

House Bill 916

By: Representatives Brooks of the 54th, Teague of the 58th, Jackson of the 148th, Orrock of the 56th and Pelote of the 149th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 34 of the Official Code of Georgia Annotated, relating to labor
2 organizations and labor relations, so as to authorize public employees to organize into
3 bargaining units and to bargain collectively; to provide for a short title; to define certain
4 terms; to provide for the establishment of the Public Employees Labor Relations
5 Commission; to provide for the composition, appointment, and terms of officers; to establish
6 the powers, authority, and duties of such commission; to provide for rules; to provide that
7 public employees shall have the right to form, join, and participate in or to refrain from
8 forming, joining, or participating in any employee organization; to provide that such
9 employee organization may represent public employees in collective bargaining; to provide
10 for registration of employee organizations; to provide for procedures and fees for
11 registration; to provide for certification of employee organizations; to provide for procedures
12 for certification; to provide for decertification of employee organizations; to provide for
13 procedures for decertification; to provide for establishment of a grievance procedure; to
14 provide for mediation, arbitration, and resolution of an impasse in collective bargaining; to
15 provide for procedures for such mediation, arbitration, and resolution; to define certain unfair
16 labor practices; to provide for procedures to remedy unfair labor practices; to provide for
17 enforcement of orders; to provide for judicial review; to provide that public employees are
18 prohibited from participating in a strike; to provide for sanctions; to provide for restrictions
19 on activities of employee organizations; to provide for exceptions; to provide for conflicts
20 with laws, ordinances, and rules or regulations establishing a merit or civil service system;
21 to provide for representation at proceedings; to amend Code Section 45-7-54 of the Official
22 Code of Georgia Annotated, relating to voluntary contributions by state employees through
23 payroll deductions, so as to provide that voluntary contributions by state employees may be
24 deducted for organizations which engage in collective bargaining with the state; to repeal
25 conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 (8) 'Employee organization' or 'organization' means any labor organization, union,
2 association, fraternal order, occupational or professional society, or group, however
3 organized or constituted, which represents, or seeks to represent, any public employee or
4 group of public employees concerning any matters relating to their employment
5 relationship with a public employer.

6 (9) 'Governing authority' means the General Assembly, the board of county
7 commissioners, the district school board, the governing body of a municipality, or the
8 governing body of any instrumentality or unit of government having the authority to
9 appropriate funds and establish policy governing the terms and conditions of
10 employment.

11 (10) 'Managerial employees' are those employees who:

12 (A) Perform jobs that are not of a routine, clerical, or ministerial nature and require the
13 exercise of independent judgment in the performance of such jobs and who:

14 (i) Formulate or assist in formulating policies which are applicable to bargaining unit
15 employees;

16 (ii) May reasonably be required on behalf of the employer to assist in the preparation
17 for the conduct of collective bargaining negotiations;

18 (iii) Have a role in the administration of agreements resulting from collective
19 bargaining negotiations;

20 (iv) Have a significant role in personnel administration;

21 (v) Have a significant role in employee relations; or

22 (vi) Have a significant role in the preparation or administration of budgets for any
23 public agency or institution or subdivision thereof; or

24 (B) Serve as police chiefs, fire chiefs, or directors of public safety of any police, fire,
25 or public safety department. Other police officers and firefighters may be determined
26 by the commission to be managerial employees of such departments. In making such
27 determinations, the commission shall consider, in addition to the criteria established in
28 subparagraph (A) of this paragraph, the paramilitary organizational structure of the
29 department involved.

30 (11) 'Professional employee' means any employee whose work:

31 (A) Is predominantly intellectual and varied in character as opposed to routine mental,
32 manual, mechanical, or physical work;

33 (B) Involves the consistent exercise of discretion and judgment in its performance;

34 (C) Is of such a character that the output produced or the result accomplished cannot
35 be standardized in relation to a given period of time; and

36 (D) Requires advanced knowledge in a field of science or learning customarily
37 acquired by a prolonged course of specialized intellectual instruction and study in an

1 institution of higher learning or a hospital, as distinguished from a general academic
 2 education, an apprenticeship, or training in the performance of routine mental or
 3 physical processes.

4 (12) 'Public employee' or 'employee' means any person employed by a public employer
 5 except:

6 (A) Those persons appointed by the Governor or elected by the people, agency heads,
 7 and members of boards and commissions;

8 (B) Those persons holding positions by appointment or employment in the organized
 9 militia;

10 (C) Those individuals acting as negotiating representatives for employer authorities;

11 (D) Those persons who are designated by the commission as managerial or confidential
 12 employees pursuant to criteria contained in this Code section;

13 (E) Those persons holding positions of employment with the General Assembly;

14 (F) Those persons who have been convicted of a crime and are inmates confined to
 15 institutions within the state;

16 (G) Those persons employed by the Public Employees Relations Commission; and

17 (H) Those persons enrolled as graduate students in the University System of Georgia
 18 who are employed as graduate assistants, graduate teaching assistants, graduate
 19 teaching associates, graduate research assistants, or graduate research associates and
 20 those persons enrolled as undergraduate students in the University System of Georgia
 21 who perform part-time work for the University System of Georgia.

22 (13) 'Public employer' or 'employer' means the state and any county, municipal
 23 corporation, or special district or any subdivision or agency thereof which the
 24 commission determines has sufficient legal distinctiveness properly to carry out the
 25 functions of a public employer. The board of regents shall be deemed to be the public
 26 employer with respect to all public employees within the university system.

27 34-6-42.

28 (a) The Commissioner of Labor shall establish within the Department of Labor the Public
 29 Employees Labor Relations Commission, referred to in this article as the 'commission.'
 30 The commission shall be composed of a chairperson and two full-time members to be
 31 appointed by the Commissioner of Labor from persons representative of the public and
 32 known for their objective and independent judgment, who shall not be employed by, or
 33 hold any commission with, any governmental unit in the state or any employee
 34 organization, as defined in this article, while in such office. In no event shall more than
 35 one appointee be a person who, on account of previous vocation, employment, or
 36 affiliation, is, or has been, classified as a representative of employers; and in no event shall

1 more than one such appointee be a person who, on account of previous vocation,
2 employment, or affiliation, is, or has been, classified as a representative of employees or
3 employee organizations. The commissioners shall devote full time to commission duties
4 and shall not engage in any other business, vocation, or employment while in such office.
5 Beginning on January 1 of the year following the effective date of this Code section, the
6 chairperson shall be appointed for a term of four years, one commissioner for a term of one
7 year, and one commissioner for a term of two years. Thereafter, every term of office shall
8 be for four years; and each term of the office of chairperson shall commence on January
9 1 of the year following the expiration of the term of the preceding chairperson. In the event
10 of a vacancy prior to the expiration of a term of office, the Commissioner of Labor shall
11 make an appointment for the unexpired term of that office. The chairperson shall be
12 responsible for the administrative functions of the commission and shall have the authority
13 to employ such personnel as may be necessary to carry out the provisions of this article.
14 Once appointed to the office of chairperson, the chairperson shall serve as chairperson for
15 the duration of the term of office of chairperson. Nothing contained in this Code section
16 prohibits a chairperson or commissioner from serving multiple terms.

17 (b) The commission, in the performance of its powers and duties under this article, shall
18 be subject to control, supervision, and direction by the Commissioner of Labor.

19 (c) The property, personnel, and appropriations related to the commission's specified
20 authority, powers, duties, and responsibilities shall be provided to the commission by the
21 Department of Labor.

22 (d) The commission shall make such expenditures, including expenditures for personal
23 services and rent at the seat of government and elsewhere, for law books, books of
24 reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as
25 may be necessary in exercising its authority and powers and carrying out its duties and
26 responsibilities. All such expenditures of the commission shall be allowed and paid upon
27 the presentation of itemized vouchers therefor approved by the chairperson.

28 (e) The commission may, in its discretion, charge for publications, subscriptions, and
29 copies of records and documents. Such funds shall be deposited in a trust fund to be
30 established by the commission and shall be used to help defray the cost of providing such
31 publications, subscriptions, and copies of records and documents.

32 (f) The commission shall maintain and keep open during reasonable business hours an
33 office for the transaction of its business, at which its official records and papers shall be
34 kept. The commission may hold sessions and conduct hearings at any place within the
35 state.

36 (g) The commission shall adopt a seal for authentication of its orders and proceedings.

1 34-6-43.

2 (a) The commission shall adopt, promulgate, amend, or rescind such rules and regulations
3 as it deems necessary and administratively feasible to carry out the provisions of this
4 article.

5 (b) The commission shall have the power to preserve and enforce order during any
6 proceeding; issue subpoenas for, administer oaths or affirmations to, and compel the
7 attendance and testimony of witnesses; and issue subpoenas for, and compel the production
8 of, books, papers, records, documents, and other evidence.

9 (c) Any subpoena, notice of hearing, or other process or notice of the commission issued
10 under the provisions of this article shall be served personally or by certified mail or
11 statutory overnight delivery. A return made and verified by the individual making such
12 service and setting forth the manner of such service is proof of service, and a returned
13 receipt, when certified mail or statutory overnight delivery is used, is proof of service. All
14 process of any court to which application may be made under the provisions of this article
15 shall be served in the county wherein the persons required to be served reside or may be
16 found.

17 (d) The commission shall adopt rules as to the qualifications of persons who may serve as
18 mediators and special masters and shall maintain lists of such qualified persons who are not
19 employees of the commission. The commission may initiate dispute resolution procedures
20 by special masters, pursuant to the provisions of this article.

21 (e) Pursuant to its established procedures, the commission shall resolve questions and
22 controversies concerning claims for recognition as the bargaining agent for a bargaining
23 unit, determine or approve units appropriate for purposes of collective bargaining,
24 expeditiously process charges of unfair labor practices by public employers or public
25 employees, and resolve such other questions and controversies as it may be authorized in
26 this article to undertake. The petitioner, charging party, respondent, and any intervenors
27 shall be the adversarial parties before the commission in any adjudicatory proceeding
28 conducted pursuant to this article.

29 34-6-44.

30 (a) Public employees shall have the right to form, join, and participate in, or to refrain
31 from forming, joining, or participating in, any employee organization of their own
32 choosing.

33 (b) Public employees shall have the right to be represented by any employee organization
34 of their own choosing and to negotiate collectively, through a certified bargaining agent,
35 with their public employer in the determination of the terms and conditions of their
36 employment. Public employees shall have the right to be represented in the determination

1 of grievances on all terms and conditions of their employment. Public employees shall
2 have the right to refrain from exercising the right to be represented.

3 (c) Public employees shall have the right to engage in concerted activities not prohibited
4 by law, for the purpose of collective bargaining or other mutual aid or protection. Public
5 employees shall also have the right to refrain from engaging in such activities.

6 (d) Nothing in this article shall be construed to prevent any public employee from
7 presenting, at any time, the employee's own grievances, in person or by legal counsel, to
8 such employee's public employer and having such grievances adjusted without the
9 intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of
10 the collective bargaining agreement then in effect and if the bargaining agent has been
11 given reasonable opportunity to be present at any meeting called for the resolution of such
12 grievances.

13 34-6-45.

14 (a) Every employee organization seeking to become a certified bargaining agent for public
15 employees shall register with the commission prior to requesting recognition by a public
16 employer for purposes of collective bargaining and prior to submitting a petition to the
17 commission requesting certification as an exclusive bargaining agent. Further, if such
18 employee organization is not registered, it may not participate in a representation hearing,
19 participate in a representation election, or be certified as an exclusive bargaining agent.
20 The application for registration required by this Code section shall be under oath and in
21 such form as the commission may prescribe and shall include:

22 (1) The name and address of the organization and of any parent organization or
23 organization with which it is affiliated;

24 (2) The names and addresses of the principal officers and all representatives of the
25 organization;

26 (3) The amount of the initiation fee and of the monthly dues which members must pay;

27 (4) The current annual financial statement of the organization;

28 (5) The name of its business agent, if any; if different from the business agent, the name
29 of its local agent for service of process; and the addresses where such person or persons
30 can be reached;

31 (6) A pledge, in a form prescribed by the commission, that the employee organization
32 will conform to the laws of the state and that it will accept members without regard to
33 age, race, sex, religion, or national origin;

34 (7) A copy of the current constitution and bylaws of the employee organization; and

35 (8) A copy of the current constitution and bylaws of the state and national groups with
36 which the employee organization is affiliated or associated. In lieu of this provision, and

1 upon adoption of a rule by the commission, a state or national affiliate or parent
2 organization of any registering labor organization may annually submit a copy of its
3 current constitution and bylaws.

4 (b) A registration granted to an employee organization pursuant to the provisions of this
5 Code section shall run for one year from the date of issuance. The employee organization
6 shall renew its registration annually by filing an application for renewal under oath with
7 the commission, which application shall reflect any changes in the information provided
8 to the commission in conjunction with the employee organization's preceding application
9 for registration or previous renewal, whichever is applicable. Each application for renewal
10 of registration shall include a current annual financial statement, signed by its president and
11 treasurer or corresponding principal officers, containing the following information in such
12 detail as may be necessary accurately to disclose its financial condition and operations for
13 its preceding fiscal year and in such categories as the commission may prescribe:

14 (1) Assets and liabilities at the beginning and end of the fiscal year;

15 (2) Receipts of any kind and the sources thereof;

16 (3) Salary, allowances, and other direct or indirect disbursements, including reimbursed
17 expenses, to each officer and also to each employee who, during such fiscal year,
18 received more than \$10,000.00 in the aggregate from such employee organization and
19 any other employee organization affiliated with it or with which it is affiliated or which
20 is affiliated with the same national or international employee organization;

21 (4) Direct and indirect loans made to any officer, employee, or member which
22 aggregated more than \$250.00 during the fiscal year, together with a statement of the
23 purpose, security, if any, and arrangements for repayment; and

24 (5) Direct and indirect loans to any business enterprise, together with a statement of the
25 purpose, security, if any, and arrangements for repayment.

26 (c) A registration fee shall accompany each application filed with the commission. The
27 amount charged for an application for registration or renewal of registration shall not
28 exceed \$1,500.00. All such money collected by the commission shall be deposited in the
29 general revenues of this state.

30 (d) Every employee organization shall keep accurate accounts of its income and expenses,
31 which accounts shall be open for inspection at all reasonable times by any member of the
32 organization or by the commission.

33 34-6-46.

34 (a)(1) Any employee organization which is designated or selected by a majority of public
35 employees in an appropriate unit as their representative for purposes of collective
36 bargaining shall request recognition by the public employer. The public employer shall,

1 if satisfied as to the majority status of the employee organization and the appropriateness
2 of the proposed unit, recognize the employee organization as the collective bargaining
3 representative of employees in the designated unit. Upon recognition by a public
4 employer, the employee organization shall immediately petition the commission for
5 certification. The commission shall review only the appropriateness of the unit proposed
6 by the employee organization. If the unit is appropriate according to the criteria used in
7 this article, the commission shall immediately certify the employee organization as the
8 exclusive representative of all employees in the unit. If the unit is inappropriate
9 according to the criteria used in this article, the commission may dismiss the petition.

10 (2) Whenever a public employer recognizes an employee organization on the basis of
11 majority status, the commission shall certify the employee organization as a bargaining
12 unit on the basis of appropriateness in accordance with subsection (c) of this Code
13 section, in the absence of inclusion of a prohibited category of employees or violation of
14 Code Sections 34-6-51 and 34-6-55.

15 (b)(1) If the public employer refuses to recognize the employee organization, the
16 employee organization may file a petition with the commission for certification as the
17 bargaining agent for a proposed bargaining unit. The petition shall be accompanied by
18 dated statements signed by at least 30 percent of the employees in the proposed unit,
19 indicating that such employees desire to be represented for purposes of collective
20 bargaining by the petitioning employee organization. Once a petition for certification has
21 been filed by an employee organization, any registered employee organization desiring
22 placement on the ballot in any election to be conducted pursuant to this Code section may
23 be permitted by the commission to intervene in the proceeding upon motion accompanied
24 by dated statements signed by at least 10 percent of the employees in the proposed unit,
25 indicating that such employees desire to be represented for the purposes of collective
26 bargaining by the moving employee organization. Any employee, employer, or employee
27 organization having sufficient reason to believe any of the employee signatures were
28 obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise
29 invalid shall be given a reasonable opportunity to verify and challenge the signatures
30 appearing on the petition.

31 (2) The commission or one of its designated agents shall investigate the petition to
32 determine its sufficiency. If it has reasonable cause to believe that the petition is
33 sufficient, the commission shall provide for an appropriate hearing upon due notice.
34 Such a hearing may be conducted by an agent of the commission. If the commission
35 finds the petition to be insufficient, it may dismiss the petition. If the commission finds
36 upon the record of the hearing that the petition is sufficient, it shall immediately:

1 (A) Identify the proposed bargaining unit and determine which public employees shall
2 be qualified and entitled to vote at any election held by the commission;

3 (B) Identify the public employer or employers for purposes of collective bargaining
4 with the bargaining agent; and

5 (C) Order an election by secret ballot, the cost of said election and any required run-off
6 election to be borne equally by the parties, except as the commission may provide by
7 rule. The commission's order assessing costs of an election may be enforced pursuant
8 to the provisions of this article.

9 (3) When an employee organization is selected by a majority of the employees voting
10 in an election, the commission shall certify the employee organization as the exclusive
11 collective bargaining representative of all employees in the unit. In any election in which
12 none of the choices on the ballot receives the vote of a majority of the employees voting,
13 a run-off election shall be held according to rules promulgated by the commission.

14 (4) No petition may be filed seeking an election in any appropriate bargaining unit to
15 determine the exclusive bargaining agent if a representation election has been conducted
16 within the preceding 12 month period. Furthermore, if a valid collective bargaining
17 agreement covering any of the employees in a proposed unit is in effect, a petition for
18 certification may be filed with the commission only during the period extending from 150
19 days to 90 days immediately preceding the expiration date of said agreement, or at any
20 time subsequent to its expiration date but prior to the effective date of any new
21 agreement. The effective date of a collective bargaining agreement means the date of
22 ratification by both parties, if the agreement becomes effective immediately or
23 retroactively; or its actual effective date, if the agreement becomes effective after its
24 ratification date.

25 (c) In identifying a proposed bargaining unit, the commission shall take into consideration:

26 (1) The principles of efficient administration of government;

27 (2) The number of employee organizations with which the employer might have to
28 negotiate;

29 (3) The compatibility of the unit with the joint responsibilities of the public employer
30 and public employees to represent the public;

31 (4) The power of the officials of government at the level of the unit to agree, or to make
32 effective recommendations to another administrative authority or to a legislative body,
33 with respect to matters of employment upon which the employees desire to negotiate;

34 (5) The organizational structure of the public employer;

35 (6) Community of interest among the employees to be included in the unit, considering:

36 (A) The manner in which wages and other terms of employment are determined;

1 (B) The method by which jobs and salary classifications are determined;

2 (C) The interdependence of jobs and interchange of employees;

3 (D) The desires of the employees; and

4 (E) The history of employee relations within the organization of the public employer
5 concerning organization and negotiation and the interest of the employees and the
6 employer in the continuation of a traditional, workable, and accepted negotiation
7 relationship;

8 (7) The statutory authority of the public employer to administer a classification and pay
9 plan; and

10 (8) Such other factors and policies as the commission may deem appropriate.

11 However, no unit shall be established or approved for purposes of collective bargaining
12 which includes both professional and nonprofessional employees unless a majority of each
13 group votes for inclusion in such unit.

14 34-6-47.

15 (a) Any employee or group of employees which no longer desires to be represented by the
16 certified bargaining agent may file with the commission a petition to revoke certification.
17 The petition shall be accompanied by dated statements signed by at least 30 percent of the
18 employees in the unit, indicating that such employees no longer desire to be represented
19 for purposes of collective bargaining by the certified bargaining agent. The time of filing
20 said petition shall be governed by the provisions of Code Section 34-6-46, relating to
21 petitions for certification. Any employee or employee organization having sufficient
22 reason to believe any of the employee signatures were obtained by collusion, coercion,
23 intimidation, or misrepresentation or are otherwise invalid shall be given a reasonable
24 opportunity to verify and challenge the signatures appearing on the petition. The
25 commission or one of its designated agents shall investigate the petition to determine its
26 sufficiency. If the commission finds the petition to be insufficient, it may dismiss the
27 petition. If the commission finds that the petition is sufficient, it shall immediately:

28 (1) Identify the bargaining unit and determine which public employees shall be qualified
29 and entitled to vote in the election held by the commission;

30 (2) Identify the public employer or employers; and

31 (3) Order an election by secret ballot, the cost of said election to be borne equally by the
32 parties, except as the commission may provide by rule. The commission's order
33 assessing costs of an election may be enforced pursuant to the provisions of this article.

34 (b) If a majority of the employees voting in such election vote against the continuation of
35 representation by the certified bargaining agent, the certification of the employee

1 organization as the exclusive bargaining agent for the employees in the bargaining unit
2 shall be revoked.

3 (c) If a majority of the employees voting in such election do not vote against the
4 continuation of representation by the certified bargaining agent, the certification of the
5 employee organization as the exclusive bargaining agent for the employees in the unit shall
6 be retained by the organization.

7 34-6-48.

8 (a) After an employee organization has been certified pursuant to the provisions of this
9 article, the bargaining agent for the organization and the chief executive officer of the
10 appropriate public employer or employers, jointly, shall bargain collectively in the
11 determination of the wages, hours, and terms and conditions of employment of the public
12 employees within the bargaining unit. The chief executive officer or such officer's
13 representative and the bargaining agent or its representative shall meet at reasonable times
14 and bargain in good faith. In conducting negotiations with the bargaining agent, the chief
15 executive officer or such officer's representative shall consult with, and attempt to
16 represent the views of, the governing authority of the public employer. Any collective
17 bargaining agreement reached by the negotiators shall be reduced to writing, and such
18 agreement shall be signed by the chief executive officer and the bargaining agent. Any
19 agreement signed by the chief executive officer and the bargaining agent shall not be
20 binding on the public employer until such agreement has been ratified by the public
21 employer and by public employees who are members of the bargaining unit, subject to the
22 provisions of subsections (b) and (c) of this Code section. However, with respect to
23 state-wide bargaining units, any agreement signed by the Governor and the bargaining
24 agent for such a unit shall not be binding until approved by the public employees who are
25 members of the bargaining unit, subject to the provisions of subsections (b) and (c) of this
26 Code section.

27 (b) Upon execution of the collective bargaining agreement, the chief executive officer
28 shall, in such officer's annual budget request or by other appropriate means, request the
29 governing authority to appropriate such amounts as shall be sufficient to fund the
30 provisions of the collective bargaining agreement. If less than the requested amount is
31 appropriated, the collective bargaining agreement shall be administered by the chief
32 executive officer on the basis of the amounts appropriated by the governing authority. The
33 failure of the governing authority to appropriate funds sufficient to fund the collective
34 bargaining agreement shall not constitute, or be evidence of, any unfair labor practice.

35 (c) If any provision of a collective bargaining agreement is in conflict with any law,
36 ordinance, rule, or regulation over which the chief executive officer has no amendatory

1 power, the chief executive officer shall submit to the appropriate governmental body
2 having amendatory power a proposed amendment to such law, ordinance, rule, or
3 regulation. Unless and until such amendment is enacted or adopted and becomes effective,
4 the conflicting provision of the collective bargaining agreement shall not become effective.

5 (d) If the agreement is not ratified by the public employer or is not approved by a majority
6 vote of employees voting in the unit, in accordance with procedures adopted by the
7 commission, the agreement shall be returned to the chief executive officer and the
8 bargaining agent for further negotiations.

9 (e) Any collective bargaining agreement shall not provide for a term of existence of more
10 than three years and shall contain all of the terms and conditions of employment of the
11 employees in the bargaining unit during such term except those terms and conditions
12 provided for in applicable merit and civil service rules and regulations.

13 34-6-49.

14 Each public employer and bargaining agent shall negotiate a grievance procedure to be
15 used for the settlement of disputes between employer and employee or group of employees,
16 involving the interpretation or application of a collective bargaining agreement. Such
17 grievance procedure shall have as its terminal step a final and binding disposition by an
18 arbiter mutually selected by the parties. However, such an arbiter shall not have the power
19 to add to, subtract from, modify, or alter the terms of a collective bargaining agreement.
20 If an employee organization is certified as the bargaining agent of a unit, the grievance
21 procedure then in existence may be the subject of collective bargaining, and any agreement
22 which is reached shall supersede the previously existing procedure. All public employees
23 shall have the right to a fair and equitable grievance procedure, administered without
24 regard to membership or nonmembership in any organization, and certified employee
25 organizations shall process grievances for employees who are not members of the
26 organization. A merit system employee shall have the option of utilizing the civil service
27 appeal procedure or a grievance procedure established under this Code section, but such
28 employee cannot use both a merit system appeal and a grievance procedure.

29 34-6-50.

30 (a) If, after a reasonable period of negotiation concerning the terms and conditions of
31 employment to be incorporated in a collective bargaining agreement, a dispute exists
32 between a public employer and a bargaining agent, an impasse shall be deemed to have
33 occurred when one of the parties so declares in writing to the other party and to the
34 commission. When an impasse occurs, the public employer or the bargaining agent, or

1 both parties acting jointly, may appoint, or secure the appointment of, a mediator to assist
2 in the resolution of the impasse.

3 (b) If no mediator is appointed, or upon the request of either party, the commission shall
4 appoint and submit all unresolved issues to a special master acceptable to both parties. If
5 the parties are unable to agree on the appointment of a special master, the commission shall
6 appoint, in its discretion, a qualified special master. However, if the parties agree in
7 writing to waive the appointment of a special master, the parties may proceed directly to
8 resolution of the impasse by the commission pursuant to paragraph (4) of subsection (d)
9 of this Code section. Nothing in this Code section precludes the parties from using the
10 services of a mediator at any time during the conduct of collective bargaining.

11 (c) The special master shall hold hearings in order to define the area or areas of dispute,
12 to determine facts relating to the dispute, and to render a decision on any and all unresolved
13 contract issues. The hearings shall be held at times, dates, and places to be established by
14 the special master in accordance with rules promulgated by the commission. The special
15 master shall be empowered to administer oaths and issue subpoenas on behalf of the parties
16 to the dispute or on his or her own behalf. Within 15 calendar days after the close of the
17 final hearing, the special master shall transmit the special master's recommended decision
18 to the commission and to the representatives of both parties, by registered mail or statutory
19 overnight delivery, return receipt requested. Such recommended decision shall be
20 discussed by the parties, and each recommendation of the special master shall be deemed
21 approved by both parties unless specifically rejected by either party by written notice filed
22 with the commission within 20 calendar days after the date the party received the special
23 master's recommended decision. The written notice shall include a statement of the cause
24 of each rejection and shall be served upon the other party.

25 (d) The special master shall conduct the hearings and render the special master's
26 recommended decisions with the objective of achieving a prompt, peaceful, and just
27 settlement of disputes between the public employee organizations and the public
28 employers. The factors, among others, to be given weight by the special master in arriving
29 at a recommended decision shall include:

30 (1) Comparison of the annual income from employment of the public employees in
31 question with the annual income from employment maintained for the same or similar
32 work of employees exhibiting like or similar skills under the same or similar working
33 conditions in the local operating area involved;

34 (2) Comparison of the annual income from employment of the public employees in
35 question with the annual income from employment of public employees in similar
36 governmental bodies of comparable size within the state;

37 (3) The interest and welfare of the public; and

1 (4) Comparison of peculiarities of employment in regard to other trades or professions,
2 specifically with respect to:

- 3 (A) Hazards of employment;
- 4 (B) Physical qualifications;
- 5 (C) Educational qualifications;
- 6 (D) Intellectual qualifications;
- 7 (E) Job training and skills;
- 8 (F) Retirement plans;
- 9 (G) Sick leave;
- 10 (H) Job security; and
- 11 (I) Availability of funds.

12 (e) In the event that either the public employer or the employee organization does not
13 accept, in whole or in part, the recommended decision of the special master:

14 (1) The chief executive officer of the governmental entity involved and the employee
15 organization shall each, within ten days after rejection of a recommendation of the special
16 master, submit to the commission a copy of the findings of fact and the recommended
17 decision of the special master, together with the recommendations for settling the
18 disputed impasse issues. Each party shall also transmit its recommendations to the other
19 party. If the dispute involves employees for whom the board of regents is the public
20 employer, the Governor may also submit recommendations to the commission for settling
21 the disputed impasse issues;

22 (2) The commission shall forthwith conduct a public hearing at which the parties shall
23 be required to explain their positions with respect to the rejected recommendations of the
24 special master. Thereafter, the commission shall take such action as it deems to be in the
25 public interest, including the interest of the public employees involved, to resolve all
26 disputed impasse issues; and

27 (3) Following the resolution of the disputed impasse issues by the commission, the
28 parties shall reduce to writing an agreement which includes those issues agreed to by the
29 parties and those disputed impasse issues resolved by the commission. The agreement
30 shall be signed by the chief executive officer and the bargaining agent and shall be
31 submitted for ratification to the public employer and to the public employees who are
32 members of the bargaining unit. If such agreement is not ratified by all parties, pursuant
33 to the provisions of Code Section 34-6-48, the commission's action taken pursuant to the
34 provisions of paragraph (2) of this subsection shall take effect as of the date of such
35 action for the remainder of the first fiscal year which was the subject of negotiations;
36 provided, however, the commission's action shall not take effect with respect to those
37 disputed impasse issues which establish the language of contractual provisions which

1 could have no effect in the absence of a ratified agreement, including, but not limited to,
2 preambles, recognition clauses, and duration clauses.

3 (f) The compensation of the mediator and special master, and all stenographic and other
4 expenses, shall be borne equally by the parties.

5 34-6-51.

6 (a) It shall be an unfair labor practice for public employers or their agents or
7 representatives to:

8 (1) Interfere with, restrain, or coerce public employees in the exercise of any rights
9 guaranteed them under this article;

10 (2) Encourage or discourage membership in any employee organization by
11 discrimination in regard to hiring, tenure, or other conditions of employment;

12 (3) Refuse to bargain collectively, fail to bargain collectively in good faith, or refuse to
13 sign a final agreement agreed upon with the certified bargaining agent for the public
14 employees in the bargaining unit;

15 (4) Discharge or discriminate against a public employee because he or she has filed
16 charges or given testimony under this article;

17 (5) Dominate, interfere with, or assist in the formation, existence, or administration of
18 any employee organization or contribute financial support to such an organization; or

19 (6) Refuse to discuss grievances in good faith pursuant to the terms of the collective
20 bargaining agreement with either the certified bargaining agent for the public employee
21 or the employee involved.

22 (b) It shall be an unfair labor practice for a public employee organization or anyone acting
23 in its behalf or its officers, representatives, agents, or members to:

24 (1) Interfere with, restrain, or coerce public employees in the exercise of any rights
25 guaranteed them under this article or interfere with, restrain, or coerce managerial
26 employees by reason of their performance of job duties or other activities undertaken in
27 the interests of the public employer;

28 (2) Cause or attempt to cause a public employer to discriminate against an employee
29 because of the employee's membership or nonmembership in an employee organization
30 or attempt to cause the public employer to violate any of the provisions of this article;

31 (3) Refuse to bargain collectively or fail to bargain collectively in good faith with a
32 public employer;

33 (4) Discriminate against an employee because the employee has signed or filed an
34 affidavit, petition, or complaint or given any information or testimony in any proceedings
35 provided for in this article;

1 (5) Participate in a strike against the public employer by instigating or supporting, in any
2 positive manner, a strike. Any violation of this paragraph shall subject the violator to the
3 penalties provided in this article; or

4 (6) Instigate or advocate support, in any positive manner, for an employee organization's
5 activities from high school or grade school students or students in institutions of higher
6 learning.

7 (c) Notwithstanding the provisions of subsections (a) and (b) of this Code section, the
8 parties' rights of free speech shall not be infringed, and the expression of any arguments
9 or opinions shall not constitute, or be evidence of, an unfair employment practice or of any
10 other violation of this article, if such expression contains no promise of benefits or threat
11 of reprisal or force.

12 34-6-52.

13 (a) An employer, employee, employee organization, or any combination thereof may
14 initiate a proceeding to remedy a violation of the provisions of Code Section 34-6-51.
15 Such proceeding shall be initiated by the filing of a charge with the commission. Such a
16 charge shall contain a clear and concise statement of facts constituting the alleged unfair
17 labor practice, including the names of all individuals involved in the alleged unfair labor
18 practice, specific reference to the provisions of Code Section 34-6-51 alleged to have been
19 violated, and such other relevant information as the commission may by rule require or
20 allow. The charge shall be served upon each named respondent at the time of filing with
21 the commission. The charge must be accompanied by sworn statements and documentary
22 evidence sufficient to establish a prima-facie violation of the applicable unfair labor
23 practice provision. Such supporting evidence is not to be attached to the charge and is to
24 be furnished only to the commission. The commission, or any agent designated by it for
25 such purpose, shall thereupon review the charge to determine its sufficiency.

26 (b)(1) If upon review the commission determines that the charge is insufficient, the
27 commission or its designated agent may issue a summary dismissal of the charge. A
28 charging party whose charge is dismissed by a designated agent may appeal the dismissal
29 to the commission within 20 days after the date of issuance of the dismissal. If the
30 commission finds the charge to be sufficient, it shall reinstate the charge.

31 (2) If upon review the commission determines that the charge is sufficient, the
32 commission shall notify the parties. Each respondent so charged shall thereupon file an
33 answer to the charge with the commission, and serve a copy upon the charging party, no
34 more than 20 days after service of notification of the sufficiency of the charge, unless
35 otherwise allowed by the commission. The commission, in its discretion, may allow a

1 charge or answer to be amended at any time. The commission may also, in its discretion,
2 allow other interested parties to intervene in the proceeding.

3 (c) Whenever a charging party alleges that a respondent has engaged in unfair labor
4 practices and that the charging party will suffer substantial and irreparable injury if the
5 charging party is not granted temporary relief, the commission may petition the superior
6 court for appropriate injunctive relief pending the final adjudication by the commission
7 with respect to such matter. Upon the filing of any such petition, the court shall cause
8 notice thereof to be served upon the parties and upon such notice shall have jurisdiction to
9 grant such temporary relief or restraining order as it deems just and proper.

10 (d) The commission may issue prehearing orders requiring the parties to provide written
11 statements of relevant issues of fact and law and such other information as the commission
12 may require to expedite the resolution of the case. Such orders may further direct the
13 parties to identify witnesses, exchange intended exhibits and documentary evidence, and
14 appear at a conference before the commission or a member thereof, or a designated hearing
15 officer, for the purpose of handling such matters as will aid the commission in
16 expeditiously resolving the case before it.

17 (e) Whenever the proceeding involves a disputed issue of material fact and an evidentiary
18 hearing is to be conducted:

19 (1) The commission shall issue and serve upon all parties a notice of hearing before an
20 assigned hearing officer at a time and place specified therein. Such notice shall be issued
21 at least 14 days prior to the scheduled hearing;

22 (2) The evidentiary hearing may be conducted by the commission itself or by the Office
23 of State Administrative Hearings in accordance with the provisions of Chapter 13 of Title
24 50, the 'Georgia Administrative Procedure Act'; and

25 (3) If the hearing was held before the commission or a member of the commission, the
26 commission may elect to issue a final order.

27 (f)(1) If, upon consideration of the record in the case, the commission finds that an unfair
28 labor practice has been committed, it shall issue and cause to be served an order requiring
29 the appropriate party or parties to cease and desist from the unfair labor practice and take
30 such positive action, including reinstatement of employees with or without back pay, as
31 will best implement the general policies expressed in this article. However, no order of
32 the commission shall require the reinstatement of any individual as an employee who has
33 been suspended or discharged, or the payment to an individual of any back pay, if the
34 individual was suspended or discharged for cause. The order may further require the
35 party or parties to make periodic reports showing the extent to which it has complied with
36 the order. If, upon consideration of the record in the case, the commission finds that an
37 unfair labor practice has not been or is not being committed or that the alleged unfair

1 labor practice occurred more than six months prior to the filing of the charge, it shall
2 issue an order dismissing the case.

3 (2) The commission may award to the prevailing party all or part of the costs of
4 litigation, reasonable attorney's fees, and expert witness fees whenever the commission
5 determines that such an award is appropriate.

6 (3) Final orders of the commission issued pursuant to this Code section shall be enforced
7 pursuant to the provisions of Code Section 34-6-53 and shall be reviewed pursuant to the
8 provisions of Code Section 34-6-54.

9 34-6-53.

10 In case of any failure by any employer, employee, or employee organization to comply
11 with any order of the commission, upon application of the commission or any person who
12 is a resident of this state and who is substantially interested in such order, any superior
13 court of this state shall have jurisdiction to enforce the order. However, if one or more
14 petitions for enforcement and a notice of appeal involving the same agency action are
15 pending at the same time, the Court of Appeals considering the notice of appeal shall order
16 all such actions transferred to and consolidated in the Court of Appeals. If a petition for
17 enforcement is filed after the time for filing notice of appeal has expired, the respondent
18 may assert as a defense only that the commission order was not intended to apply to
19 respondent or that respondent has complied with the commission order. Petitions for
20 enforcement filed under this article shall be heard expeditiously by the superior court to
21 which presented.

22 34-6-54.

23 (a) The Court of Appeals is empowered, upon the filing of appropriate notices of appeal,
24 to review final orders of the commission. A copy of the notice of appeal shall be filed with
25 the commission. The record in the proceeding, certified by the commission, shall be filed
26 with the court.

27 (b) Upon the filing of a notice of appeal, the Court of Appeals shall have jurisdiction of
28 the proceeding and may grant such temporary or permanent relief or restraining order as
29 it deems just and proper and may enforce, modify, affirm, or set aside, in whole or in part,
30 the order of the commission. The findings of the commission with respect to questions of
31 fact, if supported by substantial evidence on the record considered as a whole, shall be
32 conclusive.

33 (c) The court may award to the prevailing party all or part of the costs of litigation and
34 reasonable attorney's fees and expert witness fees whenever the court determines that such
35 an award is appropriate. However, no such costs or fees shall be assessed against the

1 commission in any appeal from an order issued by the commission in an adjudicatory
2 proceeding between adversarial parties conducted pursuant to this article.

3 (d) The commencement of proceedings under this Code section shall not, unless
4 specifically ordered by the Court of Appeals, operate as a stay of the commission's order.

5 (e) Appeals filed under this article shall be heard expeditiously by the Court of Appeals.

6 34-6-55.

7 No public employee or employee organization may participate in a strike against a public
8 employer by instigating or supporting, in any manner, a strike. No provision contained in
9 this article shall be construed so as to modify or alter the provisions of Chapter 19 of Title
10 45. Any violation of this Code section shall subject the violator to the penalties provided
11 in this article and in Code Sections 45-19-4 and 45-19-5.

12 34-6-56.

13 (a) Superior courts having jurisdiction of the parties are vested with the authority to hear
14 and determine all actions alleging violations of Code Section 34-6-55. Suits to enjoin such
15 violations will have priority over all matters on the court's docket except other emergency
16 matters.

17 (b) If a public employee, a group of employees, an employee organization, or any officer,
18 agent, or representative of any employee organization engages in a strike, either the
19 commission or any public employer whose employees are involved or whose employees
20 may be affected by the strike may file suit to enjoin the strike in the superior court having
21 proper jurisdiction and proper venue of such actions. The court shall conduct a hearing,
22 with notice to the commission and to all interested parties, at the earliest practicable time.
23 If the plaintiff makes a prima-facie showing that a violation of Code Section 34-6-55 is in
24 progress or that there is a clear, real, and present danger that such a strike is about to
25 commence, the court shall issue a temporary injunction enjoining the strike. Upon final
26 hearing, the court shall either make the injunction permanent or dissolve it.

27 (c) If an injunction to enjoin a strike issued pursuant to this Code section is not promptly
28 complied with, on the application of the plaintiff, the superior court shall immediately
29 initiate contempt proceedings against those who appear to be in violation. An employee
30 organization found to be in contempt of court for violating an injunction against a strike
31 shall be fined an amount deemed appropriate by the court. In determining the appropriate
32 fine, the court shall objectively consider the extent of lost services and the particular nature
33 and position of the employee group in violation. In no event shall the fine exceed
34 \$50,000.00. Each officer, agent, or representative of an employee organization found to

1 be in contempt of court for violating an injunction against a strike shall be fined not less
2 than \$50.00 nor more than \$500.00 for each calendar day that the violation is in progress.

3 (d) An employee organization shall be liable for any damages which might be suffered by
4 a public employer as a result of a violation of the provisions of Code Section 34-6-55 by
5 the employee organization or its representatives, officers, or agents. The superior court
6 having jurisdiction over such actions is empowered to enforce judgments against employee
7 organizations, as defined in this article, by attachment or garnishment of union initiation
8 fees or dues which are to be deducted or checked off by public employers. No action shall
9 be maintained pursuant to this subsection until all proceedings which were pending before
10 the commission at the time of the strike or which were initiated within 30 days of the strike
11 have been finally adjudicated or otherwise disposed of. In determining the amount of
12 damages, if any, to be awarded to the public employer, the court shall take into
13 consideration any action or inaction by the public employer or its agents that provoked or
14 tended to provoke the strike by the public employees. The court shall also take into
15 consideration any damages that might have been recovered by the public employer under
16 subparagraph (f)(1)(D) of this Code section.

17 (e) If the commission, after notice and a hearing conducted according to rules promulgated
18 by the commission, determines that an employee has violated the provisions of Code
19 Section 34-6-55, it may order the termination of that employee's employment by the public
20 employer. Notwithstanding any other provision of law, a person who knowingly violates
21 the provision of said Code section may, subsequent to such violation, be appointed,
22 reappointed, employed, or reemployed as a public employee, but only upon the following
23 conditions:

24 (1) Such person shall be on probation for a period of six months following the person's
25 appointment, reappointment, employment, or reemployment, during which period the
26 person shall serve without tenure. During this period, the person may be discharged only
27 upon a showing of just cause;

28 (2) Such a person's compensation may in no event exceed that received by him or her
29 immediately prior to the time of the violation; and

30 (3) The compensation of such a person may not be increased until after the expiration of
31 one year from such appointment, reappointment, employment, or reemployment.

32 (f)(1) If the commission determines that an employee organization has violated the
33 provisions of Code Section 34-6-55, it may:

34 (A) Issue cease and desist orders as necessary to ensure compliance with its order;

35 (B) Suspend or revoke the certification of the employee organization as the bargaining
36 agent of such employee unit;

1 (C) Revoke the right of dues deduction and collection previously granted to said
2 employee organization; and

3 (D) Fine the organization up to \$50,000.00 for each calendar day of such violation or
4 determine the approximate cost to the public due to each calendar day of the strike and
5 fine the organization an amount equal to such cost, notwithstanding the fact that the fine
6 may exceed \$50,000.00 for each such calendar day. The fines so collected shall
7 immediately accrue to the public employer and shall be used by the public employer to
8 replace those services denied the public as a result of the strike. In determining the
9 amount of damages, if any, to be awarded to the public employer, the commission shall
10 take into consideration any action or inaction by the public employer or its agents that
11 provoked, or tended to provoke, the strike by the public employees.

12 (2) An organization determined to be in violation of the provisions of Code Section
13 34-6-55 shall not be certified until one year from the date of final payment of any fine
14 against it.

15 34-6-57.

16 (a) Employee organizations, their members, agents, or representatives, or any persons
17 acting on their behalf are prohibited from:

18 (1) Soliciting public employees during the working hours of any employee who is
19 involved in the solicitation;

20 (2) Distributing literature during working hours in areas where the actual work of public
21 employees is performed, such as offices, warehouses, schools, police stations, fire
22 stations, and any similar public installations. This Code section shall not be construed
23 to prohibit the distribution of literature during the employee's lunch hour or in such areas
24 not specifically devoted to the performance of the employee's official duties; or

25 (3) Instigating or advocating support, in any positive manner, for an employee
26 organization's activities from high school or grade school students during classroom time.

27 (b) No employee organization shall directly or indirectly pay any fines or penalties
28 assessed against individuals pursuant to the provisions of this article.

29 (c) The superior courts of this state shall have jurisdiction to enforce the provisions of this
30 Code section by injunction and contempt proceedings, if necessary. A public employee
31 who is convicted of a violation of any provision of this Code section may be discharged or
32 otherwise disciplined by said employee's public employer, notwithstanding further
33 provisions of law, and notwithstanding the provisions of any collective bargaining
34 agreement.

1 34-6-58.

2 The provisions of this article shall not be construed to repeal, amend, or modify the
3 provisions of any law or ordinance establishing a merit or civil service system for public
4 employees or the rules and regulations adopted pursuant thereto or to prohibit or hinder the
5 establishment of other such personnel systems unless the provisions of such merit or civil
6 service system laws or ordinances or rules and regulations adopted pursuant thereto are in
7 conflict with the provisions of this article, in which event such laws, ordinances, or rules
8 and regulations shall not apply, except as provided in subsection (d) of Code Section
9 34-6-44.

10 34-6-59.

11 Any full-time employee or officer of any public employer or employee organization may
12 represent his or her employer or any member of a bargaining unit in any proceeding
13 authorized in this article, excluding the representation of any person or public employer in
14 a court of law by a person who is not a licensed attorney."

15 **SECTION 2.**

16 Code Section 45-7-54 of the Official Code of Georgia Annotated, relating to voluntary
17 contributions by state employees through payroll deductions, is amended by striking in its
18 entirety subsection (e) and inserting in lieu thereof a new subsection to read as follows:

19 "(e) No deduction shall be made under this Code section to any organization, association,
20 or corporation which ~~engages in collective bargaining with the state~~ or encourages its
21 members to strike or stop work."

22 **SECTION 3.**

23 All laws and parts of laws in conflict with this Act are repealed.