COMMITTEE ON FEDERAL, STATE AND LOCAL GOVERNMENTS

Minutes of Meeting -- March 18, 1969

The twenty-seventh meeting of the Committee on Federal, State and Local Governments was held on March 18th, 1969, at 7:00 P.M.

Committee members present:	James Gibson, Chairman
	Vernon Bunker
	Marvin White
	Warren Monroe
	Carl F. Dodge
	F. W. Farr
	Chic Hecht

Others present were:

James Butler	Exec. Sec., Nevada State Education Assn.
Curt Blyth	Nevada Municipal Association
Dave Henry	Commissioner, Las Vegas

Press representatives

Chairman Gibson called the meeting to order. Several bills were under consideration.

SB-87 Proposed by Senator Dodge.
Regulates relations between local governments and employees and prohibits strikes in public employment.

SB-407 Proposed by Senators Farr, Harris, Manning and Herr.
Provides for collective bargaining by public employees.

AB-127 Proposed by Committee on Education.
Provides for negotiation and settlement of disputes between boards of trustees and professional employees of school districts concerning terms and conditions of employment.

Senator Dodge gave a general review of the provisions of SB-87. He said that inasmuch as Nevada had no previous legislation on this, that it was a minimal piece of legislation and only a start. He did not include state employees on this bill, but said that if anyone felt strongly enough about it (with different provisions) that further legislation could be proposed that would conform to whatever basic legislation might be enacted.

Senator Dodge continued to read down through SB-87 -- going over the various provisions. He referred to a letter from Mr. Ashleman, which expressed his views on various sections of the bill (see attached.) Mr. Butler, representing the Nevada State Education Association, also added his views and opinions on different provisions in this bill.

There was some discussion with regard to Section 12, and those factions of an organization that would make up a "bargaining unit." At this point Mr. Butler pointed out that in AB-127 all educators were included under the negotiating in order to prevent a disruption between superintendents and the other educators in the state and in the organization. He added that there was a considerable body of opinion that the executive officer, as indicated in Senator Dodge's bill, definitely should not be a part of the bargaining unit. As far as the principals and administrators, he said the opinion among their own people was that they should be given their own option of being in with the teachers, or if they did not choose that option, to be allowed to have a separate negotiating unit.

Senator Dodge pointed out that when they pass this type of legislation they are entering into an adversary proceeding, and they need to decide who's on what side of the fence. Mr. Butler said, for example, that in Clark County the principals would prefer to have their own unit and to negotiate in a separate unit from teachers. There was further discussion regarding the pros and cons of this particular provision, and whether or not the language should be changed. Senator Monroe suggested that the last sentence in Section 12, Subsection 1, be deleted. Senator Farr then suggested that on line 23 in the same section, they should delete the words "who serve under his direction." Mr. Henry said that he felt "management" extended further down than most people think it does, and that it is very difficult to evaluate these type of positions.

The committee went on to discuss Sections 13 and 14. Mr. Butler stated that he felt the 120 day provision in Section 13 would be in the best interest of the public, but he had reservations about the 45-day provision in Section 14. His reason was that a situation might arise where there is a very good possibility for agreement being reached and the notice either might intervene, or on the other hand the parties might be in a situation where they would be waiting for the deadline to arrive so that they could automatically go to the next step in procedure. He felt it would be more appropriate to consider that either the employer or the employee group might declare that an impasse has been reached, and then the board would then have the right to examine the request -- if they felt that it was legitimate, they would then enter into the mediation procedure -- if they thought it was premature, they could reject the request and tell the parties to go back and work it over further.

There was further discussion with regard to the arbitration provisions of SB-87, and the various possibilities as to who should be used for arbitration. Senator Dodge referred to Section 21 as intending to indicate what the "real mission" of the employee-management relations board is -- " . . .may make rules governing proceedings before it and procedures for factfinding and may issue advisory guidelines for the use of local government employers in the recognition of employee organizations and determination of negotiating units."

Senator Dodge continued on down through the bill explaining the intention and meaning of Sections 24 and 25. He read line 16, page 7 of the bill and it was decided that the language "illegal strike" would have to be changed.

With regard to Section 26, Senator Dodge went over the actions a court may take as outlined in this section. He pointed out that in federal law, a strike is a felony. As far as Subsection (2) under Section 26, on "forfeiture under the public employees' retirement system," Senator Dodge stated he felt that further language should be written in that indicates that this is only to an "unvested time." He said there was a constitutional question about this, in which Mr. Ashleman had concurred. Mr. Butler stated that with regard to this section (26) they felt the penalties were excessive, and that they particularly objected to subsection (3). He added that the forfeiture of a teacher's certificate would not only make it impossible for further employment in the State of Nevada, but anywhere in the United States.

Senator Dodge asked Mr. Butler how the teachers are able to rationalize the distinction -- how they take the position that they should, if necessary, be able to enforce their demands by right to strike, when, of necessity, it would involve the breaking of a firm contract of employment? Mr. Butler answered that it is based upon the same premise that is in the section relating to option of the court to decide upon the penalties and the severity of the penalties depending upon the mitigating circumstances involved. He added that a teacher's contract indicates that he shall serve for a certain number of school days or during a certain period, and that there are certain disruptions (planned disruptions) throughout the year. He felt that if the teachers were to strike while under contract when there were no mitigating circumstances involved that it would be completely unethical and would have no validity, but if there were mitigating circumstances (Board refused to negotiate, deteriorating educational conditions) there might be valid reason for a strike. There was further discussion regarding the teacher's right to strike, with Mr. Butler stressing that he felt it was important to have these procedures set out as guidelines, which would encourage better communication and give them something to go on when necessary.

Senator Dodge said that he had given a great deal of thought to the possibility of teachers entering into the policy-making decisions -- that he would support legislation that would give teachers representation on the school board, and let them, at that point, have voice in police decisions. Senator Dodge added that at this time he personally would not be willing to extend the area of negotiation for teachers -- possibly sometime in the future -- but one of the things that could be extremely damaging is on such things as pupil-teacher ratios, classification of teachers by different salary differentiations, depending upon their function, and so forth.

Chairman Gibson said that if the committee did anything, it would be on this bill, SB-87, and asked Mr. Butler to comment specifically on the provisions in this bill that are objectionable to the teachers and to submit this in writing. Mr. Butler said that he would do this in accordance with Chairman Gibson's request (in writing) and have copies for all

the committee members. There were further comments by Mr. Butler and Mr. Henry with regard to this bill.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Patricia F. Burke

Patricia F. Burke,
Committee Secretary

HARRY J. MANGRUM, JR.

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March 6, 1969

Honorable Carl Dodge
Nevada State Senator
State Capitol Building
Carson City, Nevada

Dear Senator Dodge:

It was a real pleasure meeting and conferring with you on your bill, SB 87. In response to your request, I reduced my remarks to writing. At your suggestion, I am also furnishing copies of this memo to other members of the Legislature.

1. Let me begin by suggesting that since you already have provisions for mediation and fact finding, a provision for arbitration either voluntary or when the board felt it was in the public interest, might be a very useful addition to your bill. Arbitration, I might add, as you know, does not necessarily mean a loss of discretion. The parties can, or the board could, under appropriate legislation, narrow the issues so that only the impasse issues would be submitted. The arbitrator could be further limited by guidelines. Such guidelines could be that hours may not be increased, or that source of tax funds must be considered, etc.

2. Let me again impress upon you the necessity for making it clear that the parties could negotiate upon a grievance proceeding. The grievance procedure in my judgment has contributed more to industrial democracy and stable labor relations than any other single device of good labor relations. It allows for adjustment of normally petty matters inexpensively and before they reach a danger point. It also makes certain that problems are handled at the proper level; initially through an informal meeting of the immediate superior involved and the employees involved. From there you go up through the chain exhausting the various levels of command.

3. Another matter of great importance is that found in your Section 12 in the last sentence under 1. I think that "local government employee" should be changed to "department head" since in the police and fire services relatively low level employees are technically supervisors even though

they do not, in fact, control matters of substantive policy.

4. Another area of concern would bethat apparently under the Dodge Bill minority groups who did not represent majority of a given unit, could negotiate, and it is perhaps open to argument that more than one employee organization could be negotiating on matters in the same department or unit. This system has been used by the federal government under Executive Order 10988. It has caused a great deal of chaos, conflicting demands and virtually all parties concerned, heartily wish that it did not exist. Candidly, I might say that the unions do not object as much as management. In this instance, management, I feel, is correct.

5. Another section that I do not particularly object to, but feel it unnecessary, is your detailed delineation of fact findings, subpoenas, enforcement of hearings and so on. It has been my personal experience that the interest of the parties, causes them to come forward with the evidence, if any. The board, mediator, arbitrator or fact finding panel need only allude to the drawing of adverse inference if witnesses are not produced to gain desired information.

6. As to your penalty sections, I would question the constitutionality as well as the desirability of forfeiture of retirement contributions, and Teachers Certificates. As to withholding all or any part of salary or wages, I would suggest language such as "except previously earned", which might help clarify the constitutional question.

7. I think that lowering the fine to $10,000 for organizations and $100 for officers would render your bill a great deal more palatable to labor organizations without in any manner diluting the necessary power to deal with the situation. Undesirable as a public strike might be, it is still not an original sin. A public employee who is convicted of murder or, for that matter, treason, does not so far as I know, forfeit his retirement contributions, etc. I am sure that you are aware that under the New York Taylor Act, the attempt to exact extraordinary penalties has met with abysmal failure.

As a general remark to the prevention of strikes, I reiterate that compulsive arbitration or creating the power of a board to order arbitration where public necessity requires it, will, as a practical matter, obviate a strike threat. Public employees are often of the view that if no one will hear their plea they have no alternative but to strike. I know of no instance of a strike occurring in the face of an arbitration award, however unpalatable such award might be to the parties. Arbitration

is nearly the only device in labor relations which frightens labor and management equally, and therefore, leads them to voluntarily compose their differences before things get that far.

8. Certain other problems in your bill come under the heading of minor language changes. In Section 8 at subsection 2, the "2" should be changed to a "C" so that the word "concerted" applies. Otherwise, a feigned illness to cover up an employees pecadillo such as the desire to go fishing, would be grounds for a discharge. I am sure the committee does not intend that result.

9. In section 9, at Article 2, it should be made clear that individual employee representation is permitted so long as the Union is notified of the result, and given an opportunity to attend any hearings and so long as the individual bargaining may not be in derogation of contractual rights. Any other approach leads to either frivolous complaints to management that most responsible labor unions would not process; multiple bargaining situations discussed above, or speedy destruction of the benefits of any previous agreement between the parties. The Governor's bill in the private sector contains language protecting the individual employee as does the National Labor Relations Act. I am sure that Frank Daykin can furnish you with a copy of both.

10. In Section 10, at subsection 1, you use the words "physical condition of employment". I think of course, you are trying to protect the local government from bargaining over policy matters. It seems to me that the appropriate language could be put in your Rights clause, Section 10, at subsection 2, to protect that situation. I believe that the use of the word "physical" is a litigation breeder. The classical language used is "conditions of employment". This term has been well defined by the courts previously.

11. Section 10, at subsection 2(b) should be modified to make it clear that grievance procedures are permitted as previously discussed.

12. Section 11, at subsection 2, may lead to litigation. I think "cause" should be defined in terms of a strike or that this power should be given to your board with the requirement that they publish what "cause" means, after following the procedures of Nevada's Administrative Procedures Act. (NRS 233(b)). I would suggest that in addition to your recognition procedures, you adopt language similar to that which the Firemen used in their bill, providing for elections. Another good source of workable language would be that found in the Governor's bill on private employee bargaining. I do not feel the unions need

the election provision, but in the interests of democracy it should be provided. I believe that without these procedures there is some danger of irresponsible individuals gaining power in the unions. I would also like to suggest that the Secretary of Labor or some other party experienced in these matters, be made a non-voting secretary of your board so that the entire board is not required to convene to do leg work.

13. In the interests of clarity, at all points where you provide for a hearing, you should specify Chapter 233(b). In all places where you provide for judicial review you should specify Chapters 233.130 to 233.150.

14. Finally, might I comment that your phrase under Section 11, at subsection 3, allowing board decisions to be binding upon the local government, is indicative of recognition that the principal of arbitration is not, per se, repugnant to you. Your language, in effect, allows arbitration upon the limited issue of employee organization. If you think that the permanent board approach is more palatable as an approach to arbitration, I am sure we could work out some language to cover the situation.

15. You have heard my comments on the firemen's bill, so I will not repeat them. I will not comment on the teacher's bill because I do not feel there is any real sentiment in the legislature for its passage. However, I do want to make it clear that we do not wish to encourage striking and we do not wish to influence substantive policy matters.

16. I have a copy of the Nevada Public Employment Relations Act dated 1/16/69 which is the unofficial proposal of a minority of city officials. On page 3, it defines "administrative employee". I would feel better about this definition if I knew whether or not it included a fire captain.

17. On page 8, Section 000.090, at subsection 1, I would object to the designated officers as being members of the commission. I would prefer your method of designation. In Section 3(a) on the same page, I believe it is necessary to use the language in the firemen's bill to provide the framework for deciding units. (Previous history, etc.).

18. On page 9, under "K" where certain powers are delegated, I think an appeal to the full board should be made available.

19. My previous comments as to the appropriate definition of a unit, applies to page 10, Section 000.101, subsection "A".

20. At page 13F, my previous comments as to the desirability of

compulsory arbitration would apply.

Again, I want to congratulate you on your leadership in this matter and recognition that something should be done in this area. I am looking forward to seeing you at the committee hearings.

Sincerely,

I.R. ASHLEMAN

IRA:cb

NEVADA STATE EDUCATION ASSOCIATION

SUGGESTED REVISIONS OF SB - 87

March 19, 1969

The following suggestions are made at the request of Senator James I. Gibson, Chairman and member of the Senate Federal, State and Local Governments Committee. The remarks are directed to the negotiating framework contained in SB-87, which is the vehicle chosen by the Committee to develop a public employees' bill. They are provided to the Assembly Government Affairs Committee as well.

Although the Nevada State Education Association prefers that educators be treated separately, these comments suggest changes in SB-87 to make it more appropriate for teachers and for employees generally.

These comments are divided into four parts:

A. Basic concepts in SB-87 which should be retained.

B. Basic concepts not in the bill which should be included by alteration or addition.

C. Concepts which might be included to improve the bill.

D. Specific changes in wording of SB-87 to implement the above suggestions.

SECTION A. BASIC CONCEPTS TO BE RETAINED

1. IF THERE IS TO BE A PUBLIC EMPLOYMENT RELATIONS LAW, NEGOTIATIONS MUST BE REQUIRED, TO MAKE THEM PERMISSIVE IN THE STATUTE NEGATES ONE OF THE MAIN REASONS FOR HAVING A STATUTE.

2. ADMINISTRATION AND ENFORCEMENT PROVISIONS MUST BE INCLUDED. Self implementation will weaken the bill. The three-member commission provided in this bill is one effective way of obtaining this objective. AB-127, which applies only to educators, leaves enforcement and administration to the University Chancellor and the courts. SB-407 names the State Labor Commissioner and AB-717 names a commission composed of the Budget Director, ecretary of the Tax Commission and the Labor Commissioner. The latter composition of the commission is unacceptable.

   If the method of selecting mediators and fact-finders (advisory arbitors) is left to the local employer and employee organization and provides for use of the American Arbitration Association or other neutral third party, administration of the Act might be handled without a commission. The Labor Commissioner is not the first choice of educators.

3. BOTH MEDIATION AND FACT-FINDING (ALSO CALLED ADVISORY ARBITRATION) ARE ESSENTIAL TO RESOLVE IMPASSES WHICH WILL ARISE. Moving immediately to binding or compulsory arbitration on matters of substance seems expedient but will impose solutions not wanted by the parties involved and will retard the give-and-take inherent in the negotiation process. With binding arbitration, the parties probably will not negotiate in good faith from the beginning. Binding arbitration also shifts the authoritative decision-making power from the local level to some other public agency which has no responsibility for the quality of service provided by the local government.

4. THE COURTS SHOULD BE INCLUDED AS IN SECTION 16, TO ASSURE FULL PARTICIPATION BY PARTIES IN INTEREST TO FACT-FINDING AND IN SECTION 22 TO ASSIST IN DETERMINING INTERPRETATION OF, OR PERFORMANCE UNDER THE LAW. The court should also have jurisdiction so that it may enjoin a strike.

3. MINORITY RIGHTS SHOULD BE GUARANTEED IF THE ABOVE ARGUMENT IS ACCEPTED. This is done in Section 9-2 but to the detriment of sound negotiation leading to agreement. The wording may allow an individual, either on his own, or represented by a minority organization, to "negotiate" individually without following any rules jointly established between the employer and the recognized organization. A suggestion is made in Part D of this paper suggesting a way to guarantee minority rights and preserve the integrity of the agreement reached by the employer and the majority organization.

4. Section 10-2, which is taken from President Kennedy's 1962 Executive Order, lists the rights of "management". This is perfectly in order but it is questionable as to whether "rights" applying to a federal department operating under a different management structure are applicable to a local government. In the case of teachers, for some time they have been involved in transfer policy negotiation although not in actual determination of who shall or shall not be transferred. This should be continued.

   In section (f) "emergency" must be defined.

5. A FUNDEMENTAL CONCEPT NOT INCLUDED IN SB-?7 IS THE RIGHT OF EMPLOYEES TO DETERMINE ON THEIR OWN WHICH ORGANIZATION SHALL REPRESENT THEM AND COMPOSITION OF THE NEGOTIATING UNIT. Section 11-3 indicates that the employer makes this determination subject to review by the state board. The employees should have more discretion in this regard subject to approval by the employer after the request by the employee group and subject to review.

6. SECTION 11-2 INDICATES THE EMPLOYER DOES NOT HAVE TO NEGOTIATE IN GOOD FAITH. If a dispute arises, the employer could withdraw recognition and terminate negotiations. A time period must be included and the employer must be bound to continue recognition during that period. Anything less will cause the negotiation to be much less productive for all concerned.

7. EXECUTIVE OFFICERS SHOULD NOT BE INCLUDED UNDER THE STATUTE. However, "middle management" such as principals, captains in the fire service and the like, have just as much right to negotiate on their own welfare as do employees. If the community of interest principal shown in Section 12-1 and the desires and past practices of the employees are prime considerations, then principals in some school districts will wish to join in education associations with classroom teachers, while others will wish to negotiate in a limited sphere on their own welfare and other groups will wish to be considered as administration and be included with the superintendent and the school board. This flexibility should be guaranteed. The best structure is the one which works in a unit, not a theoretical straightjacket which is not necessarily applicable to every situation.

8. THE INTENT OF THE LEGISLATURE IS TO DECLARE THE STRIKE ILLEGAL IS COVERED IN SECTION 24. Section 25 indicates that the courts have jurisdiction as they should in any strike. Section 26 should be deleted. Some of the penalties are excessive, especially the amounts in (a) and (b) and the revocation of retirement benefits and teachers' certificates. Since line 23 of Section 26 indicates that courts may invoke such penalties, the matter is in the discretion of the courts.

[3]

All but three states having public employee laws banning strikes do not list penalties. A similar argument applies to Section 27 which speaks to actions of the local employer against an employee who has been on strike.

CONCLUSION

The Nevada State Education Association has entered the arena of negotiation with the express intentions of (a) clarifying relationships between teachers, administrators, and school boards; (b) improving the decision-making in school districts to change and improve the educational program for children and (c) to have a bigger voice in the teaching profession's own welfare. We are most anxious to cooperate in development of a sound proposal for a statute to accomplish these ends and at the same time be cognizant of the welfare of local governments and other public employees.

James T. Butler
Executive Secretary - Nevada State Education Association

March 19th, 1969

SECTION C. CONCEPTS WHICH MIGHT IMPROVE THE BILL

1. IN THE INTEREST OF A MORE HARMONIOUS TITLE EMPHASIZING AGREEMENT RATHER THAN DIFFERENCE, PERHAPS THE NAME OF THE ACT AND ANY BOARD SET UP UNDER IT MIGHT EMPHASIZE "EMPLOYMENT RELATIONS" RATHER THAN "EMPLOYEE-MANAGEMENT RELATIONS" AS NOW STATED. Thus the name would be the Local Government Employment Relations Act.

2. THE DEFINITION OF "STRIKE" IS NOT CONCISE OR CLEAR. Section 8, sub-section 1, b, seems redundant and sub-section 2 does not refer to concerted action and is therefore open to misinterpretation. Since the Committee wishes to declare the strike illegal and does so in Section 24, the determination of whether a particular case comes within the scope of the prohibition should be left to the courts as provided in Section 25.

3. SECTION 14-2 INDICATES THAT THE EMPLOYER AND EMPLOYEE ORGANIZATION EACH PAY ONE-HALF OF THE COST OF MEDIATION, AND SECTION 15-2 APPLIES THIS RATIO TO FACT-FINDING. Fact-finding costs should be split but there is a good argument for the state to pay mediation costs. Since mediation, as opposed to factfinding, is informal and is an attempt to assist the parties to reach their own agreement without imposition of his own decision, its use is most beneficial and should be encouraged by eliminating cost to the parties. In the case of fact-finding, which is a more formal process, the parties in essence acknowledge they have failed and therefore should bear the expense.

4. THE TIME SCHEDULES IN SECTIONS 14 and 15 MAY CAUSE PROBLEMS. There is no objection to the 120 day notice on matters requiring the budgeting of money. The 45 days and 75 requirements (Section 14 and 15) for initiation of mediation and fact-finding have some merit but may prematurely disrupt a negotiation and jeopardize an agreement that might otherwise have been reached. On the other hand, some parties may waste time waiting for the deadline. This destroys the concept of "good faith" negotiation. Another consideration relates to the burden on the state agency or outside mediators, if all disputes must be handled at the same time throughout the state.

   Either party should be permitted to declare an impasse at any time and to request assistance from the third party. The agency or state official who administers the Act can then make an independent determination. If the individual or state agency feels the request is premature, he (they) can direct the parties to continue negotiating. A later appeal could be made if the dispute remained unresolved.

5. THE TIME IN SECTION 15-3 AND SECTION 16 SEEM UNWORKABLE IF WITNESSES FAIL TO APPEAR BEFORE A FACT-FINDER. If the fact-finding panel has only 25 days to complete its business, how can a court, as provided in Section 16-4, be notified, enter an order, allow up to 10 days prior to a court hearing for the recalcitrant witness, and then possibly order the witness to appear before the fact-finding panel all in this period of time? The panel still must hear him and complete its entire report within the same 25 days.

6. THE TERMS OF OFFICE OF THE STATE BOARD, IF CREATED, SHOULD BE ALTERED SO THAT NO TWO TERMS EXPIRE AT THE SAME TIME. This could be accomplished by having the 4-year term remain with individual terms expiring each year except the fourth or by making the length of term 3 or 5 years, with individual terms expiring each year or every other year.

C. Concepts which might improve the bill

7. THERE IS SOMETHING TO BE SAID FOR DEVELOPING A LIST OF NOMINATIONS TO PRESENT TO THE GOVERNOR FOR POSITIONS ON SUCH A STATE BOARD, IF CREATED. One approach would be to request nominations from the major employer groups in the state (2 each from School Boards Association, Municipal Association, County Commissioners Association) and from employee groups (firefighters, State Education Association, policemens' association and others). The Governor could select one person from each list and the third person from the public at large. The organizations or local employers would not nominate individuals from their own ranks.

8. SECTION 29 SHOULD PROVIDE FOR SOME DELAY TO ALLOW THE ACT TO BECOME OPERATIVE BUT OCTOBER 1, 1969 SEEMS TOO LATE. July 1s seems a more appropriate time in the schools. This would allow questions of recognition, appropriate negotiating units and other preliminary questions to be handled prior to the opening of school in September. If none of these matters could be appealed until October 1, good faith negotiating in any local subdivision on matters of substance could be delayed in some instances until winter, thus limiting time for meaningful exchange of views on items relating to budgets prior to April, 1970.

D. SPECIFIC CHANGES IN WORDING OF SB-87 TO IMPLEMENT THE ABOVE SUGGESTIONS

Change section 2 to read: This chapter may be cited as the Local Public Employment Relations Act.

Section 4 should read: "Board" means the Local Public Employment Relations Board.

Section 8 to read: "Strike" means any concerted stoppage of work, slow-down or interruption of operations by employees of the State of Nevada or local government employees. (Drop section b because it is redundant. Also drop sub-section 2 because it's too broad and open to misinterpretation or include concept of concerted action.)

Section 9, sub-section 2, should read: The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee from presenting his grievance to the public employer. Such grievance may be adjusted without the intervention of the recognized group organization if: (a) the adjustment is not inconsistent with the terms of an applicable negotiated agreement; and (b) the recognized organization has been given a reasonable opportunity to be present.

Section 10. (1) It is the duty of every local government employer, except as limited in sub-sections 2 and 3 to negotiate in good faith through a representative or representatives of their own choosing concerning wages, hours, and other terms and conditions of employment with the recognized employee organization for each appropriate unit among its employees.

Nothing in this section shall affect the right of a teacher's organization to negotiate matters relating to, but not limited to, curriculum, textbook selection, in-service training, student-teacher programs, personnel hiring and assignment practices, leaves of absence and non-instructional duties.

Section 11: (1) An employee organization may apply to a local government employer for recognition by presenting:

(a) A copy of its constitution and by-laws, if any;
(b) A roster of its officers, if any, and representatives; and
(c) A verified membership list indicating that it represented a majority of the employees in a specified negotiating unit.

(2) The organization recognized by the public employer shall be the exclusive negotiating organization of the public employees in that negotiating unit.

(3) If an employee organization is aggrieved by the refusal or withdrawal of recognition, the aggrieved employee organization may appeal to the board. Subject to judicial review, the decision of the board is binding upon the local government employer and the employee organization.

Section 12: (1) If a public employer fails to create a negotiating unit requested by an employee organization pursuant to Section 11, the organization may appeal to the board. After reasonable notice of hearing, the board shall decide in each case which group of public employees constitutes an appropriate unit for negotiating purposes.

(2) In determining, modifying or combining any negotiating unit, the board shall consider the community of interest among the employees concerned and the desires of the public employees affected. A local government employee who has executive responsibility for carrying out the policies and instruction of the governing body shall not be a member of the same negotating unit as the employee who serve under his direction. A local government employee who supervises the work of other employees shall not be an officer of an employee organization which includes any of the employees whose work he supervises.

(3) Nothing herein shall affect the right of teachers' organizations to organize in one of the following units: (a) all certified employees of a school district, excluding the superintendent, assistant or associate superintendents; (b) all instructional personnel among the certified employees of a school district, including classroom teachers but excluding administrators, or (c) administrators among the professional employees of a school district, including directors, coordinators, area administrators, principals, assistant principals and other supervisory personnel, but excluding superintendents, assistant or associate superintendents.

(4) If any employee organization is aggrieved by determination of a negotiating unit, it may appeal to the board. Subject to judicial review, the decision of the board is binding upon the local government employer and all employee organizations involved.

Section 14. (1) Either the representatives of alocal government employer or the recognized organization may declare that an impasse has been reached and either of them may so notify the board, requesting mediation and explaining briefly the subject of negotiation. The board shall either: (a) within five days, appoint a competent impartial and disinterested person to act as mediator in the negotiation, or (b) after investigation indicate to the parties making their request that such request is premature and the parties should continue to negotiate.

(2) It is the function of the mediator to promote agreement between the parties.

(3) If the mediator is appointed, the board shall fix his compensation. The local government employer shall pay one-half the cost of mediation and the recognized organization shall pay one-half. (State pay all?)

Section 15: If mediation fails and the parties have not reached agreement, the mediator is discharged from his responsibility and the parties shall submit their dispute to a fact-finder. Within five days the local government employer and recognized organization shall agree on the selection of a fact-finder. If they fail to do so, the board shall elect such fact-finder within five days thereafter.

(2) The local government employer shall pay one-half the cost of fact-finding and the employee organization shall pay one-half.

Section 16; Sub-section 4: There is some question as to whether the court could properly conduct the business indicated in this sub-section within the 25 days provided in Section 15, sub-section 3.

Section 18, Sub-section 2: Should be changed to read: Some method of nomination by major employer and employee groups in the state as discussed earlier should be included. The remainder of this section should be altered so that no two individuals leave the board at the same time. Perhaps this could be accomplished by creating a three or five year term, with one person leaving the board every year or every other year.

Section 26: Delete

Section 27: Delete