as they felt their position somewhat strengthened. As a result of the 1957 amendments, the Division of Conciliation proceeded with the understanding that they were given the responsibility to intervene in matters of bargaining unit determination for public employees. This inferred authority was to be tested in the Minnesota Supreme Court.

A lawsuit involving Richfield teachers established two important precedents in Minnesota labor law: First, it removed the Conciliator's authority to act in such matters and second, it held that the Conciliator could not institute representation proceedings absent a "controversy".

In 1964, Governor Karl Rolvaag appointed a committee to review existing labor law and recommend revisions. Their findings led to the following developments:

- Conditions and procedures for employee representation were defined. The legislature created the concept of "formal" and "informal" recognition for labor organizations and "meet and confer" provisions regarding grievances and conditions of employment.

- The role of the Labor Conciliator in the recognition and conciliation process and the process for Adjustment Panels was outlined.

- Public school teachers were excluded from coverage.

This exclusion of teachers led to a series of conflicts between not only teachers and school boards,

but also between teachers' organizations, as disagreements arose over the appropriate way to deal with their exclusion. The primary concern for teachers was that they were not afforded the same rights as other public employees. Thus, the 1964 efforts to reduce public sector labor conflict intensified the situation rather than resolving it.

A renewed series of court hearings to test the constitutionality of the law ensued. In 1967, the legislature passed the "Professional Negotiations" bill, supported by the Minnesota Education Association, giving teachers the right to join labor organizations. It defined procedures for recognition, formalized an adjustment panel, and established meet and confer provisions. This, however, did not appease all teachers and that frustration resulted in a strike by Minneapolis teachers in 1970.

The strike was called by the Minneapolis Federation of Teachers, and began on April 9, 1970. Even though this action violated the Minnesota No Strike Act, the Minneapolis teachers were almost unanimous in their strike vote. Five days into the strike, the Teachers' Federation sent telegrams to Governor Harold LeVander and the Director of the BMS, Vern Buck, asking for mediation assistance. The governor refused, suggesting that a resolution could be achieved after the teachers returned to the classroom, and he urged them to do so. Larkin McLellan, Assistant Director of the BMS, stated that the No Strike Act excluded teachers from the services of the BMS. The strike came to a close on April 29th after the superintendent of Minneapolis schools, John Davis, conceded that the No Strike Act was too punitive and agreed to work to amend the Act. It was settled when the teachers and the school board agreed to a "no reprisal" clause, allowing the parties to bypass state laws and penalties.

On the final day of the 1971 session, the legislature passed the Public Employee Labor Relations Act (PELRA). In doing so, it dramatically changed public policy towards public sector bargaining and repealed all previous legislation. Prior to PELRA, public sector workers had to deal with a series of ineffective, quasi-bargaining laws that resulted in nothing more than frustration for public sector workers. PELRA was the first state labor law which clearly defined the scope of bargaining obligations and the rights of all involved parties.

The Bureau of Mediation Services (BMS) and the Public Employment Relations Board (PERB) were given the responsibility to administer PELRA. Among BMS's duties were:

- to investigate petitions for certification, determine appropriate bargaining units, supervise elections and certify the results;
- to hear and decide issues in fair share fee challenges, and;
- to provide mediation services in bargaining disputes and certify impasses in bargaining to arbitration.

The BMS has been very active in the administration of PELRA. In the seven year period from 1973-1980, forty-four percent of public sector negotiations filed for mediation assistance, an average of 441 per year. The majority of these, seventy-eight percent, were resolved at the mediation stage with the help of the BMS.

In 1980, Senate Majority Leader Nicholas Coleman authored a bill which greatly expanded public employees' right to strike. The changes meant that negotiations affecting nonessential employees would be under a mediator's guidance for forty-five days, and required a ten day cooling-off period before a strike. Prior to these changes, public sector employ-

*The BMS
Today*

ees could strike only if management refused to submit to arbitration or refused to comply with an arbitrator's award.

Senator Coleman's bill also reduced the number of bargaining units for state employees from 118 to 16. The responsibility to assign classifications to these bargaining units was given to the BMS. Officers of public employees' unions agreed that the BMS performed this difficult task quite well and the results exceeded their expectations.

The expanded right to strike under PELRA was given its most visible test in 1981, when fifteen thousand state employees, members of AFSCME Council 6, went on strike. Most affected were state-operated nursing homes, hospitals, and correctional facilities. The strike lasted twenty-one days. A settlement was reached after lengthy negotiations with state mediator Kenneth Boxell. After the strike, Boxell noted that the negotiations between AFSCME Council 6 and the State of Minnesota were the most difficult he had experienced in his thirteen years with BMS.

Although basic BMS services remain fundamentally similar to those established in 1939, specific activities have changed over the years, reflecting changes in the labor-management environment. Created in an era of tremendous labor conflict, the agency has a justifiably proud tradition of effectiveness in helping parties to resolve collective bargaining and labor relations disputes. As reflected in the current agency mission statement, however, BMS also has a proactive responsibility for creating a desirable labor relations climate:

"The goal of the Minnesota Bureau of Mediation Services is to enhance the quality and character of union-management relationships so that labor disputes are

reduced or eliminated. We anticipate, as well as respond to, needs and opportunities in the field of union-management relations in competent, effective, proactive and innovative ways leading to improved relationships."

BMS provides services to Minnesota labor and management clients in the following general categories and areas:

Contract Mediation: The majority of BMS staff resources are devoted to the mediation of collective bargaining disputes. Contract mediation typically commences at the request of either labor or management, by filing a petition with the agency. Upon receipt of a request for mediation assistance, a staff mediator is assigned to the case and convenes a meeting with the parties. The mediator works with the parties, helping them to find a basis for resolving the dispute on terms which are agreeable to both. The mediator uses discussion, evaluation, suggestion, reason, persuasion and tenacity to push or pull the parties toward a resolution of the dispute, but has no power to force an outcome which either party finds objectionable.

Grievance Mediation: Another significant and growing area of BMS services is in the mediation of grievance issues which are otherwise headed for arbitration. Using traditional mediation procedures and techniques, agency staff members assist labor and management practitioners to resolve disputes over contract interpretation or discipline. With a success rate in excess of 80%, grievance mediation has resulted in substantial savings of cost and time for labor and management. The mutuality of grievance resolutions under this process also tends to improve overall relationships.

Arbitration Roster and Referrals: For grievances or charitable hospital disputes which are not resolved through mediation, the BMS maintains a

roster of non-employee labor arbitrators which the parties may utilize. These individuals must be qualified for such role by training and experience, under agency standards which are among the highest in the nation. At the request of either party, BMS provides a panel of seven names drawn from the master agency roster and the parties then select one or more persons from that panel through alternate striking of names. The Bureau will soon also offer a new expedited grievance arbitration procedure, with low cost and prompt decisions, under administrative rules which are pending adoption. Agency staff also play an important role in certifying issues and public sector cases to interest arbitration through panels provided by the PERB.

Representation Matters: A fundamental and critical aspect of the collective bargaining system is the determination of appropriate units and certification of exclusive bargaining representatives, functions performed by the Representation Unit of the Bureau. At the request of labor or management, agency staff investigate and determine issues relating to bargaining unit determination or clarification, and conduct secret ballot elections among employees within such units to resolve questions of union representation.

Fair Share Fee Challenges: The agency Representation Unit also investigates and determines challenges to fair share fee assessments in the public sector, a process which is usually quite lengthy and highly technical.

Union Democracy Act Elections: Under certain circumstances, the agency also supervises and assists labor organizations in the conduct of internal elections of officers.

Labor-Management Programs: In recent years, agency leadership has placed additional emphasis upon more proactive roles for the Bureau in helping

to improve the quality and character of union-management relationships and the practice of collective bargaining. The Office of Labor-Management Programs, created in 1987, works in a variety of ways to accomplish this end. Educational conferences and seminars are sponsored and staffed by the Bureau, and pamphlets and other educational material are prepared and promulgated. The agency also provides in excess of \$500,000 in grant monies to Area and Industry Labor-Management Committees on a biennial basis and provides staff consulting and facilitation assistance to parties who wish to establish joint Labor-Management Committees at the enterprise level.

Through these and other agency activities and programs, the Bureau of Mediation Services continues to make important and positive contributions to labor-management relationships in Minnesota. BMS is rightfully proud of its traditions and its accomplishments — and it remains part of the vanguard of new and innovative programs to support the needs and interests of its clients.

Conclusion

For fifty years the Bureau of Mediation Services has met the challenges head-on in the arena of labor relations. It has served the people of Minnesota well by achieving its 1939 mandate time and time again, "...the avoidance and settlement of labor disputes and the promotion of industrial peace." Over the years labor, management, and the citizens of the state have all benefitted from the remarkable efforts of the BMS. Effective mediation has generated confidence in its work, and it is this trust that promises the Bureau of Mediation Services continued success in the years to come.

Labor Conciliators

1939-41	Lloyd Haney
1941 Feb.-Oct.	Alfred Blair
1941-43	James Kelley
1943-46	Leonard Johnson (acting)
1946-48	Leonard Johnson
1948-57	Harry Hanson
1957-61	Charles Johnson
1961-65	Richard Wanek
1965-67	Peter Obermeyer
1967-69	Vern Buck

Bureau of Mediation Service Directors

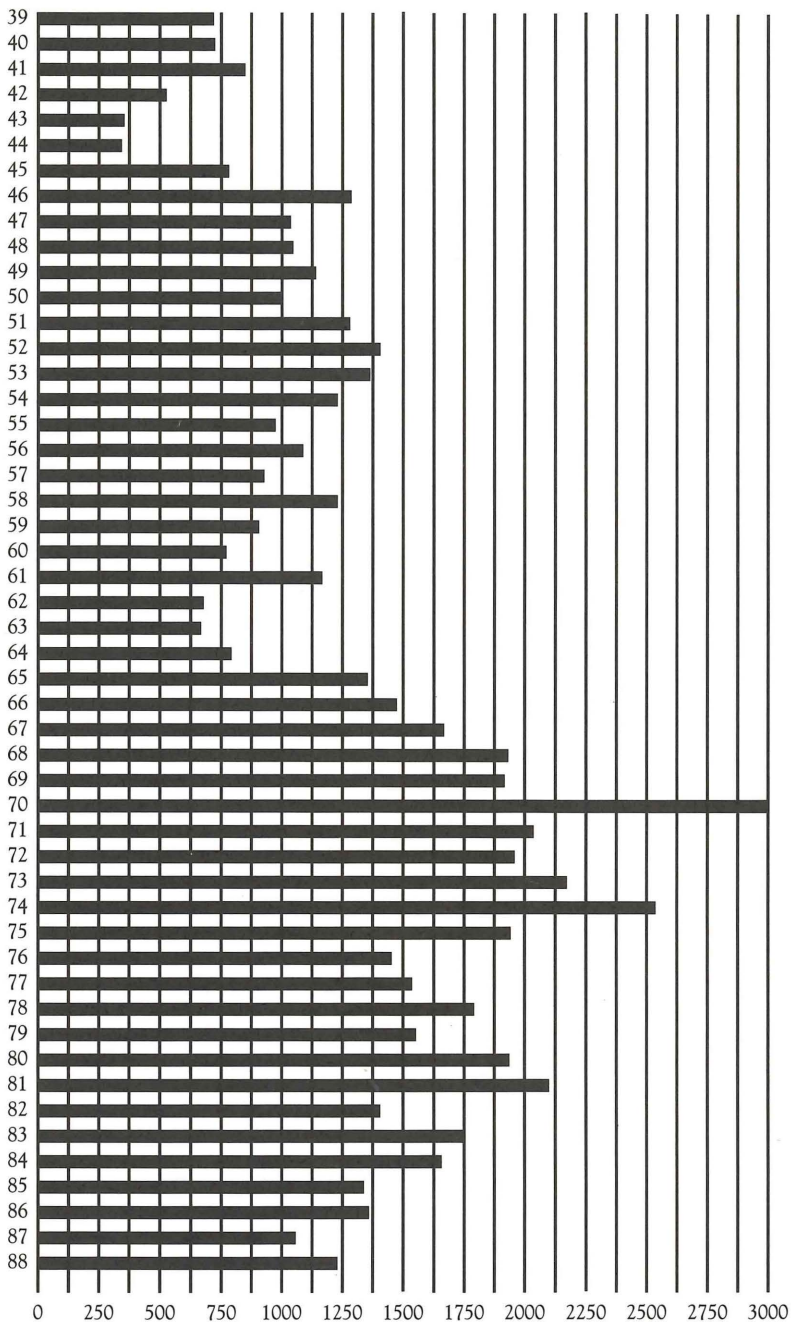
1969-72	Vern Buck
1972-76	Charles Swanson
1976-78	Ernest Jones
1979-82	Peter Obermeyer
1983-present	Commissioner Paul Goldberg

*List of
Labor
Conciliators
and BMS
Directors*

Completed Notices*

Source: Bureau of Mediation Services

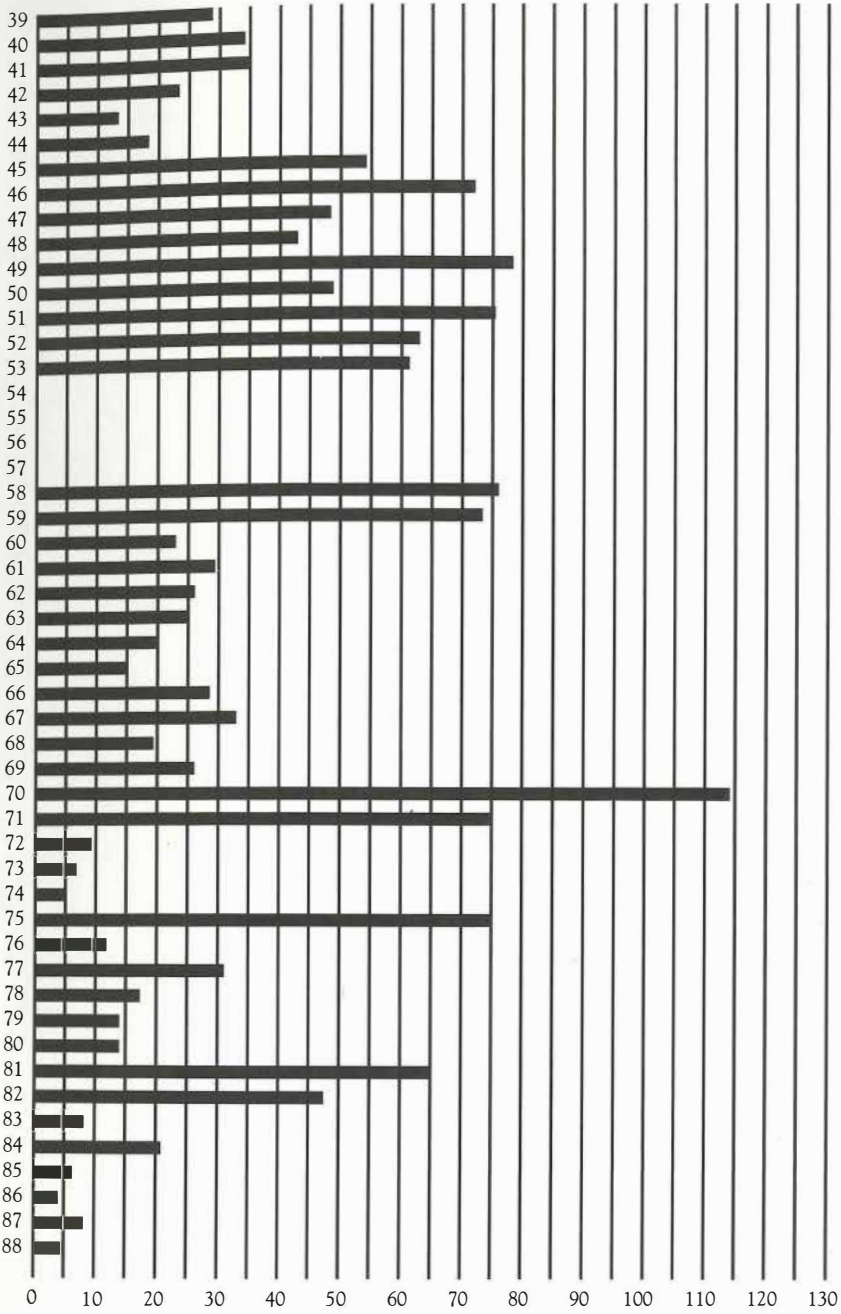
* Includes representation petitions, mediation, intent to strike and interest arbitration



Strikes in Minnesota in which BMS claimed jurisdiction

Sources: Bureau of Mediation Services and State of Minnesota Archives

No data available for 1954-1957



Budget and Case Activity: 1939/ 1989

Budget Activity

	1939	1989
Total Appropriations	\$36,303	\$1,704,157
Expenses Incurred:		
Staff Salaries & Benefits	15,399	1,050,629
Professional/ Technical Services	8,903	36,200
Office Supplies	419	29,186
Data Processing Services & Equipment	37 *	64,158
Telephone & Postage	1,030	33,688
Travel	3,564	93,639
Printing & Binding	257	19,218
Equipment	203	66,616
Rents & Repairs	N/A	102,463
Grants to Labor-Management Committees	0	187,500
Miscellaneous	56	110
Totals	\$29,868	\$1,683,407
Unused Appropriations	6,435	20,750

*Scientific & Educational Supplies

Case Activity

Number of Cases		Type	Employees Affected	
1939	1989		1939	1989
383	366	Contract Mediation	30,042	52,422
N/A	223	Grievance Mediation	N/A	N/A
28	52	Interest Arbitrations	1,712	2,049
42	2	Strikes/ Lockouts	2,183	290
N/A	373	Arbitration Panels	N/A	N/A
N/A	54	Representation Elections	N/A	3,946
47	68	Certification of Agents	1,026	4,104
N/A	225	Unit Clarifications	N/A	N/A
N/A	17	Labor-Management Projects	N/A	N/A
59	N/A	Miscellaneous	9,380	N/A

3 Organizational Chart

4 Program Summary Descriptions

What is mediation?

Mediation is a method of settling disagreements among parents, schools, and agency personnel about a learner's 504 accommodations and/or special education needs. It is conducted by a specially trained neutral third party, called a mediator. The mediator has no decision-making authority but acts as a facilitator to help the parties reach a settlement they can all agree to.

Mediation is less formal than either a parent/school conciliation conference or a due process hearing. The atmosphere of mediation promotes open communication between participants. It helps everyone to better understand different points of view and work together to explore options that result in a mutually satisfactory agreement.

Mediation does not affect the rights of the parents to seek appropriate due process or other legal proceedings.

What participants are saying about mediation

"The process allowed us to clear the air and resolve issues which had been problematic for several months."

"Everyone was given a chance to discuss their issues openly and fairly."

"Our mediator was excellent—sensitive to the needs of both sides and supportive with all of us."

"Things were handled well from start to finish."

"Mediation is an excellent alternative to the hearing or court system."

Questions?

For more information contact:

MNSEMS

Office of Dispute Resolution
340 Centennial Building
658 Cedar Street
St. Paul, MN 55155

Phone: 612-297-4635

Fax: 612-297-7200

For TTY communication, contact the
Minnesota Relay Service at
612-297-5353 or 1-800-627-3529

MNSEMS

*Minnesota
Special Education
Mediation Service*

MN Office of Dispute Resolution

Who can use mediation?

- parents/guardians
- students
- school administrators
- teachers
- school personnel
- advocacy groups
- educational service and funding agencies
- learners birth through 21

Why use mediation?

Mediated agreements are a highly successful way of solving problems because people are more satisfied with and follow through better on agreements they help create. The parties have control over the outcome. The terms of an agreement are settled by the parties, not by someone else.

Participation in mediation is voluntary. By agreeing to participate in mediation, parties have indicated a willingness to work together to resolve their dispute. Using this process makes it easier to work together to address new problems that might arise in the future.

Mediation is timely and accessible. A mediation can be set up within twenty days of a request and will be held in a convenient location. Most mediations are concluded in a four to six hour meeting.

The mediation process is confidential. Information shared by either party during the mediation will not be given to anyone else without their permission.

There is no direct cost to the parties for the mediation services. Mediator fees are paid by MNSEMS through interagency agreements with the Department of Children, Families and Learning.

What types of disputes can be handled by mediation?

Special education mediation may be used to resolve the same issues that can be discussed at a conciliation conference or a due process hearing. They may include disagreements concerning the identification, evaluation, educational placement, or provision of a free appropriate public education of learners with disabilities and/or the payment for such services.

Disputes relating to infants and toddlers with disabilities (ages birth through two) may also be resolved using mediation. These mediations may bring the parents and one or more of the agencies that work with the child to the table. Disputes may include disagreements over the coordination of services, provision of appropriate services or payment for services.

Mediation may also be used to resolve disputes which involve learners with disabilities who do not receive special education services but may be in need of a 504 accommodation plan.

How can you request mediation?

A request for mediation can occur either before or after the parties have tried to resolve their differences on their own. All parties must agree to participate in order for a mediation conference to take place.

To arrange for a mediation, call or write the Minnesota Special Education Mediation Service (MNSEMS) office directly. After receiving a written request from the parties, MNSEMS will contact everyone involved to explain the mediation process and to arrange the time and place for the mediation conference.

The Office of Dispute Resolution was established in 1985 to promote the use of means other than litigation for resolving disputes affecting the public interest. In addition to overseeing the operation of MNSEMS, the Office provides neutral, third party assistance, technical expertise, training and information services to all state and local government agencies in Minnesota.

MNSEMS is funded through interagency agreements with the Minnesota Department of Children, Families and Learning.

Minnesota Special Education Mediation Service

Questions and Answers about Special Education Mediation

What is Special Education Mediation?

Mediation in special education is a dispute resolution process which:

- assists parents, school and agency personnel in resolving disagreements regarding a student's special education needs
- uses a professionally trained and experienced mediator to guide the participants toward a mutually satisfactory solution in the best interests of the student
- occurs at a session which is more structured than a parent/school conciliation conference, but less formal than a due process hearing
- is voluntary for all parties
- encourages open communication in a confidential setting
- does not interfere with the right to a conciliation conference or a due process hearing

Who pays for the mediation service?

There is currently no direct cost to the parties for the mediation service. Mediator fees and expenses are paid by the Office of Dispute Resolution.

How is mediation requested?

A request for mediation can occur whenever the parents or the school believe that mediation might help resolve a given dispute. Anyone may suggest mediation as an option. All parties must agree to participate in order for a mediation conference to take place. If all parties agree to mediate, a *Request for Mediation* form must be signed by the parties and sent to the Minnesota Special Education Mediation Service's (MNSEMS) office. These forms are available at school district offices, agency offices, at advocacy organizations or will be sent to an interested party by MNSEMS.

How does the mediation process work?

Once a completed and signed *Request for Mediation* form is received by MNSEMS, a mediator will be assigned and the parties consulted as to their availability. Most mediation sessions can be scheduled within two to four weeks.

Who may attend the mediation session?

The number of participants at each mediation session will be kept to a minimum in order to enhance the potential for effective problem solving. At the session, the parties to the dispute - typically the parents and the school district's representative - must have authority to make decisions and to commit any resources agreed upon as a result of the mediation. Other participants may include individuals who have knowledge of the student's needs or who have specialized knowledge of the issues in the dispute. The parties must agree on who can attend the session. Generally, the school will be limited to no more participants than the parent(s) have present.

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How long does a mediation session take?

Mediation sessions generally last four to six hours. Depending on the complexity of the issues and the number of participants, however, a session could last a full day. While conflicts are normally resolved in one session, some cases may require additional sessions.

What occurs during the mediation session?

The mediation session consists of several stages:

- **Introduction** - the mediator reviews his/her role and explains the ground rules covering confidentiality, being heard without interruption, the use of caucus, i.e. meeting with each party separately, etc. The mediator then outlines what will happen during the session and responds to the participants' questions.
- **Sharing Perspectives/Defining Issues** - parties to the dispute are given the opportunity to present the issues from their perspective and define their issues. These comments would generally take no more than 15-20 minutes each. The mediator may ask questions to clarify or summarize what has been said.
- **Caucus** - The mediator may use a caucus, which is an opportunity for each party to meet privately with the mediator, to clarify issues and to explore options for resolution.
- **Discussion of Options for Resolution** - the mediator assists the parties to identify a wide range of possible solutions, test those solutions, and explore the consequences of not settling the dispute.
- **Agreement** - when the parties reach an agreement, the mediator will record the terms. Each party will receive a copy of the written agreement. If appropriate, an Individualized Educational Program (IEP) team meeting will be scheduled to incorporate the terms of the mediation agreement into the IEP. If the session does not result in an agreement, the parties are free to pursue any of the options they had before they entered into mediation.

Who are the mediators?

The mediators used by MNSEMS are experienced and highly skilled in handling a wide range of disputes. They have all completed a specialized training focused on special education issues. Mediators are assigned to cases based on their availability and location.

For more information:

For more information about special education mediation and the Minnesota Special Education Mediation Service or to obtain this material in an alternative format contact:

MNSEMS

Barbara Blackstone
Office of Dispute Resolution
340 Centennial Building
St. Paul, MN 55155
Telephone: 612-297-4635
Fax: 612-297-7200

For TTY communication, contact the Minnesota Relay Service at
(612) 297-5353 or 1-800-627-3529

MEDIATION AND HUMAN RIGHTS ISSUES

Mediation is a productive way to address issues that arise regarding discrimination. In mediation, the parties are able to air their views and to work together to seek resolution of their differences. Issues can be addressed quickly and thoroughly, lessening the amount of time and inconvenience for both parties. The following are some of the areas of discrimination that can be dealt with through mediation:

- Employment
- Housing
- Public Accommodations
- Public Service
- Education
- Credit
- Business

MN OFFICE OF DISPUTE RESOLUTION

The Office of Dispute Resolution was established in 1985 to promote the use of means other than litigation for resolving disputes affecting the public interest. In addition to overseeing the operation of MNSEMS (Minnesota Special Education Mediation Service), ADA Mediation, and the MN Human Rights Mediation Program, the Office provides neutral, third party assistance, technical expertise, training and information services to all state and local government agencies in Minnesota.

This document can be made available in alternative formats, such as large print, Braille or audio tape, by calling 215-1939/V or 297-5353/MRS.

To request information or a mediation, contact:

MN Human Rights Mediation Program

MN Office of Dispute Resolution

340 Centennial Building

658 Cedar Street

St. Paul, MN 55155

Telephone: (612) 215-1939

Fax: (612) 297-7200

For TTY communication, contact the

Minnesota Relay Service at: (612) 297-5353

or 1-800-627-3529

HUMAN RIGHTS MEDIATION

MN Office of Dispute Resolution

WHAT IS MEDIATION?

Although a certain amount of conflict occurs in our lives, few of us are very comfortable with it. We've been taught that "conflict is bad" and so our inclination is to avoid it, do nothing, and hope it goes away. If the conflict intensifies, we pay lawyers and the courts to proclaim us either a "winner" or a "loser."

At the MN Office of Dispute Resolution, we believe there is another alternative: mediation. Mediation occurs when a neutral third-party assists two or more people in working through their conflicts. The goal of the process is to find solutions, not lay blame.

In mediation, parties control the outcome

WHY DOES MEDIATION WORK?

- Neither party is blamed.
- Participants create and are responsible for their own agreements.
- Each party negotiates the changes necessary to resolve the conflict.
- Participants are responsible for the implementation of the outcome.
- Feelings, facts, and behaviors are considered and communicated with the help of a trained, neutral mediator.
- All information about the case is kept confidential.

Preparation makes mediation work

HOW DOES MEDIATION WORK?

A trained mediator listens carefully to both sides. She or he:

- Creates a safe environment that allows parties to interact.
- Clarifies points of agreement and disagreement.
- Helps identify new options.
- Structures the communications between the parties.
- Helps draw up an agreement between the parties.

Cost: Free to both parties

MN Human Rights Mediation Program

Questions & Answers about the Mediation of Discrimination Claims

What is Mediation?

Mediation is a dispute resolution process which:

- assists charging parties and respondents in resolving claims of discrimination
- uses a trained volunteer mediator to facilitate discussion and guide the participants toward a mutually satisfactory solution
- occurs at a session which is structured, yet informal
- is voluntary for all parties
- encourages open communication in a confidential setting
- does not take away a party's right to pursue other legal remedies

How is mediation requested and how does the mediation process work?

The process begins when one or both parties indicate a willingness to use mediation. Both parties must agree to participate in order for a mediation conference to take place. Once mediation is agreed to, the Office consults with the parties about the issues in dispute and their availability to mediate and assigns a mediator to the case. The mediation session is scheduled at a date, time and location convenient for all participants. Most mediation sessions can be schedule within thirty days.

What occurs during the mediation session?

The mediation session consists of several stages:

- **Orientation** - the mediator reviews his/her role and explains the ground rules covering confidentiality, being heard without interruption and the use of caucus, i.e. meeting with each party separately. The mediator then outlines what will happen during the session and responds to the participants' questions. An *Agreement to Mediate* form is reviewed and signed by the parties.
- **Sharing Perspectives** - parties to the dispute are given a full opportunity to present the issues from their perspective. The mediator may ask questions to clarify or summarize what has been said.
- **Caucus** - the mediator may use a caucus, which is an opportunity for each party to meet privately with the mediator, to clarify issues and discuss possible solutions. Any party may request a caucus during mediation.
- **Discussion of Options for Settlement** - the mediator assists the parties to identify a wide range of possible solutions, test those solutions, and explore the consequences of not settling the dispute.

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- **Agreement** - when the parties reach an agreement, the mediator will record the terms. Parties may choose between a Two or a Three-Party Agreement. A Two-Party Agreement is signed only by the parties and remains confidential. A Three-Party agreement is signed by the parties and by the Department of Human Rights and becomes public information. A Three-Party Agreement is enforceable by the Department. Each party will receive a copy of the written agreement once the Department has signed it. If the session does not result in an agreement, the parties are free to pursue the same options that were available prior to entering into mediation.

Who participates in a mediation session?

The charging party and respondent attend mediation and may arrange to bring legal counsel or other resource persons to mediation sessions. It is understood that the parties will have the authority to make decisions and to commit any resources agreed upon as a result of the mediation. The parties must agree on who can attend the session.

Who are the mediators?

Mediators used by the MN Human Rights Mediation Program are trained, experienced mediators who have completed training focused on human rights issues. Mediators are assigned to cases based on their availability and location.

How long does a mediation session take?

Mediation sessions generally last two to six hours depending on the complexity of the issues and the number of participants. While conflicts are normally resolved in one session, some cases may require additional sessions.

Who pays for the mediation service?

There is currently no direct cost to the parties for the mediation service. Mediators volunteer their services and other program expenses are funded by the Department of Human Rights.

For more information:

To request a copy of this material in a different form, like large print, Braille or on a tape, call 612-215-1939V.

For more information about mediation, contact:

**Catherine Peterson
MN Human Rights Mediation Program
Office of Dispute Resolution
340 Centennial Building
658 Cedar Street
St. Paul, MN 55155**

Phone: 612-215-1939 Fax: 612-297-7200

For TTY communication, contact the Minnesota Relay Service at 612-297-5353 or 1-800-627-3529

WHAT IS MEDIATION?

Although a certain amount of conflict occurs in our lives, few of us are very good at handling it. Conflicts in the workplace are especially troublesome because we spend so much of our time at work and we base a lot of our self esteem on how we are seen by others. Some people deal with conflict by avoiding it while others go to the courts or even use physical violence to “settle” the issues.

At the MN Office of Dispute Resolution, we believe there is another alternative: mediation. Mediation occurs when a neutral third-party assists two or more people in working through their conflicts. The goal of the process is to find solutions, not lay blame.

We'll be happy to talk with you confidentially to see if mediation might work for you.

In mediation, parties control the outcome

WHY DOES MEDIATION WORK?

- Neither party is blamed.
- Participants are responsible for creating their own agreements.
- Each party negotiates the terms necessary to resolve the conflict.
- Participants are responsible for implementing the outcome.
- Feelings, facts, and behaviors are communicated and considered with the help of a trained, neutral mediator.
- All information about the case is kept confidential.

Preparation makes mediation work

HOW DOES MEDIATION WORK?

A trained mediator:

- Creates a safe environment that allows parties to interact and better understand each other's points of view.
- Clarifies points of agreement and disagreement.
- Helps parties identify new options.
- Structures the communications between the parties.
- Records the terms agreed to by the parties.

Cost: Free to both parties

MEDIATION AND WORKPLACE ISSUES

Mediation is a productive way to address issues that arise in the workplace. In mediation, the parties are able to air their views and to work together to seek resolution of their differences. Issues can be addressed quickly and thoroughly, lessening the amount of time and inconvenience for both parties. The following are some of the areas in the workplace that can be dealt with through this program:

- Disputes between coworkers
- Supervisor/employee disputes
- Work team conflicts
- Space conflicts
- Air quality issues
- Discrimination complaints
- ADA accommodation issues
- Parking assignment disputes

Collective bargaining disputes will not be handled by this program.

MN OFFICE OF DISPUTE RESOLUTION

The Office of Dispute Resolution was established in 1985 to promote the use of means other than litigation for resolving disputes affecting the public interest. The Office administers the MN Workplace Mediation Pilot Project, MNSEMS (Minnesota Special Education Mediation Service), and the MN Human Rights Mediation Program.

*To request information or a mediation,
contact Barbara Blackstone at:*

MN Workplace Mediation Pilot Project
MN Office of Dispute Resolution
340 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Telephone: 651/297-4635

Fax: 651/297-7200

For TTY communication, contact the
Minnesota Relay Service at:

1-800-627-3529

This document can be made available in
alternative formats, such as large print, Braille or
audio tape, by calling 651/297-4635.

WORKPLACE MEDIATION FOR EXECUTIVE BRANCH AGENCIES AND EMPLOYEES

MN Office of Dispute Resolution

MN Workplace Mediation Pilot Project

Questions and Answers About Workplace Mediation

What is the Workplace Mediation Pilot Project?

The Pilot Project has been established by the MN Office of Dispute Resolution to provide executive branch agencies and their employees an additional tool to use in resolving disputes occurring in the workplace. This tool - mediation - will not replace or modify the current dispute resolution procedures contained in collective bargaining agreements and employee plans.

What is Mediation?

Mediation is an informal yet structured process in which a neutral third person, called a mediator, helps disputing parties work through and resolve problems and conflicts. The mediator does not give legal advice or decide how the dispute should be resolved. The mediator guides parties through a process in which they discuss the issues, generate options for resolving the dispute and design an agreement that meets their respective interests. Mediation offers the opportunity:

- ▶ to be heard
- ▶ to develop new ways of dealing with a dispute
- ▶ to create your own solution(s)
- ▶ to save time, expense and emotional distress of living with unresolved conflict in the workplace.

Participation in mediation is *voluntary* for all parties and the information shared during a mediation session is intended to be regarded as *confidential* by the parties and will not be revealed to anyone outside the mediation session by the mediator. Depending on the terms of any agreement reached by the parties, those terms may need to be reviewed and approved by the agency, the Department of Employee Relations and/or the affected collective bargaining unit.

How is mediation requested?

When a workplace dispute arises, parties should attempt to resolve their differences on their own. When that fails, contact your agency's pilot project coordinator or the MN Office of Dispute Resolution case development staff for assistance. They will discuss the nature of the dispute with you and help to determine its appropriateness for mediation. They may also contact the other party(s) to determine their willingness to participate. Any party may request mediation but all parties must agree to participate in order for a mediation conference to take place. If all parties agree to mediate, a *Request for Mediation Services* form must be signed by the parties and the agency's pilot project coordinator and sent to the Office of Dispute Resolution. The forms are available from the agency coordinator and the Office of Dispute Resolution. After receiving the completed form, the Office of Dispute Resolution staff will assign a mediator to the case and schedule a mediation conference at a time and location mutually agreeable to all parties. Most mediation sessions can be scheduled within fifteen working days.

Who may attend the mediation session?

The number of participants at each mediation session will be kept to a minimum in order to enhance effective problem-solving. In addition to the persons directly involved in the dispute, it may be desirable to also include others with responsibility or authority for carrying out the terms of any agreement reached or persons having knowledge of the parties' needs or specialized knowledge of the issues in the dispute. Parties may choose to bring an attorney or other advocate to the mediation session to serve as a resource or support person. However, the mediation process is intended to allow the parties to talk directly with each other and try to resolve their differences with the help of the mediator. The parties must agree on who can attend the session.

How long does a mediation session take?

Mediation sessions can take as little as one or two hours. Depending on the complexity of the issues and the number of participants, a session could last a full day or even require more than one session.

What occurs during the mediation session?

The mediation session consists of several stages:

- ▶ **Introduction** - the mediator reviews his/her role and explains the ground rules covering confidentiality, the use of caucus (meeting separately with each party), and other procedural rules. The mediator then outlines what will happen during the session and responds to the participants' questions.
- ▶ **Sharing Perspectives/Defining Issues** - parties are given an opportunity to define the issues from their perspective. The mediator may ask questions to clarify or summarize what has been said.
- ▶ **Caucus** - the mediator may use caucus, which is an opportunity for each party to meet privately with the mediator, to clarify issues and discuss possible solutions.
- ▶ **Discussion of Options for Resolution** - the mediator assists the parties to identify a wide range of possible solutions, test those solutions and explore the consequences of not settling the dispute.
- ▶ **Agreement** - when the parties reach an agreement, the mediator will record the agreed-upon terms and each party will receive a copy. Any other distribution of the agreement will be decided by the parties during the mediation. If the session does not result in an agreement, the parties are free to pursue any of the options they had before entering into mediation.

What types of disputes can be mediated under this project?

General workplace disputes such as: environmental "allergies"; hostile work environments; personality issues between employees or employees /supervisors; work team conflicts; space conflicts after reorganization; parking assignments; building cleanliness; air quality; food vendor issues; general workplace harassment; EEO/discrimination complaints (race, age, religion, marital status, sexual orientation, disability); and ADA accommodations.

Formal grievances pursuant to a collective bargaining agreement will not be referred to this program. Such grievances may be submitted for mediation by the parties directly to the Bureau of Mediation Services and will be handled in accordance with the Bureau's ongoing grievance mediation program.

Who are the mediators?

Mediators are executive branch employees who were nominated by their agencies and given special training to mediate workplace disputes. To assure neutrality and confidentiality, mediators will not be assigned to cases within their own agencies. Either one or two mediators will be assigned to facilitate the discussions.

Who pays for the mediation service?

There is no cost to the parties for this service.

For more information contact:

Barbara Blackstone, Office of Dispute Resolution
340 Centennial Building, St. Paul, MN 55155 Phone: 651-297-4635 Fax: 651-297-7200
For TTY communications contact the Minnesota Relay Service at 1-800-627-3529

For information about the Bureau's grievance mediation program, contact Pat Harrington, 651-649-5439.

Alternative Dispute Resolution, or ADR, is a term used to describe a number of processes for resolving disputes out of court. ADR includes negotiation, mediation and arbitration. Mediation is the ADR process most frequently used by the Office to resolve disputes involving public agencies. Mediation utilizes a third party neutral to facilitate discussion in a way that helps parties to cooperatively generate solutions that meet their respective concerns. The mediator does not take sides, make decisions or impose settlement terms.

MINNESOTA OFFICE

OF DISPUTE RESOLUTION

**A Division of the Bureau
of Mediation Services**

Alternative Dispute Resolution

SETTLING DISPUTES THROUGH MEDIATION

Alternative Dispute Resolution, or ADR, is a term used to describe a number of processes for resolving disputes out of court. ADR includes negotiation, mediation and arbitration.

Mediation is the ADR process most frequently used by the Office to resolve disputes involving public agencies. Mediation utilizes a third party neutral to facilitate discussion in a way that helps parties to cooperatively generate solutions that meet their respective concerns. The mediator does not take sides, make decisions or impose settlement terms. Mediation has many advantages:

It Is Expedient

Sessions are held at the convenience of the parties. If unsuccessful in reaching agreement, parties may seek resolution through court or other means without having incurred a major delay.

It Is Cost-Efficient

The cost of resolving a dispute through mediation is generally less than through the judicial system.

It Is Less Adversarial

While emotions may run high, mediation helps parties focus on understanding and solving the problem. Parties don't need to convince a judge and jury—they concentrate on sharing information with each other.

It Addresses The Real Issues

Often, the resolution of legal points does not resolve the underlying issues that generated a dispute. Mediation allows parties to explore all relevant issues in depth, often resulting in more comprehensive, long-lasting results.

It Gives Parties Control Over Outcome And Procedures

Mediation is voluntary. Parties assist in establishing the ground rules or procedures to be followed during mediation and jointly develop the terms of a settlement. Parties may terminate negotiations at any time if they feel it is in their best interest to do so.

PROCEDURES

Services of the Office are requested by state and federal agency personnel, local government officials, legislators, judges and attorneys.

When assistance is requested, the Office staff:

- contacts all parties to assess the potential for settlement,
- advises parties on the most appropriate dispute resolution procedure based on the characteristics of the dispute,
- works with parties to develop procedural ground rules,
- facilitates the selection of a qualified third party neutral or team of neutrals,
- provides administrative and case management support until the process is concluded.

Cases are mediated by the Office of Dispute Resolution staff or by local or national mediators who are experienced in resolving public sector disputes. All mediators are well trained in mediation techniques. Depending on education and experience, they possess expertise in a number of technical areas as well.

Mediators may work individually or in teams, depending on the nature and complexity of the case and the wishes of the disputing parties. Mediation fees are normally allocated among all parties on a negotiated basis.

TYPES OF CASES

The following examples are representative of the broad range of issues referred to the Office for mediation or facilitation:

MEDIATION

Environmental: timber management practices; landfill closures.

Social Service: management of residential treatment centers; reimbursement for mental health care services.

Land Use: siting of controversial wastewater treatment facilities and solid waste incinerators; zoning disputes; municipal annexation and concurrent detachment.

Resource Management: wildlife management policies; mining and outdoor recreation issues.

Transportation: highway design standards; route selection; acquisition and relocation issues.

Administration: programmatic/staffing relationships between public agencies.

Special Education: disputes between parents and school districts over the appropriate education of learners with disabilities.

FACILITATION

Public Meetings: to generate public comment on environmental impact statements, permit standards, proposed developments and other potentially controversial issues.

Multi-Party Discussions: to explore options and develop policies and procedures for dealing with issues related to mining, municipal drinking water and waste-water treatment facilities, low income energy assistance, geographic information systems.

Negotiated Rule-Making: to develop air and water quality rules through a consensus-building process involving parties affected by the rule.

MINNESOTA OFFICE OF DISPUTE RESOLUTION

While some disputes are most appropriately referred to the courts, many can be effectively resolved through other means. Disputes involving public agencies are no exception. By using various negotiation techniques, disputants in the public arena frequently craft better solutions in less time and at a lower cost than if they went to court.

The Office of Dispute Resolution was established in 1985 to promote the use of means other than litigation for resolving disputes affecting the public interest.

In fulfilling its purpose, the Office provides technical assistance, training and information services to state, federal and local government agencies throughout Minnesota. The Office:

- facilitates public or group meetings of an informational, fact-finding, regulatory or policy development nature,
 - sponsors training seminars to improve the conflict management skills of public employees,
 - educates government officials and the general public about dispute resolution alternatives,
 - develops and manages special projects in the ADR field.
- provides neutral, third-party assistance to agencies wishing to resolve disputes without litigation,

“Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses and waste of time.”

—Abraham Lincoln

MINNESOTA OFFICE OF DISPUTE RESOLUTION

This brochure was funded through a grant from the National Institute for Dispute Resolution. The Institute is a private, non-profit organization established in 1983 to examine and promote ways of settling disputes without litigation. The Institute funds a network of state offices of dispute resolution and supports research and other activities which enhance the fairness, effectiveness and efficiency of the processes through which Americans resolve disputes.

For more information about the Office and the services it provides, contact:

OFFICE OF DISPUTE RESOLUTION

A Division of the Bureau
of Mediation Services
340 Centennial Office Building
St. Paul, Minnesota 55155
Phone (612) 296-2633
Fax (612) 297-7200
TDD Metro 297-5353
TDD Non-Metro 1-800-627-3529

COMMENTS FROM PUBLIC OFFICIALS

"(Mediation) ended a long term bad experience and hopefully brought about a positive future. Thank you."

"The mediator was skillful in creating a non-threatening and friendly atmosphere which induced an open and candid discussion and relatively quick agreement."

"Valuable service for local government—hope it continues."

"The (mediation) process works, even when used as an alternative to hearing."

MINNESOTA

BUREAU OF MEDIATION SERVICES

LABOR RELATIONS

TRAINING PROGRAM

MINNESOTA BUREAU OF MEDIATION SERVICES LABOR RELATIONS TRAINING PROGRAM

The Minnesota Bureau of Mediation Services training program consists of a series of seminars designed to support its operations. Broadly speaking, there are two types of courses. First, there are three courses entailing at least one full day each of instruction and practical exercises. These courses are skill-building in nature and are integral parts of BMS's cooperative programs.

Conflict Resolution Seminar - Helps participants recognize, analyze, and resolve personal conflict. The seminar is part of the work-site labor-management committee program for committees needing training. It can also be presented as a stand-alone session for any interested parties. Topics include the nature and types of conflict, communications problems, self-analysis of employees for resolving conflict, and demonstrates a process to resolve conflict using the interest-based problem solving process.

Interest-Based Collective Bargaining Seminar - Consists of two sessions. The first is a two to three hour overview and exploratory session presented to bargaining teams or other interested parties. It explains the changes entailed in moving to interest-based collective bargaining and the commitments attendant to it. The second session is a full day of preparation and skill-building training for interest-based bargaining.

Work-Site Labor-Management Committee Seminar - Consists of three sessions. The first two are overview and exploratory. They assess the labor-relations climate and the attitude of each party towards collective decision making. Both parties are asked to decide if they wish to continue with the work-site labor-management committee process. The third session, Committee Effectiveness Training, is a full day of training to prepare for the introduction of joint decision making in an organization. The training includes presentation and practical exercises with emphasis on communication, problem solving, and consensus decision making.

The second group of training courses consists of presentations on a number of topics in the Minnesota labor-relations area. The presentations are designed to provide state-of-the-art information for interested groups on an as-requested basis. The sessions include:

Basic Labor Relations and Conflict Resolution - A series of coordinated presentations or stand-alone modules intended to provide the audience with an understanding of the basic principles of labor relations and an awareness of elements of conflict resolution. The presentations cover: MN PELRA, Collective Bargaining Processes, Mediation Processes (Contract and/or Grievance), Contract Administration and Interpretation, Grievances, Arbitration, Intro to Conflict Resolution and Intro to Interest Based Problem Solving. (1 ½ - 2 days).

Mediation - Contract and/or Grievance - Helps participants better understand and participate in the mediation process. Topics include the principles and procedures of mediation, technical requirements as they affect essential and non-essential groups, and the role of participants in mediation. The grievance section also includes identification of appropriate cases, typical ground rules, mechanics of the process, and the benefits of grievance mediation. Case examples may be presented as needed. (1 - 2 hours).

Minnesota Public Employment Labor Relations Act - An overview of the Minnesota public sector bargaining law. It reviews the historical basis and background of the law and current requirements including the establishment of a collective bargaining relationship, the rights and obligations of employees, employers, and employee organizations under law. It also covers the basics of collective bargaining administration under the law. (1 - 1 ½ hours)

Negotiating Skills - Focuses on the aspects of the development of communication skills and the ability to understand interests which lie behind conflicting positions. The presentation is designed to provide basic information regarding the essential communication skills of listening, feedback and persuasion and to introduce the process of interest based problem solving/negotiations. (1 ½ - 2 Hours)

Overview of BMS Programs - Consists of a general review of the history and programs of the Bureau of Mediation Services, with specific information on mediation, representation, labor-management cooperation, alternative dispute resolution, and the arbitration referral process. The presentation is designed to provide an overall understanding of how the Bureau functions and to respond to discussion areas of interest to the audience. (1 - 1 ½ hours)

Presenting Representation Cases - A basic "how-to" on presenting bargaining unit determination cases. It is designed to give both employee and employer representatives the details of the procedures to follow, how to present at a hearing and the basis for determination. The class is relevant for both new unit petitions and clarifications of existing units. (1 ½ - 2 hours).

Safety LMC Briefing - Designed to provide basic information regarding the formation of Safety Labor-Management Committees. Specific information includes details of the law requiring the committees, types of topics the committees can cover and examples of successful committee work. General information about labor management committees is also included as a part of the program. (1 - 1 ½ hours). (The development, training and facilitation of Safety LMCs is available through a program administered by the Minnesota Department of Labor and Industry in partnership with BMS)

**Minnesota
Labor-Management Partnership
Program**



An initiative to improve the quality and collaborative nature of union-management relationships in Minnesota's private and public sectors.

**Minnesota Bureau of Mediation Services
1380 Energy Lane, Suite 2
St. Paul, Minnesota 55108-5253
(612) 649-5421**

**Lance Teachworth, Commissioner
John Kuderka, Program Director**

I. Work Site Labor-Management Partnerships.

Purpose. As the name implies, the purpose of Labor-Management Partnerships is to foster a level of communication, understanding and mutual respect which results in a genuine partnership between the union and the management, a partnership which works for the benefit of all stakeholders of the enterprise. By providing a basic structure for the sharing of information; through the identification, prioritization, and resolution of issues in a collaborative fashion; by increasing the level of personal trust, understanding, and empathy between union and management officials; and through the development of proactive plans for the reduction of union-management tensions, Partnerships generate a positive collective bargaining environment and reduce the potential for disruptive labor-management conflict to occur.

Methods. To achieve its purpose and objectives, a Labor-Management Partnership engages in the following types of activities and programs: (For a more detailed description of the Partnership model, see page 12.)

- ** Regular meetings to share information, identify potential or current problems, and develop collaborative approaches for the resolution of issues. Meetings are attended by all key leaders of labor and management at the enterprise, including union staff members or other representatives designated by the exclusive representative.
- ** Structured exercises and practical experience in collaborative approaches to identifying, prioritizing, analyzing, and solving issues which impact the enterprise or its labor-management relations, allowing the Partnership members to function as a team.
- ** Agenda-setting and decision-making on a consensus basis, with each member of the committee free to veto consideration or action on any item.
- ** Regular and thorough two-way communication with the entire work force regarding Committee activities and plans.
- ** Information and training sessions conducted by BMS staff.
- ** Orientation and training for new committee members.
- ** Development and implementation of plans for using Partnership concepts and methods at all levels of the enterprise.
- ** Development of annual and long-term plans for improving the nature and character of union-management relationships at all levels of the enterprise.
- ** Periodic evaluations to measure committee progress toward stated goals and to chart changes in the character of the union-management relationship.

(Over)

BMS Support. The Bureau provides the following types of support in the development and operation of work site committees:

- ** Professional staff consultation with management and union leaders interested in a Labor-Management Partnership to ensure accurate understanding of the nature, methods and purposes of the program and/or referral to other potential resources.**

- ** Structured evaluation and assessment of the existing labor-management relationship and goals of the individual parties to determine the suitability of the Partnership program to their situation.**

- ** Professional staff consultation and assistance to the Co-chairs and members of a Partnership committee for a 12-15 month period of initial start-up and implementation.**

- ** Training of Labor-Management Partnership committee members in the concepts, processes and skills necessary for effective operation.**

- ** Assistance in the development of local networks with other Partnership programs or similar efforts.**

II. Area/Industry Labor-Management Councils (ALMCs).

Purpose. Voluntary, joint councils of key labor and management leaders within a given geographic region or a specific industry formed to increase awareness of issues and programs relating to collaborative union-management relations within that region, sector, or industry. Area or Industry Councils also engage in strategic and long-range planning for the development of Labor-Management Partnerships within the council's jurisdiction.

Methods. In fulfilling its purpose and objectives, Area or Industry Labor-Management Councils engage in the following types of programs and services:

- ** Develop and conduct periodic conferences and seminars on topics related to the union-management interests of constituent groups and organizations.
- ** Informational presentations to individual enterprises and unions within the Council's jurisdiction to increase awareness of the Partnership program and concepts.
- ** Referral of interested labor-management groups to BMS or other external resource for guidance in the development and operation of work-site Partnership committees.
- ** Develop and facilitate networking systems for work-site Partnership leaders within the ALMC's jurisdiction.
- ** Strategic and operational planning for the promotion of collaborative labor-management relationships within the ALMC's jurisdiction.

BMS Support. The Bureau provides the following types of support to the development and operation of Area or Industry Labor-Management Councils:

- ** Staff assistance and coordination in evaluating the need for and viability of a new Area or Industry Council, as well as in the implementation and operation of such Councils.
- ** Staff assistance and coordination in the development and delivery of orientation and general awareness programs for Area or Industry Councils.
- ** Initial seed money and matching fund grants under the Area Labor-Management Committee Grant Program to assist ALMCs in developing and sustaining programs which result in more effective labor-management Partnerships within its jurisdiction.
- ** Staff assistance in the development of a long-term vision and strategic plan for the Council and in the development of operational tactics for achieving those goals.

(Over)

- ** Coordination and support in the establishment of networking systems with other similar organizations locally, regionally, and nationally.
- ** Technical advice for operating ALMCs, including assignment of staff to attend monthly meetings of the various ALMCs, as well as interim meetings with co-chairs to promote planning and goal setting at the ALMC level.

MINNESOTA AREA/INDUSTRY
LABOR - MANAGEMENT COUNCILS

The Minnesota Legislature has made available up to \$302,000 per year to assist in the start-up and ongoing operations of labor-management councils throughout the state. The members of these councils are from both the public and private sectors and represent labor and management of over 300 organizations. In general, the councils work to improve the labor-management climate in their area of the state or sector of the economy.

<u>COUNCIL NAME</u>	<u>DESCRIPTION</u>	<u>1998 GRANT</u>
1. <u>Construction Industry Research Co, Inc.</u> Contact: Steve Claypatch 612-378-0833	A union/contractor partnership focusing on research and education in the areas of prevailing wage, safety and workforce recruitment in the construction industry. (Statewide)	\$19,000
2. <u>Construction Partnership, Inc. (CPI)</u> Contact: Paul Berg 507-288-6466	Covering southeastern Minnesota, CPI concentrates on safety education, public information, workforce recruitment and project labor agreements in the construction industry.	\$24,000
3. <u>Iron Range Labor-Management Association (IRLM)</u> Contact: Tom Bergh 218-722-1484	Operating in the Iron Range area, IRLM provides work site Labor -Management Committee training and facilitation; educational and informational presentations and workshops; and promotion of labor-management cooperative efforts in NE Mn.	\$38,000
4. <u>Labor-Management Partnership of Central Mn (LAMP)</u> Contact: Lowell Bell 320-259-6772	LAMP serves the St. Cloud and Central Mn area focusing on information and educational workshops. LAMP also assists in the formation and facilitation of work site labor-management committees.	\$8,500

- | | | |
|---|--|------------------------|
| <p>5. <u>Labor-Users-Contractors Council (LUC)</u>
 Contact:
 Bill Grim
 612-633-6774</p> | <p>Incorporating the three sectors of the construction industry, LUC works to improve the relationship among them through such activities as Project Labor Agreements, Safety Education, Substance Abuse programs, Recruitment and Apprenticeship programs and establishment of construction site labor-management committees.</p> | <p>\$40,000</p> |
| <p>6. <u>Lacrosse/SE Minnesota Labor-Management Council</u>
 Contact:
 Sherry Wolfert
 608-784-2710</p> | <p>Newly funded in 1998, this council serves the Lacrosse, WI and SE Minnesota areas through the presentation of educational seminars and workshops, informational membership meetings and assistance in work site labor-management committees.</p> | <p>\$8,500</p> |
| <p>7. <u>Lake Superior Area Labor Management Assoc. (LSALMA)</u>
 Contact:
 Steve Korby
 218-727-4565</p> | <p>LSALMA works to initiate and support work site and community labor-management cooperation in NE Mn and NW Wi through training and support of labor-management committees, sponsoring of workshops and seminars, and provides research and information on labor-management cooperation</p> | <p>\$57,500</p> |
| <p>8. <u>Twin City Area Labor-Management Council (TCALMC)</u>
 Contact:
 Mel Hoagland
 612-624-5218</p> | <p>TCALMC works to foster cooperative relationships between labor and management by sponsoring conferences, membership meetings, organizing and facilitating work site labor-management committees and serving as an information and referral source on labor-management issues. Twin Cities based.</p> | <p>\$70,000</p> |
| <p>9. <u>Twin Ports Construction Liaison Council</u>
 Contact:
 Tom Conner
 612-291-1102</p> | <p>The Twin Ports Construction Council operates in the Duluth-Superior area. It is a partnership of construction unions and contractors whose primary function is to develop and provide information, within the industry and to the public, on unionized construction operations and the industry in general.</p> | <p>\$5,000</p> |

In addition, a coordinating council consisting of all the councils plus the Bureau of Mediation Services, the Federal Mediation and Conciliation Service, the UofM Industrial Relations Center and the Mn Dept of Labor and Industry exists to work on common issues regarding labor-management cooperation.

5 Case Load Activity Summary

CASE LOAD DATA

	<u>FY 90</u>	<u>FY 91</u>	<u>FY 92</u>	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>
<u>MEDIATION</u>									
Petitions Received:									
PUBLIC	627	406	789	434	696	399	602	432	602
PRIVATE	200	232	282	203	261	305	230	236	265
<u>IBCB'S (included in pet recvd count)</u>									
PUBLIC						(3)	(15)	(42)	(15)
PRIVATE						(1)	(1)	(2)	(0)
Meetings Held:	1253	1104	1727	1171	1412	1187	1360	1209	1608
Intent to Strike Notices Filed:									
PUBLIC	31	8	20	18	13	26	15	14	17
Number of Strikes:									
*BMS Jurisdiction									
Public	4	3	3	3	1	0	1	0	1
*Private	1	1	1	0	0	0	0	0	0
<u>REPRESENTATION</u>									
Petitions Received:	414	392	469	445	423	435	616	438	386
Hearings Held:	96	77	82	123	83	75	84	104	58
Elections Conducted:	50	68	70	75	93	65	67	65	56
<u>ARBITRATION</u>									
<u>LISTS REFERRED</u>									
Grievance:	323	382	612	650	628	667	680	541	513
Interest:			55	61	57	75	50	57	56
Teacher Discharge:			13	10	12	9	10	7	16
<u>LABOR-MANAGEMENT</u>									
Cumulative Worksites Facilitated:	19	34	38	46	52	61	80	102	128
New Committees Added:		15	4	8	6	9	19	22	26
Committees Facilitated During FY:								57	53
Meetings Held:	111	228	442	515	553	540	458	424	325
Grants Made to ALMC's (Calendar Year)	6	6	7	8	8	9	10	10	9
Total Dollars (in 000's) (Calendar Yr)	192	204	234	234	222	222	222	222	276.5
<u>SUMMARY OF STATISTICS:</u>									
*Total Meetings Held:	1460	1409	2251	1809	2048	1802	1902	1738	1989
Average No. Of Mediation Staff (FTE):	8	9.5	11	10	10	7.5	9.5	10	10
Average No. Of Meetings Per Mediator:	183	148	205	181	205	240	200	174	198

*Includes Mediation, Representation, LMC

Biennial/cc

6 Proposed Biennial Budget

AGENCY: Mediation Services, Bureau of (BMS)

MISSION AND VISION: g45-agy.ash

Mission: To mediate labor disputes and regulate the formal relationships between employers and employee organizations in Minnesota, provide a range of technical support programs to collective bargaining and joint labor-management cooperation programs, and assist public agencies in resolving disputes without litigation. (M.S. Chap. 179 and 179A.)

Vision: To improve the quality of Minnesota's labor-management relationships so that labor disputes are kept to a minimum and constructive relationships contribute to economic development of Minnesota.

KEY SERVICE STRATEGIES:

- Provide contract and grievance mediation, arbitration referral services, and bargaining unit determinations to ensure orderly and constructive labor relations.
- Supervise, conduct, and certify elections for union representation to provide democratic election outcomes.
- Provide training and technical resources to labor relations practitioners for: 1) skill building and 2) dissemination of state of the art information.
- Provide matching grants to Area Labor Management Councils to support joint cooperative labor relations programs and to contribute to the state's economic development.
- Offer training and dispute resolution services to public agencies to assist in preventing or resolving non-labor disputes in a timely, cost-efficient manner without resorting to litigation.

<u>Program Area</u>	<u>F.Y. 1992-93</u>	<u>F.Y. 1994-95</u>	<u>F.Y. 1996-97</u>	<u>F.Y. 1998-99</u>
Labor Mgmt Coop				
New Worksite Committees	30	36	69	80
Council Grants	\$476	\$444	\$444	\$604
# of Grantees	16	17	18	18
Mediation				
# of Disputes	1,708	1,661	1,500	1,530
# of Strikes (public sector)	6	1	1	1
# of Interest-Based Collect Barg. Facilitations	0	4	60	70
Grievance Mediation Settlement Rate	83%	91%	91%	91%
Representation				
# of Petitions Received	914	838	1,054	824
# of Elections	145	158	132	128
Technical Support Services				
# of Training Classes	20	32	115	175
# of Arbitration Lists Ref.	1,401	1,448	1,345	1,170
Alternative Dispute Resol.				
Srvs. # of Cases	48	60	292	362

REVENUES:

BMS generates non-dedicated, General Fund revenue from Arbitrator renewal applications and Fair Share Challenge Fees (\$3,000 a year). The Office of Dispute Resolution (ODR) generates approximately \$135,000 in dedicated, Special Revenue Funds from interagency agreements with the Department of Human Rights and the Department of Children, Families and Learning for mediating human rights and special education disputes and \$50,000 from its' training program.

2000-01 Biennial Budget

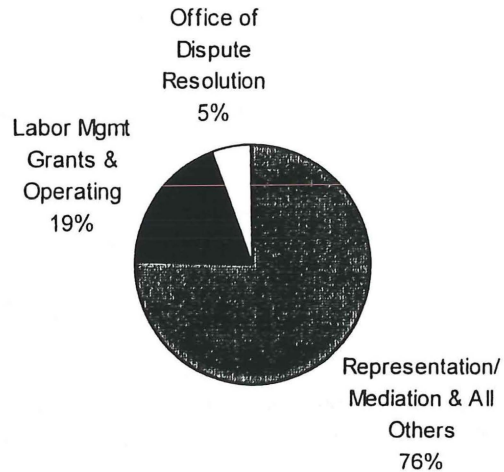
AGENCY: Mediation Services, Bureau of (BMS)
(Continuation)

ISSUES AFFECTING AGENCY'S OPERATIONS:

- Increased demand for interest-based collective bargaining support services;
- A trend toward greater joint decision-making in labor/management relations at the local, work site level;
- Increased reliance on mediation to resolve individual grievances and other workplace related disputes;
- Greater demand from labor relations practitioners for training and technical resource support from BMS;
- Continued aggressive union organizing efforts in the public sector, coupled with significant employer driven reorganizations of services and jurisdictions;
- Steadily increasing use of mediation and collaboration as the preferred means of resolving public policy disputes and the increased frequency of state and federal laws to specify their use.

EXPLANATION OF AGENCY'S BUDGET PLAN:

The following graphic shows planned spending by program from the bureau's total, base level appropriation (all funds) for the biennium.



GRANTS:

The BMS administers a labor management committee matching grant program under M.S. 179.82. There are currently 9 operating councils receiving grant funds from BMS. Such councils include a combination of public and private labor organizations and are based on either industry or geographic areas.

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Revision Date: 10-02-98 1:43pm

Date Printed: 10-08-98 7:11am

Demands for services continue to grow, becoming more diverse and labor-intensive. To respond, we will prioritize services to meet client demands, improve the Bureau's management information system and train parties to become more skilled in preventing/resolving labor and non-labor disputes. The agency will provide additional labor training, interest - based collective bargaining support services, encourage additional labor management worksite committees and promote broader use of collaborative problem - solving by public agencies.

F.Y. 2000-01 BUDGET CHANGE ITEM

AGENCY: Mediation Services, Bureau of (BMS)
PROGRAM: Mediation Services, Bureau of
ACTIVITY: Mediation Services, Bureau of

ITEM TITLE: Mediator Positions

	2000-01 Biennium		2002-03 Biennium	
	F.Y. 2000	F.Y. 2001	F.Y. 2002	F.Y. 2003
Expenditures: (\$000s)				
General Fund				
- State Operations	\$150	\$150	\$150	\$150
- Grants	\$-0-	\$-0-	\$-0-	\$-0-
Revenues: (\$000s)				
General Fund	\$-0-	\$-0-	\$-0-	\$-0-

Statutory Change? Yes ___ No X

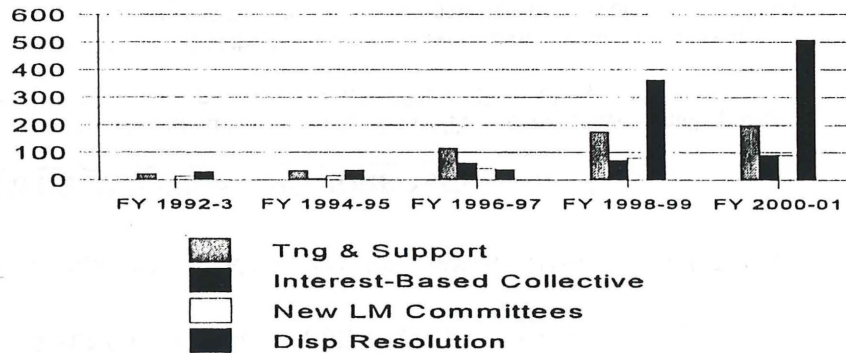
If yes, statutes(s) affected:

New Activity Supplemental Funding Reallocation

GOVERNOR'S RECOMMENDATION:

The Governor recommends \$300,000 and 2 mediator position(s) for the biennium to handle the increased workload as illustrated:

Workload



RATIONALE: The Bureau's services have grown and diversified in recent years without a corresponding increase in staff. Increased funding is needed to meet the expected demand for support services from our clients. Lack of such additional funding will force the Bureau to limit training and interest-based bargaining support activities at present levels in order to continue providing mandatory services in contract mediation and representation programs. The long range effect of not responding to new service demands will diminish the Bureau's ability to be pro-active in meeting the needs of the labor-management community in Minnesota. Reduced emphasis on preventative dispute resolution programs, such as client training, joint labor-management cooperation efforts, and technical support for interest-based negotiations may result in more adversarial labor-management relations, and more strikes and other work-place related disputes.

A portion of the above request will also be used by the Office of Dispute Resolution to develop a program for resolving disputes arising from community-based comprehensive plans and annexations under the Community Based Planning Act. New legislation, enacted in 1997 delegated such responsibilities to the Bureau without the provision of any new funding. A supplemental budget request of \$45,000 was approved by the Legislature in 1998 as part of the Economic Development Appropriation. However, that appropriation bill did not achieve final passage due to broader, budgetary issues between the Governor and Legislature.

FINANCING: Funding will be used to hire up to 2 mediator level staff at approximately \$60,000 salary plus benefits. The current base level funding is \$2,074,000.

OUTCOMES: Additional funding will enable BMS to meet the increased demand for services provided in the following areas:

- New additional worksite labor-management committees - to meet a projected increase of 150% over the F.Y. 1994-95 level.
- Technical Support Services - to provide for a projected 50% growth in training and related support services.
- Interest Based Collective Bargaining - to provide mediation/facilitation services to 70-90 clients.
- Grievance mediation - to meet a projected growth of 10% in caseload.
- Office of Dispute Resolution Services - to establish a mediation/arbitration program for community based planning disputes; (see M.S. Ch.572A). To meet a projected increase of case work of 25%.

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Revision Date: 10-02-98 1:44pm

AGENCY: MEDIATION SERVICES BUREAU

IT Change Item: SMALL AGENCY INFRASTRUCTURE INITIATIVE

ITEM DESCRIPTION AND PURPOSE:

This initiative is being pursued in conjunction with a collaborative, small agency, infrastructure initiative proposed by the Office of Technology.

The Bureau believes that the establishment and maintenance of a modern technology infrastructure is necessary to support our mission of mediating labor disputes and regulating the formal relationships between employers and employee organizations in Minnesota, providing a range of technical support programs to collective bargaining and joint-management cooperation programs, and assisting public agencies in resolving disputes without litigation.

The State Master Plan for Technology calls upon state agencies to "use information and communication technologies to improve every facet of our society - our homes, our businesses, our schools and our communities."

Consistent with this vision, the Bureau is engaged in an on-going effort to make the best use of these tools in pursuit of its mission.

The Bureau and its clients (trade unions; labor organizations; employes (public, non-profit, and private); public officials; arbitrators; and related professional organizations are increasingly dependent upon information and communications technology. It is important the the Bureau be capable of meeting the needs of these clients in using modern computer technology.

During the last biennium the Bureau invested significant resources toward accomplishing this goal. We have in place an updated information system and communication network. It is important that we take steps now to protect this investment by planning for proper administration and expected on-going maintenance and upgrading of the sytem.

FUNDING:

Funding Distributor	2000-01 Biennium		2002-03 Biennium		2004-05 Biennium	
	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Facilities	2	2	2	2	2	2
Grants	0	0	0	0	0	0
Hardware	8	8	8	8	8	8

RATIONALE:

This effort is undertaken to ensure our ability to serve our clients in the most efficient manner. The maintenance and on-going upgrade of the BMS IT systems will ensure timely and accurate services in the following program areas:

Arbitration referral lists, mediation, representation, labor-management cooperation, and Office of Dispute Resolution.

LIFE CYCLE ANALYSIS:

Life Cycle Status	2000-01 Biennium		2002-03 Biennium		2004-05 Biennium	
	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Development						
Modification						
Operations	X	X	X	X	X	X
Retirement						

Proposed funding would provide for the maintenance, upgrading and operational support of the Bureau's existing information and communication system and applications. These applications include: case load database, scheduling calendar, management information reporting, word processing and other office system applications. This request represents approximately 2% of the agency's total base level funding.

OFFICE OF TECHNOLOGY ANALYSIS:

GOVERNOR'S RECOMMENDATION:

Personnel	7	7	7	7	7	7
Services	20	20	20	20	20	20
Software	2	2	2	2	2	2
Supplies	4	4	4	4	4	4
Training	3	3	3	3	3	3
Total	46	46	46	46	46	46

7 Legislative Committees

Legislative Committees

House of Representatives

Budget Committees

Economic Development and International Trade, Jaros, Chair

Economic Development Finance Division, Trimble, Chair

Labor-Management Policy Issues

Labor-Management Relations, Jeffersen, Chair

Senate

Jobs, Energy and Community Development, Novak, Chair

Economic Development, Budget Division, Beckman, Chair

Legislative Coordinating Commission, Sub-Committee on Employee Relations

Staff: Greg Hubinger

Chairman: 1997-98, Solberg

8 Other Resource Materials

SUGGESTED READING MATERIALS AVAILABLE IN THE BMS OFFICE:

- 1 PELRA - Minnesota Statutes 179A.01 - 179A.30
- 2 MLRA - Minnesota Statutes 179.01 - 179.85
- 3 Miscellaneous Labor Laws (From BMS Book)
- 4 BMS Policies
- 5 BMS Rules
 - A Public - Minnesota Rules Chapter 5510
 - Representation - 5510.0110 - 5510.2310
 - Mediation - 5510.2410 - 5510.5190
 - Arbitration - 5530.0100 - 5530.1300
 - LMC Grants - 5520.0100 - 5520-0800
 - B Private - Minnesota Rules Chapter 5505
- 6 Commissioner's Files