

By: Representative Blackmon

To: Fees and Salaries of
Public Officers;
Appropriations

HOUSE BILL NO. 966

1 AN ACT TO PROVIDE PROCEDURES FOR NEGOTIATIONS BETWEEN PUBLIC
2 EMPLOYEE ORGANIZATIONS AND PUBLIC EMPLOYERS; TO CREATE AND EMPOWER
3 A PUBLIC EMPLOYEE RELATIONS COMMISSION TO SUPERVISE NEGOTIATING
4 ACTIVITIES; TO DEFINE UNLAWFUL ACTS; TO CREATE REMEDIES FOR
5 VIOLATIONS OF THE ACT; TO REPEAL SECTIONS 25-1-105 AND 37-9-75,
6 MISSISSIPPI CODE OF 1972, WHICH PROHIBIT STRIKES BY PUBLIC
7 EMPLOYEES AND TEACHERS; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. This act may be cited as the "Public Employees
10 Negotiations Act."

11 SECTION 2. As used in this act, the following words and
12 phrases shall have the meanings ascribed in this section unless
13 the context clearly indicates otherwise:

14 (a) "Public employee" means any person holding a
15 position by employment, contract or appointment with a public
16 employer.

17 (b) "Public employer" means any governmental entity in
18 this state whose employees are paid in whole or in part by funds
19 appropriated or otherwise provided by the state.

20 (c) "Person" means one or more individuals,
21 organizations, associations or their representatives.

22 (d) "Public employees' organization" means any
23 organization with membership open to public employees, as defined
24 in this act, in which employees participate and which exists for
25 the purpose in whole or in part of dealing with public employers
26 concerning, but not limited to, grievances, wages, hours of
27 employment or conditions of work.

28 (e) "Negotiations" means that process by which the

29 public employer or such representatives as it may designate and
30 representatives of a recognized public employees' organization
31 meet and confer, consult, discuss, exchange information, opinions
32 and proposals in good faith endeavor to reach agreement on matters
33 within the scope of discussions, and incorporate such agreements
34 into a written agreement. "Negotiator" means that person or
35 persons selected by the public employees' organization or the
36 public employer to do their negotiating. The public employer may
37 select any member of its governing board or its executive director
38 or any full-time systemwide employee as a negotiator, who shall be
39 designated as "management personnel."

40 (f) "Memorandum of agreement" means a written
41 memorandum of understanding arrived at by the representatives of
42 the public employer and the recognized public employees'
43 organization, which shall be presented to the public employer and
44 to the membership of such organization for ratification or
45 rejection.

46 (g) "Mediation" means that process by which an
47 impartial third party assists in reconciling a dispute regarding
48 compensation, benefits, duties and other terms and conditions of
49 employment and service between representatives of the board of
50 trustees and the recognized professional employees' organization
51 through interpretation, suggestion and advice.

52 (h) "Fact-finding" means investigation of an existing
53 dispute by an individual, panel or board with the fact finder
54 submitting a report to the parties describing the issues involved.
55 The report may contain recommendations for settlement and may be
56 made public after the parties to the dispute have had an
57 opportunity to study it.

58 (i) "Arbitration" means the process of determination of
59 disputed matters by submission to private unofficial persons
60 selected for a purpose and in a manner consistent with this act.

61 (j) "Negotiating unit" means all those public employees

62 as defined in this act, excluding those persons specifically named
63 as management personnel.

64 (k) "Management personnel" means those public employees
65 certified by the governing board of a public employer to represent
66 it in the negotiating process.

67 (l) "Strike" means a concerted failure to report for
68 duty, a willful absence from one's position, the stoppage of work,
69 a deliberate slowing down of work, or the withholding, in whole or
70 in part, of the full, faithful and proper performance of the
71 duties of employment, for the purpose of inducing, influencing or
72 coercing a change in the conditions, compensation, rights,
73 privileges or obligations of public employment; however, nothing
74 in this act shall limit or impair the right of any public employee
75 to express or communicate a complaint or opinion on any matter
76 related to the conditions of public employment so long as the same
77 is not designed and does not interfere with the full, faithful and
78 proper performance of the duties of employment.

79 (m) "Representative" means any person or group of
80 persons, organization or associations, who is designated and
81 authorized by the respective negotiating unit or public employer
82 to negotiate and act for it under this act.

83 (n) "Commission" means the Public Employee Relations
84 Commission created by this act to promulgate rules and oversee the
85 implementation of this act.

86 SECTION 3. (1) There is created the "Public Employee
87 Relations Commission." The commission shall consist of five (5)
88 members. Before September 1, 1999, without reference to political
89 party, the Governor shall appoint one (1) member who is a member
90 of the governing board of any public employer, two (2) members who
91 are public employees as defined in this act, and one (1) member
92 who is a publicly elected full-time local officeholder. One (1)
93 additional member shall be appointed by the Governor to serve as
94 chairman who is not in any of the above categories.

95 The one (1) member representing public employers shall be a
96 person serving on a governing board of a public employer on the
97 effective date of House Bill No. _____, 1999 Regular Session, and
98 having three (3) or more years of experience as a member of such
99 board. Such member shall serve an initial term of three (3)
100 years, which shall expire on September 1, 2002, and thereafter
101 shall be subject to unlimited reappointments to full three-year
102 terms so long as he is a member of the governing board of any
103 public employer.

104 The one (1) member from a local government shall be chosen
105 for an initial term of two (2) years, which shall expire on
106 September 1, 2001. The person chosen shall be currently serving
107 full-time as an elected local government official and shall be
108 eligible for reappointment so long as that person holds an elected
109 local government office.

110 The two (2) public employee representatives chosen shall: (a)
111 be persons employed as a public employee, as defined in this act,
112 on the effective date of House Bill No. _____, 1999 Regular
113 Session; (b) have had three (3) or more years of work experience
114 in such position; and (c) be from a separate Supreme Court
115 district from the other employee member. At the first meeting of
116 the commission, the public employee members shall draw lots for an
117 initial term of one (1) year, which shall expire on September 1,
118 2000, or three (3) years, which shall expire on September 1, 2002,
119 and thereafter shall be subject to unlimited reappointments to
120 full three-year terms so long as their "public employee" status is
121 retained.

122 The initial person appointed as chairman shall serve for a
123 term of two (2) years. The chairman shall qualify for unlimited
124 reappointments so long as he serves as a qualified member of the
125 commission.

126 Following the initial appointment to the commission, all
127 appointments or reappointments shall be for three-year terms. In

128 the event of the vacancy, the Governor shall appoint a person to
129 fill the unexpired term when the vacancy occurs.

130 (2) The Governor's Office shall make available the necessary
131 supportive staff and services to assist the commission in carrying
132 out its duties.

133 (3) The members of the commission shall serve without
134 compensation, but shall be paid expenses pursuant to Section
135 25-3-41.

136 (4) The commission shall meet upon call of the chairman or
137 upon petition of three (3) of the members. Three (3) members
138 shall constitute a quorum and the affirmative vote of three (3)
139 members shall be required for action. In the event the chairman
140 is absent from a duly called meeting, the members may elect a
141 chairman pro tempore from its membership to perform all the duties
142 of the chairman for the meeting.

143 (5) The commission may appoint mediators, arbitrators and
144 members of fact-finding boards from representatives of public
145 employee organizations and such members from the governing boards
146 of public employers to serve as technical advisers, as it may deem
147 necessary, for the performance of its functions. The commission
148 shall prescribe their duties, fix their compensation and provide
149 for reimbursement of their expenses within the amounts made
150 available therefor. Mediators, arbitrators, fact finders and
151 other technical advisers shall not be full-time employees of the
152 commission.

153 (6) The function of this commission shall be limited to: (a)
154 maintaining a roster of those organizations which are certified as
155 recognized organizations; (b) establishing policies to determine
156 the appropriate negotiating unit as provided in this act; (c)
157 assisting in negotiating activities when the parties have reached
158 an impasse; (d) conducting hearings and rendering decisions on
159 unlawful acts; and (e) carrying out such other duties as may be
160 necessary to implement this act.

161 (7) In carrying out these functions and duties the
162 commission shall:

163 (a) Establish procedures for the prevention of unlawful
164 acts;

165 (b) Establish, after consultation with representatives
166 of the recognized public employees' organizations and the public
167 employers, separate panels of qualified persons to be available to
168 serve as mediators, arbitrators or members of fact-finding boards,
169 with no person qualified to serve in more than one (1) capacity;

170 (c) Hold such hearings and make such inquiries as are
171 required by law to carry out properly its functions and powers;

172 (d) Administer oaths and affirmations, examine
173 witnesses and documents, take testimony and receive evidence,
174 compel attendance of witnesses and the production of documents by
175 the issuance of subpoenas, and delegate such power to any member
176 of the commission or any person appointed by the commission for
177 the performance of its functions; and

178 (e) Promulgate such rules and regulations and exercise
179 such other powers as necessary to effectuate this act.

180 SECTION 4. (1) Upon the submission of a written request for
181 recognition by the representatives of one or more public
182 employees' organizations to a public employer, an election shall
183 be held in accordance with this section. Such written request for
184 recognition shall be notarized and shall contain a statement that
185 the public organization has in its possession petition cards
186 signed by more than thirty percent (30%) of the public employees
187 within such public employment. The public employer and the
188 requesting employees' organization shall appoint persons to serve
189 on a special election committee for the purpose of conducting an
190 election as prescribed in this section.

191 (2) In the event one or more public employees' organizations
192 submit a request for recognition as provided in subsection (1) of
193 this section, a special secret ballot election shall be conducted

194 among the eligible professional employees to determine which
195 requesting organization, if any, shall represent such employees.
196 The special election committee as authorized in subsection (1) of
197 this section shall be formulated to set the date, establish the
198 time and places, establish procedure and supervise the election
199 process, supervise the counting of ballots and file the results
200 with the public employer and the requesting public employees'
201 organization. The election committee shall be composed of one (1)
202 person selected by each public employees' organization which has
203 filed for recognition as provided in subsection (1) of this
204 section plus an equal number of persons selected by the public
205 employer. The requesting public employees' organizations and the
206 public employer shall select the persons to serve on this election
207 committee and shall notify the other parties of such selection
208 within thirty (30) days of the filing of the request. These
209 persons so selected shall select an additional person to serve as
210 chairman. In the event any party has not named such election
211 committee persons or a majority agreement cannot be reached upon
212 the person to serve as chairman within the period of thirty (30)
213 days, upon request of any of the selected persons to serve on this
214 committee, the commission shall name, within five (5) calendar
215 days, those persons which otherwise should have been named. The
216 election committee, upon majority approval, may appoint other
217 persons to assist in conducting the election. Motions before the
218 election committee shall require a majority vote of the membership
219 of the full committee. The election committee person or persons
220 appointed to assist in conducting elections pursuant to this
221 section shall not be compensated for this service. Voting places
222 and times selected by the election committee shall be convenient
223 and accessible for all eligible professional employees. A
224 majority vote of those voting shall be required to secure
225 representation by a public employees' organization. Such secret
226 ballot shall provide for a person to vote for no representation by

227 a public employees' organization. If a majority vote is not
228 secured, a second election shall be held between those
229 organizations or nonorganizations receiving the first and second
230 largest number of votes. The secret ballot election shall be held
231 and the results transmitted to the public employer, respective
232 public employees' organizations and the commission before January
233 1 of the subsequent year. Challenges to the election must be
234 submitted in writing within fourteen (14) days following the
235 official submission of the results of the election to the public
236 employer, public employees' organization and the commission. If
237 no challenge to the election is submitted within fourteen (14)
238 days, the election committee is officially dissolved. Those
239 persons or organizations initiating the election shall be assessed
240 the costs necessitated in conducting the election by the election
241 committee chairman. The public employees' organization receiving
242 a majority vote shall be designated as exclusive representative
243 effective January 1 of the subsequent year for a period of
244 twenty-four (24) months.

245 (3) The initial recognition will be for twenty-four (24)
246 months and will be automatically extended for additional
247 twenty-four-month periods unless between October 1 and October 15
248 of the second twelve (12) months of any recognition period another
249 public employees' organization files application for recognition
250 as provided for in subsection (1) of this section. In such event,
251 an election between the competing organizations will be held
252 according to the provisions of subsection (2) of this section.

253 (4) When a public employees' organization has met the
254 requirements of recognition in this section as the exclusively
255 recognized organization, the public employer and such organization
256 shall, in good faith, enter into negotiations, and if an agreement
257 is reached, enter into a memorandum of agreement based upon such
258 negotiations and comply with such agreement according to this act.

259 SECTION 5. A public employees' organization recognized by a

260 public employer shall be the exclusive representative of all the
261 public employees employed by such employer for the purpose of
262 negotiating.

263 SECTION 6. (1) During the first month following the initial
264 recognition of a public employees' organization and thereafter
265 during the first two (2) months of each fiscal year, management
266 employees of the public employer shall be allowed to retain
267 membership in the recognized public employees' organization but
268 shall not be considered to be a part of the negotiating unit.
269 Upon request, the designated management personnel shall represent
270 the public employer in all negotiation activities. Management
271 personnel shall not be eligible to represent the recognized public
272 employees' organization, to vote on whether to accept or reject
273 items to be negotiated or items that have been negotiated, or to
274 derive benefits from the negotiation efforts except those benefits
275 which go to all public employees of the employer. Management
276 personnel must be designated by majority vote of the governing
277 board of the public employer from those employees who devote a
278 majority of their time to the systemwide area or areas of
279 professional personnel management, fiscal affairs or general
280 management.

281 (2) All management personnel must be certified to the
282 commission within the first two (2) months of the fiscal year.
283 Those certified as management personnel shall be so classified
284 through the current fiscal year only, but are subject to being
285 recertified by the public employer for subsequent years. In the
286 event a certified management person terminates employment or is
287 transferred to a position which disqualifies him, the public
288 employer shall have thirty (30) days following the filling of the
289 vacated position to name and certify a replacement. Public
290 employers may name and certify management personnel not to exceed
291 a reasonable number which shall be determined by the commission.

292 SECTION 7. Public employees shall have the right to

293 self-organization, to form, join or be assisted by organizations,
294 to negotiate through representatives of their own choosing and to
295 engage in other concerted activities for the purpose of public
296 negotiations or other mutual aid or protection. Public employees
297 also shall have the right to refrain from any or all such
298 activities.

299 SECTION 8. (1) It shall be unlawful for a public employer
300 or its designated representative:

301 (a) To impose or threaten to impose reprisals on public
302 employees, or to discriminate against public employees by reason
303 of their exercise of rights guaranteed by this act;

304 (b) To interfere with, restrain or coerce employees in
305 the exercise of the rights guaranteed in this act;

306 (c) To refuse or fail to negotiate in good faith or to
307 execute a written memorandum incorporating any agreements reached
308 with representatives of a recognized public employees'
309 organization as provided in this act;

310 (d) To refuse to permit a public employees'
311 organization to have access at reasonable times to areas in which
312 public employees work, to use institutional bulletin boards, mail
313 boxes, or other communication media, subject to reasonable
314 regulation, or to exercise the rights guaranteed by this act. If a
315 representative has been selected or designated pursuant this act,
316 a public employer may deny such access or usage to any public
317 employees' organization other than the representative until such
318 time as a lawful challenge to the majority status of the
319 representative is raised pursuant to the act;

320 (e) To encourage or discourage membership in any
321 organization by discrimination in hiring or other terms or
322 conditions of employment. The public employer or its designated
323 representative may express any views, arguments or opinion on the
324 subject of employer-employee relations, provided such expression
325 contains no threat of reprimand, discharge or promise of benefits;

326 (f) To discharge or discriminate against an employee
327 because he has filed an affidavit, petition or complaint or given
328 any information or testimony under this act;

329 (g) To interfere in the administration of any public
330 employee organization; or

331 (h) To refuse in good faith to mediate, arbitrate or
332 participate in fact-finding efforts pursuant to this act.

333 (2) It shall be unlawful for a recognized public employees'
334 organization or its representative:

335 (a) To cause or attempt to cause a public employer to
336 engage in conduct violative of this act. This paragraph shall not
337 be construed to impair the right of a public employees'
338 organization to prescribe its own rules with respect to operation
339 involving the acquisition or retention of membership;

340 (b) To refuse or fail to negotiate in good faith with a
341 public employer, or to execute a written contract incorporating
342 any agreement reached;

343 (c) To interfere with, restrain or coerce public
344 employees or a public employer in the exercise of rights granted
345 in this act;

346 (d) To refuse in good faith to mediate, arbitrate or
347 participate in fact-finding efforts pursuant to this act;

348 (e) To engage in a strike;

349 (f) To urge, coerce or encourage others to engage in
350 unlawful acts as defined in this act; or

351 (g) To enter onto the work place for the purpose of
352 contacting public employees in such a manner and at such times as
353 will interfere with the normal operations of the public employer's
354 agency, except that agreement may be reached in any memorandum of
355 agreement for grievance investigations and process by the
356 recognized public employees' organization. This would not
357 prohibit the negotiating of items considered necessary for the
358 normal operation of the recognized employees' organization.

359 (3) A complaint of an unlawful act, as defined in this act,
360 must be filed with the commission in writing within sixty (60)
361 calendar days of the violation or such complaint is barred.

362 SECTION 9. (1) Any controversy concerning unlawful acts as
363 described in Section 8 of this act must be submitted to the
364 commission. Whenever a complaint is filed with the commission
365 that any party has engaged in or is engaging in any unlawful act,
366 the commission shall cause to be served upon such party a written
367 notice stating the charges and the rights of the party charged.
368 The party charged shall have seven (7) calendar days within which
369 to serve a written answer to such charges. The commission shall
370 hold a hearing not less than ten (10) days after the written
371 answer has been served on the commission. At such hearing, the
372 party shall be permitted to be represented by counsel and to
373 summon witnesses on his or her behalf. Compliance with the
374 technical rules of evidence shall not be required. The commission
375 may use its rule-making power as provided in this act to make any
376 procedural rule deemed necessary to carry out this function.

377 (2) If upon the preponderance of the testimony at the
378 hearing the commission is of the opinion that any party named in a
379 complaint has engaged in or is engaging in any unlawful act, the
380 commission or either party shall state its findings of fact and
381 shall issue and cause to be served on such party an order
382 directing cessation of such practice. Such order shall include
383 such affirmative action as is necessary to effectuate the stated
384 policies of this act. If upon the preponderance of the testimony
385 taken, the commission is not of the opinion that the party named
386 in the complaint has engaged in or is engaging in any unlawful
387 act, then the commission shall state its findings of fact and
388 shall issue an order dismissing the complaint. The commission
389 shall have power to petition a circuit or chancery court to
390 enforce the orders of the commission. Upon the filing of such
391 petition, the court will have jurisdiction of the proceedings and

392 of the questions determined therein, and shall have power to grant
393 such temporary relief as the court deems just and proper, and to
394 make and enter a decree enforcing, modifying and enforcing as so
395 modified, or setting aside in whole or in part the order of the
396 commission. Any objection that has not been heard before the
397 commission shall not be considered by the court, unless the
398 failure or neglect to urge such objection shall be excused because
399 of extraordinary circumstances. The findings of the commission
400 with respect to questions of fact if supported by substantial
401 evidence on the record considered as a whole shall be conclusive.

402 If either party shall apply to the court for leave to introduce
403 additional evidence and shall show to the court that such
404 additional evidence is material and that there were extraordinary
405 circumstances for the failure to introduce such evidence in the
406 hearing before the commission, the court may order such additional
407 evidence to be taken before the commission and to be made a part
408 of the record. The commission may modify its findings as to the
409 facts, or make new findings, by reason of any such additional
410 evidence so taken and filed.

411 (3) Any party aggrieved by a final order of the commission
412 granting or denying in whole or in part the relief sought may
413 obtain a review of the commission's order in the chancery court.

414 SECTION 10. If a strike occurs, the public employer may
415 petition the chancery court to enjoin such strike. The petition
416 shall set forth the facts constituting the strike. If the court
417 finds, after a hearing, that a strike has occurred, the court may
418 enjoin the employees from participating in such strike.

419 SECTION 11. The public employer and the public employees'
420 organization shall negotiate in good faith the following
421 conditions of employment:

- 422 (a) Salaries, wages or compensation;
- 423 (b) Work schedules relating to assigned hours and day
424 of week;

- 425 (c) Grievance procedures;
426 (d) Employment rights and transfers;
427 (e) Fringe benefits;
428 (f) Payroll deductions;
429 (g) Health and safety regulations;
430 (h) Standards for employment and evaluation; and
431 (i) Conditions of rendering public service.

432 Nothing shall prohibit the parties from agreeing to discuss
433 other terms and conditions of employment in service, but it shall
434 not constitute bad faith as set forth in this act to refuse to
435 negotiate on any other terms and conditions. Either party may
436 complain to the commission of any demands to meet on other terms
437 and conditions and have an order of the commission requiring the
438 other party to continue to meet in good faith on the required
439 items of this section only.

440 SECTION 12. The scope of a memorandum of agreement shall
441 extend to all matters negotiated between the public employer and
442 the public employees' organization.

443 SECTION 13. When agreement is reached by the representatives
444 of the public employer and the recognized public employees'
445 organization, they shall prepare jointly a memorandum of
446 understanding, and, within fourteen (14) calendar days, present it
447 to their appropriate governing authorities for ratification or
448 rejection. These governing authorities shall consider the
449 memorandum and ratify or reject it within fourteen (14) calendar
450 days. If either governing authority rejects or modifies any part
451 of a proposed memorandum, the matter shall be returned to the
452 parties for further deliberation. The public employer may enter
453 into such memorandum for a period not in excess of three (3)
454 years. Any items negotiated by a public employer and a public
455 employees' organization which require funding shall not be
456 considered binding until such time as the body empowered to
457 appropriate the funds has approved such appropriations. In the

458 event the amount of funds appropriated is less than the amount
459 negotiated, the public employer or its representatives and the
460 public employees' organization or its representatives shall
461 renegotiate an agreement within the amount of funds appropriated.

462 SECTION 14. (1) Either the governing board of the public
463 employer or the representative selected or designated pursuant to
464 Section 5 of this act may declare that an impasse has been reached
465 between the parties in negotiation over the terms and conditions
466 of public service and other matters of mutual concern, and may
467 request the Public Employee Relations Commission to so determine.

468 If the commission determines that an impasse exists, the
469 commission or the requesting party shall request the services of
470 the federal mediation and conciliation service. If such service
471 is not readily available, the commission shall appoint, within ten
472 (10) calendar days from the original request, a mediator unless
473 both parties have mutually agreed upon one. The mediator shall
474 meet with the parties or their representatives, or both, either
475 jointly or separately, and shall take such other steps as he may
476 deem appropriate in order to persuade the parties to resolve their
477 differences and effect a mutually acceptable agreement. The
478 mediator shall not make, without the consent of both parties,
479 findings of fact or recommend terms of settlement. The services
480 of the mediator, including, if any, per diem expenses, and actual
481 and necessary travel and subsistence expenses, shall be borne
482 equally by the public employer and the public employees'
483 organization.

484 (2) If the mediator is unable to bring the parties to
485 agreement on any controversy within fifteen (15) calendar days
486 after his appointment, either party, by written notification to
487 the other, may request that their differences be submitted to
488 advisory arbitration. Within five (5) calendar days, or at a
489 future mutually agreed upon date, after receipt of the written
490 request, the parties shall select a person to serve as arbitrator

491 and obtain a commitment from that person to serve. If they are
492 unable to agree upon an arbitrator or to obtain such commitment
493 within that time, either party may request the Public Employee
494 Relations Commission to designate an arbitrator. The commission
495 shall designate, within five (5) days after receipt of such
496 request, an arbitrator in accordance with rules and procedures for
497 such designation prescribed by the commission. The arbitrator so
498 designated shall not, without the consent of both parties, be the
499 same person who was appointed mediator pursuant to subsection (1)
500 of this section.

501 (3) The arbitrator shall meet, within ten (10) days after
502 his appointment, with the parties or their representatives, or
503 both, either jointly or separately, shall make inquiries and
504 investigations, hold hearings, and shall take such other steps as
505 he deems appropriate. For the purpose of such hearings,
506 investigations and inquiries, the arbitrator shall have the power
507 to issue subpoenas requiring the attendance and testimony of
508 witnesses and the production of evidence. The several
509 departments, commissions, divisions, authorities, boards, bureaus,
510 agencies and officers of the state or any political subdivisions
511 or agency thereof, including the public employer in arbitration,
512 shall furnish the arbitrator, upon his request, all records,
513 papers and information in their possession relating to any matter
514 under investigation by or in issue before the arbitrator. If the
515 dispute is not settled, the arbitrator shall make findings of fact
516 and recommend terms of settlement, which recommendations shall be
517 advisory only and shall be made within thirty (30) calendar days
518 after his appointment. Any findings of fact or recommended terms
519 of settlement shall be submitted in writing to the parties. The
520 arbitrator, in his discretion, may make such findings and
521 recommendations public, and either the public employer or the
522 public employees' representative may make such findings and
523 recommendations public if no agreement is reached within ten (10)

524 calendar days after their receipt from the arbitrator. The costs
525 for the services of the arbitrator, including per diem expenses,
526 if any, and actual and necessary travel and subsistence expenses,
527 shall be borne equally by the public employer and the public
528 employees' organization.

529 SECTION 15. (1) A public employer and a recognized public
530 employees' organization who enter into an agreement covering terms
531 and conditions of professional service or other matters of mutual
532 concern may include in such agreement procedures for final and
533 binding arbitration of such disputes as may arise involving the
534 interpretation, application or violation of such agreement or of
535 established policy or practice of such public employer affecting
536 terms and conditions of professional service or other matters of
537 mutual concern.

538 (2) In the event that such agreement does not include
539 procedures of the type provided for in subsection (1) of this
540 section, either party to the agreement may submit such disputes to
541 final and binding arbitration pursuant to rules and procedures
542 prescribed for such purpose by the Public Employee Relations
543 Commission.

544 (3) Where a party to such agreement is aggrieved by the
545 failure, neglect or refusal of the other party to proceed to
546 arbitration in the manner provided for in such agreement, such
547 aggrieved party may file a complaint in court for a summary action
548 seeking an order directing that the arbitration proceed in the
549 manner provided for in such agreement or pursuant to rules and
550 procedures adopted pursuant to subsection (2) of this section.

551 SECTION 16. Section 25-1-105, Mississippi Code of 1972,
552 which prohibits strikes by public employees, is repealed.

553 SECTION 17. Section 37-9-75, Mississippi Code of 1972, which
554 prohibits strikes by teachers, is repealed.

555 SECTION 18. This act shall take effect and be in force from
556 and after July 1, 1999.