

Senate Bill 417

By: Senators Merritt of the 9th, Jones II of the 22nd, Orrock of the 36th, Rahman of the 5th, Wicks of the 34th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 19 of Title 45 of the Official Code of Georgia Annotated, relating to labor
2 practices of public officers and employees, so as to authorize public employees to
3 self-organize or to be represented by a labor organization and to bargain collectively with the
4 state or any political subdivision thereof as to wages, rates of pay, hours, and all other terms
5 and conditions of employment; to provide for definitions; to prohibit public employees from
6 participating in a strike against a public employer; to provide for the establishment of the
7 Georgia Public Employees Relations Board; to provide for the composition, appointment,
8 power, authorities, and duties of such board; to provide that public employees shall have the
9 right to form, join, and participate in or to refrain from forming, joining, or participating in
10 a labor organization; to provide for the deduction, collection, and transmission of
11 membership dues and uniform assessments; to provide for the certification and revocation
12 of the certification of employee organizations to act as bargaining agents; to provide that
13 firefighters and law enforcement officers shall be considered separate bargaining units; to
14 provide that a certified bargaining agent may represent public employees in collective
15 bargaining; to provide for procedures for collective bargaining; to provide for establishment
16 of a grievance procedure; to provide for the resolution of an impasse in collective bargaining;
17 to define certain unfair labor practices; to provide for procedures to remedy unfair labor
18 practices; to provide for the enforcement of final orders of the board; to provide for judicial
19 review of final orders of the board; to provide for civil injunctions against strikes against

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20 public employers; to amend Code Section 16-8-16 of the Official Code of Georgia
21 Annotated, relating to theft by extortion, so as to exclude lawful good faith bargaining from
22 the definition of criminal extortion; to repeal and reserve Code Section 20-2-989.10 of the
23 Official Code of Georgia Annotated, relating to collective bargaining not permitted or
24 fostered; to repeal and reserve Chapter 5 of Title 25 of the Official Code of Georgia
25 Annotated, relating to resolution of wages, hours, and working conditions of firefighters; to
26 amend Code Section 45-7-54 of the Official Code of Georgia Annotated, relating to
27 voluntary contributions by state employees through payroll deductions to certain not for
28 profit organizations, so as to provide that voluntary contributions by state employees may be
29 deducted for organizations which engage in collective bargaining with this state; to amend
30 Chapter 19 of Title 45 of the Official Code of Georgia Annotated, relating to labor practices
31 of public officers and employees, so as to repeal and reserve Article 1, relating to strikes by
32 public employees; to provide for related matters; to provide for an effective date; to repeal
33 conflicting laws; and for other purposes.

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

35 **PART I**

36 *Public Employees and Collective Bargaining*

37 **SECTION 1-1.**

38 Chapter 19 of Title 45 of the Official Code of Georgia Annotated, relating to labor practices
39 of public officers and employees, is amended by adding a new article to read as follows:

40 "ARTICLE 4

41 45-19-70.

42 As used in this article, the term:

43 (1) 'Administrative law judge' means a hearing officer employed with the Office of State
44 Administrative Hearings, as provided for in Chapter 13 of Title 50, the 'Georgia
45 Administrative Procedure Act.'

46 (2) 'Bargaining unit' means either that unit determined by the board or that unit
47 determined by the public employer and the public employee organization and approved
48 by the board to be appropriate for the purposes of collective bargaining.

49 (3) 'Board' means the Georgia Public Employees Relations Board established in Code
50 Section 45-19-73.

51 (4) 'Certified bargaining agent' means the labor organization or its representative which
52 has been certified by the board as representing the public employees in the bargaining
53 unit, as provided in Code Section 45-19-74.

54 (5) 'Collective bargaining' means the performance of the mutual obligations of the public
55 employer and the certified bargaining agent for the bargaining unit of public employees
56 to meet at reasonable times, to negotiate in good faith, and to execute a written contract
57 with respect to agreements reached concerning the terms and conditions of employment,
58 as provided in Code Section 45-19-78.

59 (6) 'Confidential employee' means an employee who acts in a confidential capacity to
60 assist or aid managerial employees.

61 (7) 'Firefighter' means a member of a fire department of any political subdivision of this
62 state who is employed for and subject to fire-fighting duties.

63 (8) 'Governing authority' means the General Assembly, the board of county
64 commissioners, the local school board, the governing body of a municipality, or the
65 governing body of any instrumentality or unit of government having the authority to

66 appropriate funds and establish policy governing the terms and conditions of
67 employment.

68 (9) 'Labor organization' means any organization, union, association, fraternal order,
69 occupational or professional society, or group, however organized or constituted, which
70 represents or seeks to represent any public employee or group of public employees
71 concerning any matters relating to their employment relationship with a public employer.

72 (10) 'Law enforcement officer' means a peace officer who is employed by this state or
73 any political subdivision thereof and who is required by the terms of his or her
74 employment, whether by election or appointment, to give his or her full time to the
75 preservation of public order; the protection of life and property; the prevention, detection,
76 and investigation of crime or violations of law; or the enforcement of administrative,
77 regulatory, licensing, or certification requirements.

78 (11) 'Managerial employees' means those employees who perform jobs that are not of
79 a routine, clerical, or ministerial nature and require the exercise of independent judgment
80 in the performance of such jobs and who:

81 (A) Formulate or assist in formulating policies which are applicable to bargaining unit
82 employees;

83 (B) May reasonably be required on behalf of the employer to assist in the preparation
84 for the conduct of collective bargaining negotiations;

85 (C) Have a role in the administration of agreements resulting from collective
86 bargaining negotiations;

87 (D) Have a significant role in personnel administration;

88 (E) Have a significant role in employee relations; or

89 (F) Have a significant role in the preparation or administration of budgets for any
90 public agency or institution or subdivision thereof.

91 (12) 'Membership dues deduction' means the practice of a public employer of deducting
92 dues and uniform assessments from the salary or wages of a public employee, as provided

93 in Code Section 45-19-75. Such term also means the practice of a public employer of
94 transmitting the sums so deducted to such labor organization.

95 (13) 'Public employee' means any person employed by a public employer except
96 confidential employees and managerial employees. Such term includes students
97 employed in any capacity by public institutions of higher education.

98 (14) 'Public employer' means the state and any county, municipal corporation, or special
99 district or any subdivision, board, or agency thereof engaged in the provision of any
100 public service. The board of regents shall be deemed to be the public employer with
101 respect to all public employees within the University System of Georgia.

102 (15) 'Strike' means the failure to report for duty, the willful absence from one's position,
103 the stoppage or deliberate slowing down of work, or the withholding in whole or in part
104 of the full, faithful, and proper performance of the duties of employment for the purpose
105 of inducing, influencing, or coercing a change in the conditions, compensation, rights,
106 privileges, or obligations of employment.

107 45-19-71.

108 (a) Public employees shall have the right to self-organization; to form, join, or assist a
109 labor organization of their own choosing; and to negotiate collectively through a certified
110 bargaining agent with their public employer in the determination of the terms and
111 conditions of their employment, including wages, rates of pay, hours, and working
112 conditions.

113 (b) Public employees shall have the right to engage in concerted activities for the purpose
114 of collective bargaining or other mutual aid or protection, except as provided in Code
115 Section 45-19-72.

116 (c) The public shall have the right to orderly and uninterrupted operations and functions
117 of state government, including services for welfare, education, health and hospitals,
118 highways and roads, criminal justice, and personal and public safety.

119 (d) Nothing in this article shall be construed to prevent any public employee from
120 presenting at any time his or her own grievances in person or by legal counsel to his or her
121 public employer and having such grievances adjusted without the intervention of the
122 certified bargaining agent, if the adjustment is not inconsistent with the terms of the
123 collective bargaining agreement then in effect and if the certified bargaining agent has been
124 given reasonable opportunity to be present at any meeting called for the resolution of such
125 grievances.

126 (e) All labor organizations and members thereof representing employees pursuant to or
127 under operation of federal law shall be exempt from the provisions of this article.

128 45-19-72.

129 (a) A public employee or labor organization representing or seeking to represent public
130 employees shall not participate in a strike against a public employer, including instigating
131 or supporting a strike in any manner.

132 (b) A public employee or labor organization representing or seeking to represent public
133 employees may participate in picketing, bannering, or handbilling against a public
134 employer, subject to restrictions provided in Article 1 of Chapter 6 of Title 34.

135 45-19-73.

136 (a) There shall be established the Georgia Public Employees Relations Board for such
137 purposes as provided in this article. The board shall be composed of a chairperson and two
138 members to be appointed by the Governor, subject to confirmation by the Senate. The
139 Governor shall appoint the chairperson and two members as follows:

140 (1) One appointee shall be a person who, on account of vocation, employment, or
141 affiliation, is, was, or has been classified as a representative of employers;

142 (2) One appointee shall be a person who, on account of vocation, employment, or
143 affiliation, is, was, or has been classified as a representative of employees or employee
144 organizations; and

145 (3) One appointee shall be a personal representative of the public and known for
146 objective and independent judgment and shall not be a person who, on account of
147 vocation, employment, or affiliation, is, was, or has been classified as a representative of
148 employers, employees, or employee organizations.

149 (b) The board shall adopt, promulgate, amend, or rescind such rules and regulations as it
150 deems necessary and administratively feasible to carry out the provisions of this article.

151 (c) The board, a board member, or an administrative law judge shall have the authority,
152 in connection with any hearing before them, to: administer oaths or affirmations; sign and
153 issue subpoenas; rule upon offers of proof; regulate the course of the hearing; set the time
154 and place for continued hearings; fix the time for filing briefs; dispose of motions to
155 dismiss; dispose of motions to amend or intervene; provide for the taking of testimony by
156 deposition or interrogatory; and reprimand or exclude from the hearing any person for any
157 indecorous or improper conduct committed in the presence of the board, board member,
158 or administrative law judge.

159 (d) Pursuant to established procedures, the board shall resolve questions and controversies
160 concerning claims for recognition as the certified bargaining agent for a bargaining unit;
161 determine or approve bargaining units appropriate for purposes of collective bargaining;
162 expeditiously process charges of unfair labor practices; and resolve such other questions
163 and controversies as it may be authorized in this article to undertake.

164 45-19-74.

165 (a)(1) Any labor organization which is designated or selected by a majority of public
166 employees in an appropriate unit as their representative for purposes of collective
167 bargaining shall request recognition by the public employer.

168 (2) The public employer shall, if satisfied upon review of the evidence provided by the
169 labor organization as to the majority status of the labor organization and the
170 appropriateness of the bargaining unit, recognize the labor organization as the collective
171 bargaining agent of the public employees in the bargaining unit. Upon recognition by a
172 public employer, the labor organization shall immediately petition the board for
173 certification. The board shall immediately certify the labor organization as the exclusive
174 representative of the public employees in the bargaining unit.

175 (b)(1) If the public employer refuses to recognize the labor organization, such
176 organization may file a petition with the board for certification as the bargaining agent
177 for a proposed bargaining unit. The petition shall be accompanied by dated statements
178 signed by at least 30 percent of the public employees in the proposed bargaining unit,
179 indicating that such employees desire to be represented for purposes of collective
180 bargaining by the petitioning labor organization.

181 (2) Once a petition for certification has been filed by a labor organization, any labor
182 organization desiring placement on the ballot in any election to be conducted pursuant
183 to this Code section may be permitted by the board to intervene in the proceeding upon
184 motion accompanied by dated statements signed by at least 10 percent of the public
185 employees in the proposed bargaining unit, indicating that such employees desire to be
186 represented for the purposes of collective bargaining by the moving labor organization.

187 (3) The petitions and dated statements signed by the public employees under this
188 subsection are confidential and shall not be subject to Article 4 of Chapter 18 of Title 50.
189 Any public employee, labor organization, or public employer having sufficient reason to
190 believe any of the public employee signatures were obtained by collusion, coercion,
191 intimidation, or misrepresentation or are otherwise invalid shall be given a reasonable
192 opportunity to verify and challenge the signatures appearing on the petition.

193 (c) The board shall investigate the petition to determine its sufficiency. If the board finds
194 the petition to be insufficient, it may dismiss the petition. If the board has reasonable cause

195 to believe that the petition is sufficient, the board shall provide for an appropriate hearing
196 upon due notice. Such hearing may be conducted by the board, a board member, or an
197 administrative law judge.

198 (d) If the board finds upon the record of the hearing that the petition is sufficient, it shall
199 immediately:

200 (1) Define the proposed bargaining unit and determine which public employees shall be
201 qualified and entitled to vote at an election held by the board;

202 (2) Identify the public employer or employers for purposes of collective bargaining with
203 the bargaining agent; and

204 (3) Order an election by secret ballot. The cost of such election shall be borne equally
205 by the parties, except as the board may provide by rule. The board's order assessing costs
206 of an election may be enforced pursuant to the provisions of this article.

207 (e)(1) When a labor organization is selected by a majority of the public employees voting
208 in such election, the board shall certify the labor organization as the exclusive collective
209 bargaining representative of all public employees in the bargaining unit. Certification is
210 effective upon the issuance of the final order by the board, or, if the order is appealed, at
211 the time the appeal is exhausted or any stay is vacated by the board or the court.

212 (2) In any election in which none of the choices on the ballot receives the vote of a
213 majority of the public employees voting, a run-off election shall be held according to
214 rules promulgated by the board.

215 (f) If a valid collective bargaining agreement covering any of the public employees in a
216 proposed unit is in effect, a petition for certification may be filed with the board only
217 during the period extending from 150 days to 90 days immediately preceding the expiration
218 date of such agreement or at any time subsequent to its expiration date but prior to the
219 effective date of any new agreement. The effective date of a collective bargaining
220 agreement means the date of ratification by both parties, if the agreement becomes

221 effective immediately or retroactively, or its actual effective date, if the agreement becomes
222 effective after its ratification date.

223 (g) In defining a proposed bargaining unit under this Code section, the board shall take
224 into consideration the desires of the public employees seeking representation and the
225 community of interest among the public employees to be included in the unit, including:

226 (1) The manner in which wages and other terms of public employment are determined;

227 (2) The method by which jobs and salary classifications are determined;

228 (3) The interdependence of jobs and interchange of public employees;

229 (4) The desires of the public employees;

230 (5) The history of employee relations within the organization of the public employer
231 concerning organization and negotiation and the interest of the public employees and the
232 public employer in the continuation of a traditional, workable, and accepted negotiation
233 relationship; and

234 (6) Such other factors and policies as the board may deem appropriate.

235 45-19-75.

236 (a) Any labor organization which has been certified as a bargaining agent shall have the
237 right to have membership dues and uniform assessments deducted and collected by the
238 public employer from the salaries of those public employees who authorize the deduction
239 and collection of such dues and assessments in writing. Such authorization may be revoked
240 at any time at the request of the public employee.

241 (b) Such deductions shall commence within 30 days of the public employer's receipt of the
242 certified bargaining agent's written request to the public employer and the provision of the
243 dated signatures of the public employees agreeing to such deductions.

244 45-19-76.

245 (a) Firefighters shall have the right to bargain collectively with their respective corporate
246 authorities and to be represented by a labor organization in such collective bargaining as
247 to wages, rates of pay, hours, working conditions, and all other terms and conditions of
248 employment as provided in this article. The protection of the public health, safety, and
249 welfare demands that firefighters shall be considered as a separate bargaining unit.

250 (b) Law enforcement officers shall have the right to bargain collectively with their
251 respective corporate authorities and to be represented by a labor organization in such
252 collective bargaining as to wages, rates of pay, hours, working conditions, and all other
253 terms and conditions of employment as provided in this article. The protection of the
254 public health, safety, and welfare demands that law enforcement officers shall be
255 considered as a separate bargaining unit.

256 45-19-77.

257 (a) Any public employee or group of public employees which no longer desires to be
258 represented by the certified bargaining agent may file with the board a petition to revoke
259 the certification of that bargaining agent. Such petition shall be accompanied by dated
260 statements signed by at least 30 percent of the public employees in the bargaining unit,
261 indicating that such employees no longer desire to be represented for purposes of collective
262 bargaining by the certified bargaining agent. Such petition shall be governed by the
263 provisions of Code Section 45-19-74.

264 (b) The board, a board member, or an administrative law judge shall investigate the
265 petition to determine its sufficiency. If the petition is found to be insufficient, it may be
266 dismissed. If the petition is found to be sufficient, the board shall immediately:

267 (1) Identify the bargaining unit and determine which public employees shall be qualified
268 and entitled to vote in the election held by the board;

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

270 (3) Order an election by secret ballot. The cost of such election shall be borne equally
271 by the parties, except as the board may provide by rule. The board's order assessing costs
272 of an election may be enforced pursuant to the provisions of this article.

273 (c)(1) If a majority of the public employees voting in such election vote against the
274 continuation of representation by the certified bargaining agent, the certification of the
275 labor organization as the exclusive bargaining agent for the public employees in the
276 bargaining unit shall be revoked.

277 (2) If a majority of the public employees voting in such election do not vote against the
278 continuation of representation by the certified bargaining agent, the certification of the
279 labor organization as the exclusive bargaining agent for the public employees in the unit
280 shall be retained by such organization.

281 45-19-78.

282 (a) After a labor organization has been certified pursuant to the provisions of Code
283 Section 45-19-74, the certified bargaining agent and the appropriate representative of the
284 appropriate public employer or employers, jointly, shall bargain collectively in the
285 determination of the wages, rates of pay, hours, working conditions, and other terms and
286 conditions of employment of the public employees within the bargaining unit. The
287 representatives of the public employer and the representatives of the public employees shall
288 meet at reasonable times and bargain in good faith, as provided in Code Section 45-19-79.

289 (b) Any collective bargaining agreement reached by the negotiators shall be reduced to
290 writing, and such agreement shall be signed by the appropriate representatives of the public
291 employer and the labor organization. Such signed agreement shall not be binding on the
292 public employer until such agreement has been ratified by the public employer and by the
293 public employees who are members of the bargaining unit, subject to the provisions of
294 subsection (c) of this Code section.

295 (c) Upon execution of the collective bargaining agreement, the appropriate representatives
296 of the public employer shall, in such officer's annual budget request or by other appropriate
297 means, request the governing authority to appropriate such amounts as shall be sufficient
298 to fund the provisions of the collective bargaining agreement.

299 (d) If the agreement is not ratified by the public employer or is not approved by a majority
300 vote of public employees voting in the bargaining unit, in accordance with procedures
301 adopted by the board, the agreement shall be returned to the representatives of the public
302 employer and the public employees for further negotiations.

303 45-19-79.

304 (a) Good faith bargaining shall include, but not be limited to, the willingness of both
305 parties to meet at reasonable times and places, as mutually agreed upon, in order to discuss
306 issues which are proper subjects of bargaining, with the intent of reaching a common
307 accord. It shall include an obligation for both parties to participate actively in the
308 negotiations with an open mind and a sincere desire, as well as making a sincere effort, to
309 resolve differences and come to an agreement.

310 (b) In determining whether a party failed to bargain in good faith, the board shall consider
311 the total conduct of the parties during negotiations as well as specific incidents of alleged
312 bad faith.

313 (c) Incidents indicative of bad faith shall include, but not be limited to, the following:

314 (1) Failure to meet at reasonable times and places with representatives of the other party
315 for the purpose of negotiations;

316 (2) Placing unreasonable restrictions on the other party as a prerequisite to meeting;

317 (3) Failure to discuss issues subject to bargaining;

318 (4) Refusing, upon reasonable written request, to provide public information or records
319 as required by Article 4 of Chapter 18 of Title 50;

320 (5) Refusing to negotiate because of an unwanted person on the opposing negotiating
321 team;

322 (6) Negotiating directly with public employees rather than with the certified bargaining
323 agent; and

324 (7) Refusing to reduce a total agreement to writing.

325 (d) Lawful interactions as part of good faith bargaining shall not apply to Code
326 Section 16-8-16.

327 45-19-80.

328 (a) Each public employer and certified bargaining agent shall negotiate a grievance
329 procedure to be used for the settlement of disputes between the public employer and the
330 public employees or a group of public employees within a bargaining unit involving the
331 interpretation or application of a collective bargaining agreement. Such grievance
332 procedure shall have as its terminal step a final and binding disposition by an impartial
333 labor arbitrator mutually selected by the parties.

334 (b) If a labor organization is certified as the bargaining agent of a unit, the grievance
335 procedure then in existence may be the subject of collective bargaining, and any agreement
336 which is reached shall supersede the previously existing procedure. Certified bargaining
337 agents shall not be required to process grievances for public employees who are not
338 members of the labor organization.

339 45-19-81.

340 (a) If, after a reasonable period of negotiation concerning the terms and conditions of
341 employment to be incorporated in a collective bargaining agreement, a dispute exists
342 between a public employer and a certified bargaining agent, an impasse shall be deemed
343 to have occurred when one of the parties so declares in writing to the other party and to the
344 board. When an impasse occurs, the public employer or the certified bargaining agent or

345 both parties acting jointly may appoint or secure the appointment of a mediator to assist in
346 the resolution of the impasse.

347 (b) If no mediator is appointed, or upon the request of either party, the board shall appoint
348 and submit all unresolved issues to an impartial labor arbitrator whose appointment is
349 mutually agreed upon by the parties. Nothing in this Code section precludes the parties
350 from using the services of a mediator at any time during the conduct of collective
351 bargaining.

352 (c) The impartial labor arbitrator shall hold hearings in order to define the area or areas of
353 dispute, to determine facts relating to the dispute, and to render a decision on any and all
354 unresolved contract issues. The decision of the impartial labor arbitrator shall be final and
355 binding.

356 (d) The compensation of the impartial labor arbitrator and all stenographic and other
357 expenses for the arbitration proceedings shall be borne equally by the parties or as provided
358 by the board by approval, policy, or regulation.

359 45-19-82.

360 (a) It shall be an unfair labor practice for public employers, their agents, or their
361 representatives to:

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

364 (2) Encourage or discourage membership in any labor organization by discrimination in
365 regard to hiring, tenure, or other conditions of employment;

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

369 (4) Discharge or discriminate against a public employee because he or she has filed
370 charges or given information or testimony in any proceedings provided for under this
371 article;

372 (5) Dominate, interfere with, or assist in the formation, existence, or administration of
373 any labor organization or contribute financial support to such an organization, except for
374 membership dues deduction as provided in Code Section 45-19-75; or

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

378 (b) It shall be an unfair labor practice for a labor organization representing or seeking to
379 represent public employees, anyone acting in its behalf, or its officers, representatives,
380 agents, or members to:

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

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

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

390 (4) Discriminate against a public employee because such employee has signed or filed
391 an affidavit, petition, or complaint or given any information or testimony in any
392 proceedings provided for in this article; or

393 (5) Participate in a strike against the public employer by instigating or supporting, in any
394 positive manner, a strike against the public employer. Any violation of this paragraph
395 shall subject the violator to the penalties as provided in Code Section 45-19-83.

396 (c) Notwithstanding the provisions of subsections (a) and (b) of this Code section, the
397 parties' rights of free speech shall not be infringed, and the expression of any arguments
398 or opinions shall not constitute, or be evidence of, an unfair labor practice or of any other
399 violation of this article, if such expression contains no promise of benefits or threat of
400 reprisal or force.

401 45-19-83.

402 (a) A public employer, public employee, certified bargaining agent, labor organization
403 representing or seeking to represent public employees, or any combination thereof may
404 initiate a proceeding to remedy a violation of the provisions of Code Section 45-19-82 by
405 filing a charge with the board. Such a charge shall contain a clear and concise statement
406 of facts constituting the alleged unfair labor practice, including the names of all individuals
407 involved in the alleged unfair labor practice, specific reference to the provisions of Code
408 Section 45-19-82 alleged to have been violated, and such other relevant information as the
409 board may approve by policy or require by rule.

410 (b) The board or an administrative law judge shall review the charge to determine its
411 sufficiency. If the administrative law judge determines that the charge is insufficient, such
412 judge may issue a summary dismissal. A charging party whose charge is dismissed by an
413 administrative law judge may appeal such dismissal to the board within 20 days after the
414 date of issuance of the dismissal. If the board determines such dismissed charge to be
415 sufficient, it shall reinstate the charge. If the board determines a charge is insufficient, the
416 board may issue a summary dismissal. A charging party whose charge is dismissed by the
417 board may appeal the dismissal to a superior court in this state having jurisdiction within
418 30 days after the issuance of the dismissal.

419 (c) If the board determines that the charge is sufficient, the board shall notify the parties.
420 Each respondent so charged shall thereupon file an answer to the charge with the board and
421 serve a copy upon the charging party no more than 20 days after service of notification of

422 the sufficiency of the charge, unless otherwise allowed by the board. The board, in its
423 discretion, may allow a charge or answer to be amended at any time. The board may also,
424 in its discretion, allow other interested parties to intervene in the proceeding.

425 (d) Whenever a charging party alleges that a respondent has engaged in unfair labor
426 practices and that the charging party will suffer substantial and irreparable injury if the
427 charging party is not granted temporary relief, the board may petition the superior court in
428 this state having jurisdiction for appropriate injunctive relief pending the final adjudication
429 by the board with respect to such matter. The proceedings shall follow the course which
430 is now or may hereafter be prescribed for civil actions in superior courts. In addition, the
431 reviewing court may provide by order for expeditious hearing or trial of any such
432 proceedings as justice or the public interest may require. Upon the filing of any such
433 petition, the court shall cause notice thereof to be served upon the parties and upon such
434 notice shall have jurisdiction to grant such temporary relief or restraining order as it deems
435 just and proper.

436 (e) The board may issue prehearing orders requiring the parties to provide written
437 statements of relevant issues of fact and law and such other information as the board may
438 require to expedite the resolution of the case. Such orders may further direct the parties to
439 identify witnesses, exchange intended exhibits and documentary evidence, and appear at
440 a conference, for the purpose of handling such matters as will aid the board in
441 expeditiously resolving the case.

442 (f) Whenever the proceeding involves a disputed issue of material fact and an evidentiary
443 hearing is to be conducted:

444 (1) The board shall issue and serve upon all parties a notice of hearing at a time and
445 place specified therein. Such notice shall be issued at least 14 days prior to the scheduled
446 hearing;

447 (2) The evidentiary hearing may be conducted by the board itself or by an administrative
448 law judge; and

449 (3) Not later than 45 days after the close of the evidentiary hearing, unless extended by
450 the board with the consent of all parties, the administrative law judge shall submit to the
451 board and to all parties a recommended order that shall include findings of fact and
452 recommended rulings on procedural matters. The recommended order may also include
453 recommended conclusions of law if requested by the board.

454 (g)(1) If, upon consideration of the record in the case, the board finds that an unfair labor
455 practice has not been or is not being committed, it shall issue an order dismissing the
456 case. If, upon consideration of the record in the case, the board finds that the unfair labor
457 practice occurred more than six months prior to the filing of the charge, it shall issue an
458 order dismissing the case; provided, however, that, if the person filing the charge was
459 prevented from doing so by reasons of service in the armed forces, the six-month period
460 shall run from the date of the person's discharge.

461 (2) If, upon consideration of the record in the case, the board finds that an unfair labor
462 practice has been committed, it shall issue and cause to be served an order requiring the
463 appropriate party or parties to cease and desist from the unfair labor practice and take
464 such positive action, including reinstatement of employees with or without back pay and
465 all other relief, whether equitable or legal in nature, as is necessary to implement the
466 general policies expressed in this article.

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

470 45-19-84.

471 In case of any failure by a public employer, public employee, or labor organization
472 representing or seeking to represent public employees to comply with a final order of the
473 board, upon application of the board or any person who is a resident of this state and who
474 is substantially interested in such order, the superior court of this state having jurisdiction

475 shall enforce the order. Petitions for enforcement filed under this Code section shall be
476 heard expeditiously by the superior court to which presented.

477 45-19-85.

478 (a) The superior court is empowered, upon the filing of appropriate notices of appeal, to
479 review final orders of the board. A copy of the notice of appeal shall be filed with the
480 board. The record in the proceeding, certified by the board, shall be filed with the court in
481 accordance with Chapter 11 of Title 9, the 'Georgia Civil Practice Act.'

482 (b) Upon the filing of a notice of appeal, the superior court shall have jurisdiction of the
483 proceeding and may grant such temporary or permanent relief or restraining order as it
484 deems just and proper and may enforce, modify, affirm, or set aside, in whole or in part,
485 the final order of the board. The findings of the board with respect to questions of fact, if
486 supported by substantial evidence on the record and considered as a whole, shall be
487 conclusive.

488 (c) The superior court may award to the prevailing party all or part of the costs of litigation
489 and reasonable attorney's fees and expert witness fees whenever the court determines that
490 such an award is appropriate. However, no such costs or fees shall be assessed against the
491 board in any appeal from an order issued by the board in an adjudicatory proceeding
492 between adversarial parties conducted pursuant to this article.

493 (d) The commencement of proceedings under this Code section shall not, unless
494 specifically ordered by the superior court, operate as a stay of the board's final order.

495 (e) Appeals filed under this Code section shall be heard expeditiously by the court and
496 shall take precedence over all other civil matters except prior matters of the same character.

497 45-19-86.

498 (a) Superior courts having jurisdiction of the parties are vested with the authority to hear
499 and determine all actions alleging violations of Code Section 45-19-72.

500 (b) If a public employee, a group of employees, an employee organization, or any officer,
 501 agent, or representative of any employee organization engages in a strike, either the board
 502 or any public employer whose employees are involved in or whose employees may be
 503 affected by the strike, may file suit to enjoin the strike in the superior court having proper
 504 jurisdiction and proper venue of such actions. The court shall conduct a hearing, with
 505 notice to the board and to all interested parties, at the earliest practicable time. If the
 506 plaintiff makes a prima-facie showing that a violation of Code Section 45-19-72 is in
 507 progress or that there is a clear, real, and present danger that such a strike is about to
 508 commence, the court shall issue a temporary injunction enjoining the strike. Upon final
 509 hearing, the court shall either make the injunction permanent or dissolve it."

510

PART II

511

Conforming statutes

512

SECTION 2-1.

513 Code Section 16-8-16 of the Official Code of Georgia Annotated, relating to theft by
 514 extortion, is amended by revising paragraph (5) of subsection (a) as follows:

515 "(5) Bring about or continue a strike, boycott, or other collective unofficial action if the
 516 property is not demanded or received for the benefit of the group in whose interest the
 517 actor purports to act; provided, however, that this paragraph shall not apply to lawful
 518 interactions conducted as part of good faith bargaining as provided for in Code
 519 Section 45-19-79; or "

520

SECTION 2-2.

521 Code Section 20-2-989.10 of the Official Code of Georgia Annotated, relating to collective
 522 bargaining not permitted or fostered, is amended as follows:

523 "20-2-989.10.

524 ~~Nothing in this part shall be construed to permit or foster collective bargaining as part of~~
525 ~~the state rules or local unit of administration policies. Reserved.~~"

526 **SECTION 2-3.**

527 Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is
528 amended by repealing Chapter 5, relating to resolution of wages, hours, and working
529 conditions of firefighters, and designating said chapter as reserved.

530 **SECTION 2-4.**

531 Code Section 45-7-54 of the Official Code of Georgia Annotated, relating to voluntary
532 contributions by state employees through payroll deductions to certain not for profit
533 organizations, is amended by repealing and reserving subsection (e).

534 **SECTION 2-5.**

535 Chapter 19 of Title 45 of the Official Code of Georgia Annotated, relating to labor practices,
536 is amended by repealing Article 1, relating to strikes by public employees, and designating
537 said article as reserved.

538 **PART III**

539 *Effective date and repealer provision*

540 **SECTION 3-1.**

541 This Act shall become effective upon its approval by the Governor or upon its becoming law
542 without such approval.

543

SECTION 3-2.

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