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The Minnesota Public Employment Labor Relations Act of 1971
Extra Session Laws 1971, Chapter 33

SUMMARY AND ANALYSIS

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General

Extra Session Laws Chapter 33 enacts a comprehensive revision of the laws governing labor relations between Minnesota public employers and their employees, and embodies most of the recommendations of interim studies by the Minnesota Legislature and those of a Governor's Advisory Council on the subject. The Act repeals and supplants all the previous statutory provisions on the subject.

The Act covers virtually all public employees -- state, municipal, county, school (including teachers) -- establishing uniform policies and procedures for all on such matters as representation, grievance procedures, mediation of disputes, employers' and employees' rights, unfair practices and impasse resolution. Variations in procedures recognizing the unique status of teachers and state employees are included. (Employees of charitable and governmental hospitals, covered by a special statutory procedure, are excluded from the Act.)

The "meet and confer" approach of the former law is replaced by a system of negotiations which, while not collective bargaining as in the private sector, is bi-lateral in nature, and imposes the duty on both employer and employee to meet and negotiate in good faith with the intent of entering

into an agreement to which both parties are obliged to adhere. The Act contains a management rights section specifying those areas which are non-negotiable and prohibits agreements which would violate any provision of law or municipal charter.

The former strike prohibition is retained but the penalties are modified to direct them at the striking organization as well as the individual employee. Striking employees could be terminated by notice from the employer with opportunity for review as to whether a strike in fact occurred. Strike penalties include two year probationary status for employees, decertification and loss of dues check-off for unions, and unfair practice penalties for both, with court discretion as to the degree of penalty imposed.

A Public Employee Relations Board is established to administer the Act composed of five members, appointed by the Chief Justice of the Supreme Court for four year overlapping terms. (A special provision calls for gubernatorial appointment in the event this procedure is held invalid.) Members are to be representative of labor, management and the public, with experience in the field of labor-management relations. The board is an administrative agency with authority to (1) rule on appeals relating to matters of negotiability, essentiality of employees, and appropriateness of bargaining units; (2) to approve rules promulgated by the Director of Mediation Services relating to procedural matters; (3) generally administer the various arbitration procedures authorized by the Act; and (4) maintain files of contracts negotiated in the public sector.

A unique feature of the Act is its approach to arbitration as an impasse resolution device. First, the Act requires every contract negotiated under it to contain a procedure for binding arbitration of grievances, utilizing private arbitrators or those designated by the PERB. Second, the Act authorizes binding arbitration by PERB-appointed arbitration panels at the request of both parties. Third, disputes unresolved by dates specified in the Act must be submitted to PERB for arbitration; if the employer accepts the award, it is binding on both parties, but if rejected by the employer negotiations begin anew.

The Act is the first in the nation to give recognition to the "last offer-last demand" concept of arbitration. In disputes involving "essential employees" (the meaning of which rests ultimately with PERB) the parties may agree to binding arbitration in which the arbitration panel may choose only the employer's last offer or the employee's last demand in making its award.

Other Features of the Bill

Exclusive Representation. The Act eliminates the formal-informal and teachers' council representation of previous law and replaces them with a sys-

tem of exclusive representation by an employee organization based on a secret ballot vote of a majority of employees in an appropriate unit. In the case of teachers the unit is defined as all the teachers in the district.

Scope of Bargaining. The Act would require employers and exclusive representatives of employees to negotiate an agreement relating to "terms and conditions of employment", but retains for employers the exclusive right to decide on matters of inherent managerial policy as defined by the Act. In the case of teachers, employing units would be required to meet and confer, but not negotiate, in order to afford an opportunity for exchange of views and information about educational policies of the school district.

Supervisory and Confidential Employees. Top level management employees and those with special access to negotiations are excluded from bargaining units. They are authorized to form their own organization for purposes of communicating (but not negotiating) with employers.

Professional Employees. The Act guarantees professional employees (teachers are specifically included in the definition of this term) the opportunity to meet and confer with employers on matters of governmental and educational policy.

Unfair Practices. The Act specifies as unfair practices of both employer and employee which would impede the conduct of negotiations or otherwise evidence bad faith in the negotiation process. Employer practices aimed at punishing the employee for exercising rights conferred by the Act would be unfair. In addition, engaging in a strike or noncompliance with an arbitration award are unfair practices. Remedies in court are provided for parties aggrieved by unfair practices.

Grievance Settlement. The bill would require employers and employees to adopt a binding arbitration procedure for adjusting grievances (complaints of individual workers) and disputes about the interpretation of the terms of a contract.

Implementation of Agreements. Agreements between public employers and exclusive representatives of employees would be embodied in written contracts and could be of up to three years duration. Contracts with teachers' organizations must be for two years duration.

Impasse Procedures. The Act would authorize the parties to utilize the services of the bureau of mediation services at any time; but goes on to establish a schedule of dates governing mediation and submission of disputes to the Board. The dates are designed to relate to the governmental budget cycle.

Negotiating Team for State Employees. The Act constitutes the Commissioner of Administration and the Director of Civil Service as a negotiating team for the state which could, with gubernatorial approval, negotiate statewide with employees in one state department. The Act would not affect the Legislature's authority to establish by law schedules of rates of pay for its employees or the retirement or other fringe benefits related to the compensation of such employees.

Effective Date. The basic provisions of the Act would be effective on July 1, 1972.