

STATE ADMINISTRATIVE MACHINERY FOR THE CONCILIATION AND MEDIATION OF LABOR DISPUTES

By JOHN F. DUFFY, Jr.

**BUREAU OF PUBLIC ADMINISTRATION
UNIVERSITY OF CALIFORNIA • BERKELEY**

BUREAU OF PUBLIC ADMINISTRATION

University of California

Samuel C. May
Director

STATE ADMINISTRATIVE MACHINERY FOR THE
CONCILIATION AND MEDIATION OF LABOR DISPUTES

Prepared

by

JOHN F. DUFFY, Jr.

October 1945

TABLE OF CONTENTS

	Page
Introduction.....	1
State Administrative Machinery For the Conciliation and Mediation of Labor Disputes.....	4
Powers and Duties of the Various State Agencies Established for Mediation and Conciliation of Industrial Disputes.....	13
Constitutional Provisions For Conciliation and Mediation.....	46
Suggested Guide For Legislation Establishing State Machinery for the Conciliation and Mediation of Labor Disputes.....	47
Selected Reading List.....	48
Table I--State Administrative Machinery for the Conciliation and Mediation of Labor Disputes.....	8
Table II--Mediation and Conciliation Agencies Located in Major Departments.....	12
Table III--Powers and Duties of Various State Agencies Established for the Mediation and Conciliation of Industrial Disputes.....	43
Table IV--Jurisdiction of State Labor Mediation and Conciliation Agencies.....	45

INTRODUCTION

Nearly all state governments have expressed a desire, in some form or another, for the maintenance of industrial peace and the prompt settlement of labor disputes. Because of the extensive jurisdiction of the National War Labor Board over the relationships between employers and employees working in war industries, many state governments have not been faced with a serious problem of employer-employee conflict. However, with the cessation of the war, the demobilization of the nation's war industry, and the liquidation of the National War Labor Board the state governments, in many cases, will find themselves with the difficult problem of maintaining industrial peace and of providing adequate administrative machinery whereby labor disputes can be settled promptly.

The settlement of employer-employee controversies and difficulties should be accomplished by the parties directly concerned as much as possible. Only as a last resort should there be intervention by outsiders.¹ The machinery established for the adjustment and settlement of labor disputes falls into the following categories: 1) direct negotiations by the parties concerned, including procedures provided for in a collective bargaining agreement; 2) conciliation; 3) mediation; 4) arbitration; and 5) litigation.² This report is specifically concerned with the second and third categories although it must be recognized that conciliation and mediation are usually requested because of a breakdown of the negotiations between the disputants, and further, that arbitration and litigation are usually resorted to because of the failure of conciliation and mediation to adjust the dispute amicably.

1. Braun, The Settlement of Industrial Disputes (1944) p. 19; Leiserson, Right and Wrong in Labor Relations (1942), p. 80
2. Braun, The Settlement of Industrial Disputes (1944) p. 19; U.S. Office for Emergency Management. Victory 3: 14, January 1942

In general, the terms conciliation and mediation are used interchangeably by most authorities and in most state legislation.¹ Although it is difficult to present a concise statement of the differences between these terms, it is pertinent that they be defined as they are commonly used.

Conciliation means "to draw or bring together; to render accordant or compatible; to win over; to gain from a state of hostility."² Reed states that

In conciliation, it is generally understood, the conciliator performs a function which is to be distinguished from the function of the mediator under the mediation procedure. The conciliator actively tries to secure an adjustment of the controversy, although, like the mediator, he cannot make an award and his decisions are not binding upon the parties.³

According to Braun, the conciliator

will have to take the offensive, particularly in those frequent cases in which one or both parties are reluctant; he will have to induce one party to yield to certain desires of the other. In short, the mediator's (conciliator) task is to set the ball rolling, then leave it to the parties to draw up their own peace treaty. Or, his activities may even increase to the point of giving advice or making suggestions as to how the dispute should be settled.⁴

Mediation means "agency between parties at variance, with a view to reconcile them; entreaty for another; intercession; intermediate."⁵ Mediation is defined by Reed as

'the act of a third person who interferes between two contending parties with a view to reconcile them or persuade them to adjust or settle their dispute.' It is typical of mediation that the person or agency acting as mediator shall not impose his judgment upon the parties to the dispute. His role is essentially that of a third party who offers suggestion or tenders advice with a view of aiding in the

1. California. University. Bureau of Public Administration, Government Mediation and Arbitration in Industrial Disputes (1939 Legislative Problems, No. 10) March 29, 1939; Braun, The Settlement of Industrial Disputes (1944) p. 30; Commons and Andrews, Principles of Labor Legislation (1936) p. 430; and Reed, Law of Labor Relations (1942) p. 368
2. Webster's New International Dictionary of the English Language, 1929
3. Reed, Law of Labor Relations (1942) pp. 368-9
4. Braun, The Settlement of Industrial Disputes (1944) p. 29
5. Webster's New International Dictionary of the English Language, 1929.

adjustment of the dispute, and his powers are sometimes so limited by law. He has no power to render a decision or to make an award or to compel obedience to any determination which he may make.¹

Mediation, according to Braun, is designed for

the settlement of disputes by bringing about a voluntary agreement. The scope of such an activity varies according to the desires of the parties or the mediator's concept of his duties. The most restricted way of mediating is to serve merely as an intermediate agent who relays one party's opinion to the other or who gives the parties a chance to unburden their minds under the chairmanship of a neutral person or agency, often at a neutral place. The obstacles which hamper a peaceful settlement thus may be removed. However, the mediator may go a little further and define the technical or legal meaning of the agreement at issue or the basis of the disputed matter, thus showing the parties indirectly how they may arrange their mutual relations.²

Officials of the Michigan Labor Mediation Board believe that conciliation is to be used prior to a strike "when there is a very definite indication of a parting of the minds of the disputants." They use mediation to define a situation in which they attempt to mediate by conciliation "when the minds (of the disputants) have belligerently parted."³

Reed sums up the differences between conciliation and mediation in the following words: "The characteristic distinction between mediation and conciliation is the passive role of the mediator as contrasted with the active effort of the conciliator to secure adjustment and settlement of the controversy."⁴

1. Reed, Law of Labor Relations (1942) p. 368
2. Braun, The Settlement of Industrial Disputes (1944) p. 29
3. Michigan, Labor Mediation Board, The Michigan Labor Mediation Act and Its Administration (1939), pp. 8-9
4. Reed, Law of Labor Relations (1942) pp. 368-9

STATE ADMINISTRATIVE MACHINERY FOR THE
CONCILIATION AND MEDIATION OF LABOR DISPUTES

Thirty-five states have established some type of machinery for the utilization of conciliation and mediation in the settlement of employer-employee controversies. As a whole, this machinery varies a great deal and does not fall into categories easy to arrange. Table I (p. 8) contains some indication of the similarities and differences involved.

Independent agency:--Eleven states have established independent agencies for the purpose of assisting, through conciliation or mediation, in the maintenance of industrial peace. They are: Alabama, Iowa, Maine, Michigan, Minnesota, Montana, Nevada, Oklahoma, Oregon, Texas, and Wisconsin.

In three of these states--Alabama, Minnesota, and Oklahoma--there is a relationship or an over-lapping between these independent agencies and other administrative departments. In Alabama, the Director of Labor has the authority and duty to investigate labor disputes and to promote the peaceful and voluntary adjustment and settlement of them. Also, he must "make available to any board of mediation appointed by the governor, all data and information in his custody or possession relevant or pertinent to any matter which such board of mediation may have been appointed to consider, and to render to any such board of mediation such assistance as it may require of him in the discharge of its official duties."¹ In Minnesota, the Division of Conciliation is established in the Department of Labor and Industries, but is not in any way subject to the control of that Department.² In Oklahoma, the Deputy Commissioner of Labor is also the secretary of the State Board of Conciliation and Arbitration. He is appointed by the Commissioner of Labor, who also recommends to the Governor the appointment of three of the

1. Alabama. General Acts 1943, No. 298

2. Minnesota. Laws 1939, c. 440, as amended by Laws 1941, c. 469, and Laws 1943, c. 624 and 658

six members of the board. The Commissioner of Labor is ex-officio chairman of the Board.¹

The terms of office of these boards vary. In Alabama, Iowa, and Nevada, they are created as they are needed, on an ad hoc basis, to settle specific disputes. In Montana and Texas, they are appointed for two year terms. The members of the agencies in Maine and Michigan are appointed for three years. In Minnesota and Oregon, the appointments are for four years, although additional special conciliators may be appointed by the governor of Minnesota on an ad hoc basis. A six year appointment is provided for in Wisconsin. The appointments in Oklahoma are for the duration of the term of the appointing Governor.

In six of the states--Alabama, Iowa, Nevada, Oklahoma, Oregon, and Texas--the appointments are made by the Governor. In Oklahoma, the Governor, on his own motion, appoints two farmers and one employer; upon the recommendation of the Commissioner of Labor, he appoints one additional employer and two employees. In Oregon, the Governor chooses the board members on the following basis: one member from a list of five names submitted by the employer's association of Portland; one member from a list of five names submitted by the State Federation of Labor; the third member is to be chosen within ten days by these two Commissioners, or, if they do not agree, by the Governor. In the other five states--Maine, Michigan, Minnesota, Montana, and Wisconsin--the appointments are made by the Governor with the advice and consent of the Senate. However, in Minnesota, the Governor may appoint special conciliators as they are needed without reference to the Senate.

Six states--Alabama, Maine, Michigan, Montana, Oregon, and Wisconsin--have three-member boards. Texas has a five-member board, while Oklahoma has

¹. Oklahoma Statutes 1941, Title 40, c. 1

a six-member board. The size of the board is not limited in Iowa or Nevada, although the Governor of Nevada may exercise the powers of conciliation and mediation himself without setting up a commission for this purpose. In Minnesota, the Division of Conciliation in the Department of Labor and Industries is under the direction of a single head.

Five states--Alabama, Michigan, Minnesota, Oregon, and Wisconsin--provide both expenses and a per diem allowance for conciliators and mediators. Texas provides for expenses.

Activities Under Another Administrative Department:--In twenty-four states* the work of conciliation and mediation of industrial disputes represents but one of the many responsibilities placed upon an administrative department, usually the department of labor or the industrial commission.**

Conciliation and mediation activities in Arkansas, Georgia, Indiana, Louisiana, Maryland, and Ohio are guided by the following statement which applies, with minor variations, to all of them:

The Commissioner of Labor shall do all in his power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employees, and to avoid strikes, picketing, lockouts, boycotts, discriminations, and legal proceedings in matters of employment. The Commissioner may designate a mediator and may detail employees or persons not in the department to act as his assistants for the purpose of executing such provisions.¹

In Connecticut, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, and Rhode Island, conciliation and mediation are made the special concern of certain sub-divisions of the major departments. The relationships of these sub-divisions to the major departments are indicated in Table II (p. 12).

* Ariz; Ark; Calif; Colo; Conn; Ga; Ill; Ind; Ky; La; Md; Mass; N.H.; N.J.; N.Y.; N.C.; Ohio; Pa; R.I.; S.C.; Utah; Vt; Wash; and W.Va.

** In West Virginia, however, this responsibility is lodged with the Superintendent of Public Safety
1. Georgia, Laws 1937, No. 333

No provision for the conciliation or mediation of industrial disputes has been made in Delaware, Florida, Idaho,¹ Kansas, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, South Dakota, Tennessee, Virginia, and Wyoming.

1. Section 43-4A107 of the 1940 Supplement to the Idaho Code Annotated, 1932, provides that no restraining order, or injunctive relief shall be granted to any complainant in an industrial dispute who has failed to comply with the laws involved, or who has failed to make every reasonable effort to settle such dispute either by negotiation or with the aid of any available machinery of governmental mediation or voluntary arbitration.

TABLE I. STATE ADMINISTRATIVE MACHINERY FOR THE
CONCILIATION AND MEDIATION OF LABOR DISPUTES

State	Inde- pendent Agency	Under another administrative department	Mem- bers	App't'd by	Term	Compensation	
						Expenses	Per Diem
Alabama ¹	x	--	3	Gov.	ad hoc	x	\$20.00
Arizona ²	--	x	--	--	--	--	--
Arkansas ³	--	x	--	--	--	--	--
California ⁴	--	x	--	--	--	--	--
Colorado ⁵	--	x	1	Indus- trial Com'n.	ad hoc	x	\$10.00 maximum
Connecticut ⁶	--	x	3	Gov.	6 yrs.	--	--
Georgia ⁷	--	x	--	--	--	--	--
Illinois ⁸	--	x	--	--	--	--	--
Indiana ⁹	--	x	--	--	--	--	--
Iowa ¹⁰	x	--	--	Gov.	ad hoc	--	--
Kentucky ¹¹	--	x	1	Gov.	4 yrs.	--	--
Louisiana ¹²	--	x	--	--	--	--	--

1. General Acts 1943, No. 298
2. Annotated Code 1939, Vol. 4, c. 56, art. 9; as amended by c. 49, Session Laws 1944
3. Digest of Statutes (Pope's) 1937, Vol. 2, c. 97
4. Labor Code 1943, §65
5. Annotated Statutes 1935, Vol. 3, c. 97; Cumulative Supplement 1943, Vol. 3
6. General Statutes (Revised) 1930, Vol. 2, c. 297; Cumulative Supplement 1935, Title 56, c. 279; Supplement 1939, Title 56, c. 279
7. Laws 1937, No. 333; Laws 1941, No. 271; and Laws 1945, Nos. 20, 35, and 199
8. Revised Statutes 1943, c. 10 and 127; Laws 1945, c. 334
9. Statutes (Burns) Annotated 1933, Vol. 8 (1940 Replacement), c. 21
10. Code 1939, Title 5, c. 74
11. Statutes (Revised 1942), Title 1, c. 12, and Title 27, c. 336
12. General Statutes (Dart's) 1939, Vol. 3, Title 34, c. 1; arts 1940, No. 47

Table I (cont'd)

State	Independent Agency	Under another administrative department	Members	App't'd by	Term	Compensation	
						Expenses	Per Diem
Maine ¹³	x	--	3	Gov. with a/c of Senate	3 yrs.	--	--
Maryland ¹⁴	--	x	--	--	--	--	--
Massachusetts ¹⁵	--	x	3	Gov.	--	--	--
Michigan ¹⁶	x	--	3	Gov. with a/c of Senate	3 yrs.	x	\$20.00*
Minnesota ¹⁷	x	**	1***	Gov. with a/c of Senate	4 yrs.		(\$4500 annual salary)
			***	Gov.	ad hoc	x	\$15.00
Montana ¹⁸	x	--	3	Gov. with a/c of Senate	2 yrs.	--	--
Nevada ¹⁹	x	--	--	Gov.	ad hoc	--	--
New Hampshire ²⁰	--	x	--	--	--	--	--

13. Statutes (Revised) 1930, c. 54

14. Annotated Code (Flack's) 1939, Vol. 2

15. Annotated Laws Vol. 1 (Recompiled 1944) Title 2, c. 23; and Vol. 4 (Recompiled 1942) c. 150 and 151

16. Public Acts of 1939, No. 176

17. Laws 1939, c. 440; as amended by Laws 1941, c. 469; and Laws 1943, c. 624 and 658

* the annual per diem total for each member is not to exceed \$5,000

** The Division of Conciliation is established in the Department of Labor and Industries, but is not in any way subject to the control of that Department

*** The Governor may, from time to time, appoint special conciliators to aid in the settlement of particular labor disputes or controversies

18. Revised Codes (Annotated) 1935, Vol. 2, c. 261

19. Compiled Laws (Hillyer's) 1929, Vol. 2

20. Revised Laws 1942, Vol. 1, Title 18, c. 210

Table I (cont'd)

State	Independent Agency	Under another administrative department	Members	App't'd by	Term	Compensation	
						Expenses	Per Diem
New Jersey ²¹	--	x	7	Gov. with a/c of Senate	3 yrs.	x	\$25.00
New York ²²	--	x	5#	Gov. with a/c of Senate	3 yrs.	x	\$25.00
North Carolina ²³	--	x	--	--	--	--	--
Ohio ²⁴	--	x	--	--	--	--	--
Oklahoma ²⁵	x	*	6	Gov. with a/c of Senate	during term of appt'g Gov.	--	--
Oregon ²⁶	x	--	3	Gov.	4 yrs.	x	\$5.00
Pennsylvania ²⁷	--	x	--	Dept. of Labor and Industry	ad hoc	--	--

21. Laws 1941, c. 100 and 299; Laws 1945, c. 32

22. Laws (Thompson's) 1939, c. 31, art. 21; Cumulative Supplement 1943, art. 21 and 22

Whenever the Governor deems it necessary in the public interest, he may increase the membership of the State Board of Mediation to seven persons by appointing, by and with the advice and consent of the Senate, not more than two additional members for terms of one year

23. General Statutes 1943, Vol. 2, art. 4, c. 95

24. Annotated Code (Throckmorton's) 1940, c. 10

25. Statutes 1941, Title 40, c. 1

* The Commissioner of Labor may appoint an assistant to act as his deputy and to act in his absence, and also to be secretary to the independent board of conciliation and arbitration

26. Compiled Laws (Annotated) 1940, Vol. 7, Title 102, c. 2

27. Laws 1937, Act. No. 177

Table I (cont'd)

State	Independent Agency	Under another administrative department	Members	App't'd by	Term	Compensation	
						Expenses	Per Diem
Rhode Island ²⁸	--	x	--	Director of Dept. of Labor, w/app.of Gov.	ad hoc	--	--
South Carolina ²⁹	--	x	3	Com'r of Labor	ad hoc	--	--
Texas ³⁰	x	--	5	Gov.	2 yrs.	x	--
Utah ³¹	--	x	--	--	--	--	--
Vermont ³²	--	x	--	--	--	--	--
Washington ³³	--	x	--	--	--	--	--
West Virginia ³⁴	--	x	--	--	--	--	--
Wisconsin ³⁵	x	--	3	Gov. with a/c of Senate	6 yrs.	(\$5,000 annual salary)	
			*	Employment Relations Board	ad hoc	x	\$10.00 maximum

23. General Laws (Revision of 1938), c. 28, §4; Acts and Resolves 1939, c. 680; and Acts and Resolves 1941, c. 1066

29. Code of Laws 1942, Vol. 2, art. 8-A

30. Statutes (Vernon's) 1936, Title 10 and Title 83, c. 10

31. Annotated Code 1943, Vol. 3, Title 42 and Title 49, c. 1

32. Public Acts 1939, No. 186

33. Revised Statutes (Remington's) Annotated 1932, Vol. 8, Title 50, c. 6

34. Annotated Code 1943, Vol. 1, c. 15

35. Laws 1939, c. 57; Laws 1943, c. 493

* The Employment Relations Board has authority to appoint mediators as they are needed

TABLE II: MEDIATION AND CONCILIATION AGENCIES
LOCATED IN MAJOR DEPARTMENTS

State	Department	Sub-Division	Alternates Appointed	Representation Required by Law		
				Employer	Employee	Public
Connecticut ¹	Labor and Factory Inspection	Board of Mediation and Arbitration	x*	1	1	1**
Massachusetts ²	Labor and Industries	Board of Conciliation and Arbitration**	--	1	1	***
New Jersey ³	Labor and Industries	Board of Mediation	--	2	2	3
New York ⁴	Labor	Board of Mediation	--	--	--	--
North Carolina ⁵	Labor	Conciliation Service	--	--	--	--
Pennsylvania ⁶	Labor and Industry	ad hoc Commission or Panel #	--	--	--	--
Rhode Island ⁷	Labor	Board of Mediation and Conciliation ##	--	--	--	--

1. Cumulative Supplement to General Statutes 1935, Title 56, c. 279; Public Acts 1945, No. 339

* The labor member of the Board of Mediation and Conciliation and his alternate shall not belong to the same national labor organization

** Chairman; if the Governor so decides, he can act in this capacity himself

2. Laws (Annotated) Vol. 1, (Recompiled 1944) Title 2, c. 23

*** Composed of the three associate commissioners of the Department of Labor and Industries, one of whom shall be a representative of labor, and one a representative of employers of labor; salary not to exceed \$5,000 per annum as the governor and council determine.

3. Laws 1941, c. 100 and 299; Laws 1945, c. 32

4. Laws (Thompson's) 1939, c. 31, art. 21

5. General Statutes 1943, Vol. 2, c. 95

6. Laws 1937, Act No. 177

Established by the Department of Labor and Industry at the request of both the employer and the employees

7. Laws (Revision) 1938, c. 281, §4; Acts and Resolves 1939, c. 660

The director of the Department of Labor, when he deems advisable, but subject to the approval of the Governor, may appoint a board of mediation and conciliation for the consideration and settlement of controversial disputes

POWERS AND DUTIES OF VARIOUS STATE AGENCIES
ESTABLISHED FOR
MEDIATION AND CONCILIATION OF INDUSTRIAL DISPUTES

The powers and duties of the various state agencies which engage in the conciliation and mediation of industrial disputes are not uniform. Table III (p. 43) indicates some of such powers and duties which have been authorized by state legislatures. In summary, they are as follows:

<u>Powers and Duties of State Agencies</u>	<u>No. of States Authorizing Them</u>
1. Investigating labor disputes.....	18
2. Promote peaceful and voluntary settlement of labor disputes.....	15
3. Make findings of fact and recommendations.....	15
4. Hold hearings.....	14
5. Subpoena witnesses, books, records, documents, and papers.....	13
6. Enter any place of employment, public assembly, or public building.....	4
7. Engage in conciliation and/or mediation.....	24
8. Make studies and/or reports.....	9
9. Require notice prior to strike, lockout, or changes desired.....	11
10. Provide penalties for violations.....	6
11. Employ special mediators, conciliators, and/or investigators.....	14
12. Prohibit strike or lockout activities during period of mediation.....	4
13. Pay expenses of witnesses.....	3
14. Establish or change rules and procedures for voluntary settlement of industrial disputes.....	10

The jurisdiction of the various state agencies for the mediation and conciliation of industrial disputes can be defined in several ways. Twenty-six states provide jurisdiction in one or more of three different ways: 1) voluntary action, on motion of the agency itself; 2) action taken by the state agency upon the request of either or both parties to a labor dispute; and 3) or a combination of both of these procedures. The jurisdictional scope of the activities of state labor mediation and conciliation agencies is indicated in Table IV (p. 45).

In seven states, the jurisdiction of the state agencies is limited to firms employing more than a certain minimum number of employees. In Oregon,

the minimum is fifty employees; in Illinois and Oklahoma, the minimum is twenty-five employees; and in Iowa, Maine, Maryland, and New Hampshire, the minimum is ten employees. Of the twenty-six states listed in Table IV, Washington is the only state which does not provide for mediation or conciliation activities during a strike or lockout. Two states--California and Maine--do not provide for mediation or conciliation activities prior to a strike or lockout.

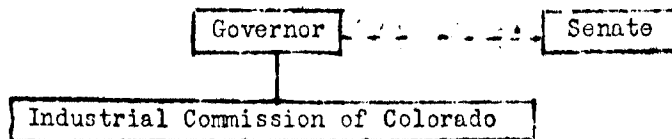
The legislation in eight states--Arizona, Arkansas, Georgia, Indiana, Louisiana, Ohio, Utah, and West Virginia--suggests that the work of the state agencies concerned in mediation or conciliation consists of educational and promotional activities.

Eleven states--Colorado, Connecticut, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, South Carolina, and Wisconsin--have enacted legislation providing for a major effort to utilize conciliation and mediation in the settlement and adjustment of labor disputes.

Colorado¹--The Industrial Commission is a full-time, independent, three-member agency which has authority to inquire into: 1) existing relations between employees and employers; 2) the growth of associations of employers and of wage earners and the effect of such associations upon the relations between employers and employees; 3) the extent and results of methods of collective bargaining; 4) into any methods which have been tried in any state or in foreign countries for maintaining mutually satisfactory relations between employees and employers; 5) the methods of avoiding or adjusting labor disputes through peaceable and conciliatory mediation and negotiations. The Industrial Commission is also authorized to seek out the underlying causes of dissatisfaction in the industrial situation; to take necessary

1. Statutes (Annotated) 1935, Vol. 3, c. 97; Cumulative Supplement, 1943

CHART I: COLORADO



1. 3 members, independent agency; appointed by the Governor by and with the advice and consent of the Senate; not more than 2 members shall belong to the same political party; only one member to represent employers, and only one member to represent employees.
2. Salary: \$4,000 annually for each member; and necessary expenses.
3. Terms: 6 years.

Scope of Activities

1. Mediation.
2. Arbitration.
3. Accident prevention and compensation; employer's liability.
4. Labor statistics.
5. Public private, and theatrical employment agencies.
6. Child labor.
7. Wages; wage brokers; minimum wages of women and children; and wage rates on public works.
8. Cooperation with the federal government.

steps to alleviate these causes, as provided by law; and to report to the General Assembly such remedial legislation as in the judgment of the Commission may be advisable, including recommendations thereon. Furthermore, the Industrial Commission is empowered to promote the voluntary arbitration, mediation, and conciliation of industrial disputes.

The Industrial Commission has jurisdiction over every industrial dispute affecting conditions of employment, wages, or hours. This jurisdiction holds for the entire time of the dispute, and the employer and employees involved must continue their relationship uninterrupted and unchanged until the situation has been disposed of or terminated by the Industrial Commission.

The law requires employers and employees to give the Industrial Commission, and one another, written notice at least thirty days prior to an intended change affecting conditions of employment, wages, or hours.

In cases where employees desire to strike, it is necessary for them to give the Industrial Commission at least: a) thirty days' notice of their intention to strike if employed in the production, harvesting, or initial processing of farm or dairy products produced in Colorado; or b) twenty days' notice of their intention to strike if employed in any other industries or occupations. Upon the receipt of such notices the Industrial Commission shall notify the employee concerned, take immediate steps to effect mediation, and, failing to mediate successfully, endeavor to induce the parties to arbitrate the controversy. Any strike called or made effective before the expiration of twenty days from the date of such notice shall constitute an unfair labor practice.

Upon its own initiative, or upon the request of one of the parties to the dispute, the Industrial Commission has authority to appoint any competent, impartial, disinterested person to act as mediator in any labor dispute. The Industrial Commission is authorized to provide necessary expenses, reasonable

compensation not to exceed ten dollars per day, and to prescribe reasonable rules of procedure for each mediator appointed by it.

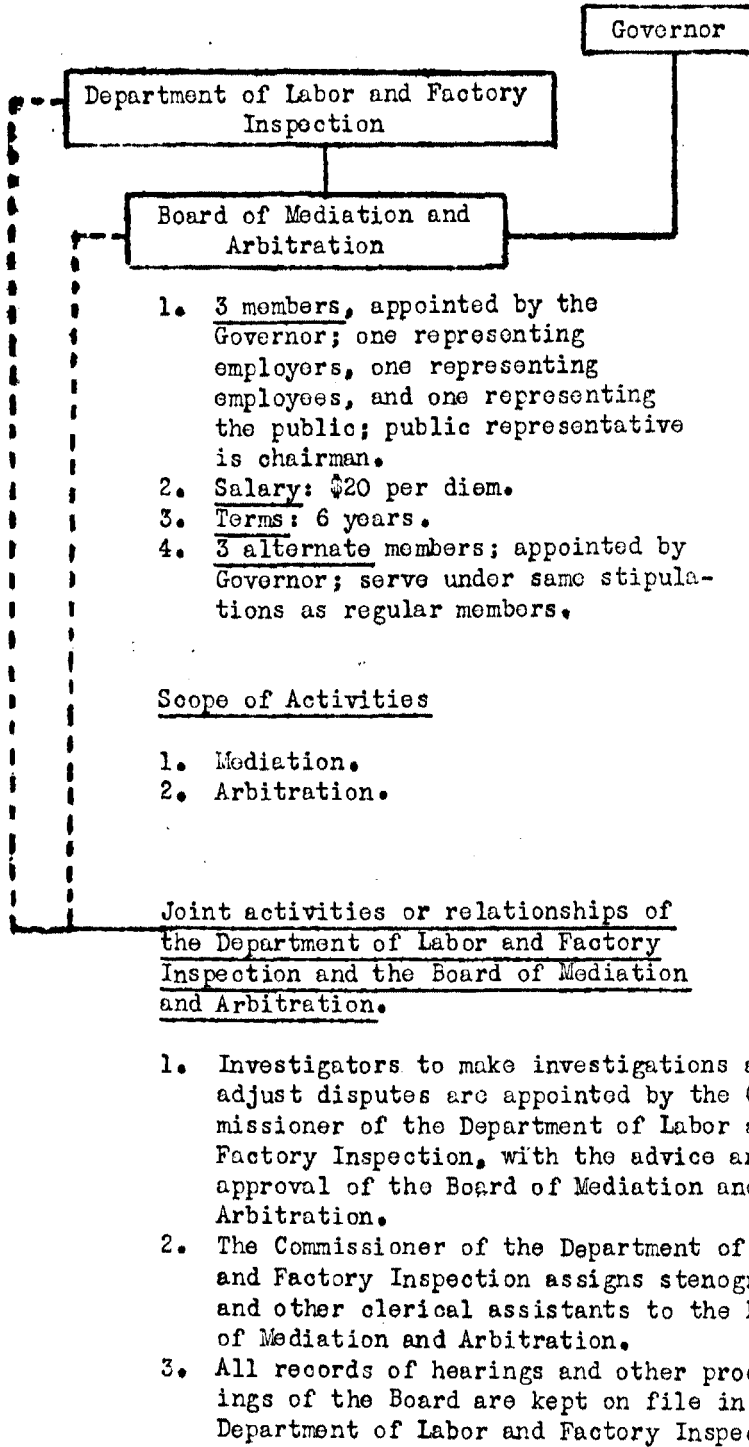
Interference with the work of the Industrial Commission is punishable by a fine of \$500, imprisonment for one year, or both. Any person inciting, encouraging, or aiding in any manner any employer or employee to continue a lockout or strike, contrary to state law, is guilty of a misdemeanor and is punishable by a fine of \$1,000, six months imprisonment, or both. If either party to a labor dispute uses any provision of Article 31, chapter 97--requiring uninterrupted and unchanged relationships between employer and employee in industrial disputes being investigated by the Industrial Commission--for the purpose of unjustly maintaining a given condition of affairs through delay, such parties shall be punished by a fine of not more than \$100.

The Industrial Commission is also authorized to engage in the arbitration of industrial disputes. In addition to these duties, the Industrial Commission is responsible for the administration of laws concerning the following fields: accident prevention and compensation; employer's liability; labor statistics; public, private, and theatrical employment agencies; child labor, wages; wage brokers; minimum wages of women and children; wage rates on public works; and cooperation with the federal government.

Connecticut¹:--The Board of Mediation and Arbitration is located in the Department of Labor and Factory Inspection, and consists of three members. Alternate members of the Board of Mediation and Arbitration are appointed biennially for each member of the Board. If any member of the Board is unable to serve at any time, the alternate, representing the same interest, serves in his stead and has, while so serving, all the powers and duties of such member. The Board may, at its option, require the alternate members to sit with it in

1. General Statutes (Revision of 1930) Vol. 2, c. 279; Cumulative Supplement, 1935, Title 56, c. 279; and Supplement, 1939, Title 56, c. 279

CHART II: CONNECTICUT



hearing evidence on any industrial dispute and formulating a decision on such dispute.

In case a strike or lockout occurs, or is seriously threatened, and it comes to the attention of the Board of Mediation and Arbitration, the Board must: 1) proceed as soon as practicable to the locality concerned; 2) communicate with the parties of the controversy; 3) endeavor, by mediation, to effect a settlement of such a strike or lockout; and 4) inquire into the causes of the controversy.

The Board of Mediation and Arbitration is authorized to inspect conditions affecting the relations between employees and employers. The Commissioner of Labor and Factory Inspection, with the advice and approval of the Board of Mediation and Arbitration, is authorized to appoint one or more investigators to act for it in making investigations and adjusting industrial disputes. Each investigator, with the approval of the Board expressly granted in each case in which he is required to function, has all the powers of a Board member to enter establishments, examine payrolls or other records, issue subpoenas, and administer oaths.

On or before December first in each year, the Board of Mediation is required to make a report to the Governor including: 1) such facts and explanations as will disclose the actual doings of the Board; and 2) such suggestions as to legislation as may seem to it conducive to harmony in the relations between employers and employees. However, the Board is not allowed to reveal information submitted to it by any party to an industrial dispute unless specifically authorized to do so by such party.

The Board of Mediation and Arbitration is also authorized to engage in the arbitration of industrial disputes.

The Commissioner of the Department of Labor and Factory Inspection is required to assign to the Board of Mediation and Arbitration such stenographic

and other clerical assistants as are needed for the performance of its duties. All records of hearings and other proceedings of the Board must be kept on file in the Department of Labor and Factory Inspection.

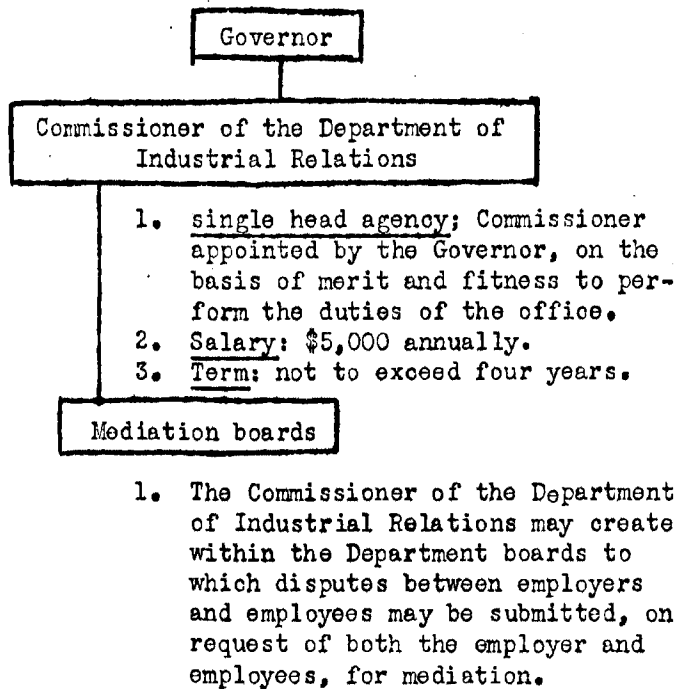
Kentucky¹:--The Department of Industrial Relations, under the leadership of the Commissioner of Industrial Relations, is authorized to: 1) promote friendly and cooperative relations between employers and employees; 2) foster, promote and develop the welfare of both wage earners and industries; 3) inquire into the causes of strikes, lockouts, and other disputes between employers and employees; and 4) endeavor to effect amicable settlements for industrial disputes.

The Commissioner of Industrial Relations may create, within the Department, boards to which disputes between employers and employees may be submitted, on request of both parties, for mediation. Whenever his intervention is requested by either party, the Commissioner may act as conciliator and mediator, and may appoint conciliators and mediators to serve in labor disputes. The Commissioner may offer his services as conciliator and mediator if any emergency by reason of a labor dispute is found to exist at any time.

In any labor dispute in which the services of the Commissioner as conciliator and mediator have been accepted by both parties, no strike or lockout is allowed to take place pending the efforts of the Commissioner, or his authorized representative, to conciliate and mediate the dispute. The Commissioner, upon the acceptance of his services by both parties, must promptly investigate the labor dispute and undertake to conciliate and mediate it without delay. However, no agreement accepting the services of the Commissioner shall be binding on either party for longer than fifteen days, although this term may be extended by mutual consent of the parties to the agreement.

1. Statutes (Revised) 1942, Title 27, c. 336

CHART III: KENTUCKY

Scope of Activities

1. Mediation.
2. Safety of workers.
3. Workmen's compensation.
4. Public employment offices.
5. Unemployment compensation.
6. Enforce unfair labor practices legislation.
7. Accumulate and publish industrial statistics.

The Commissioner is required to include information concerning labor disputes in his biennial reports to the General Assembly. Any person employed in the Department of Industrial Relations shall, upon proof that he has taken part in any strike, lockout or similar labor dispute, forfeit his office.

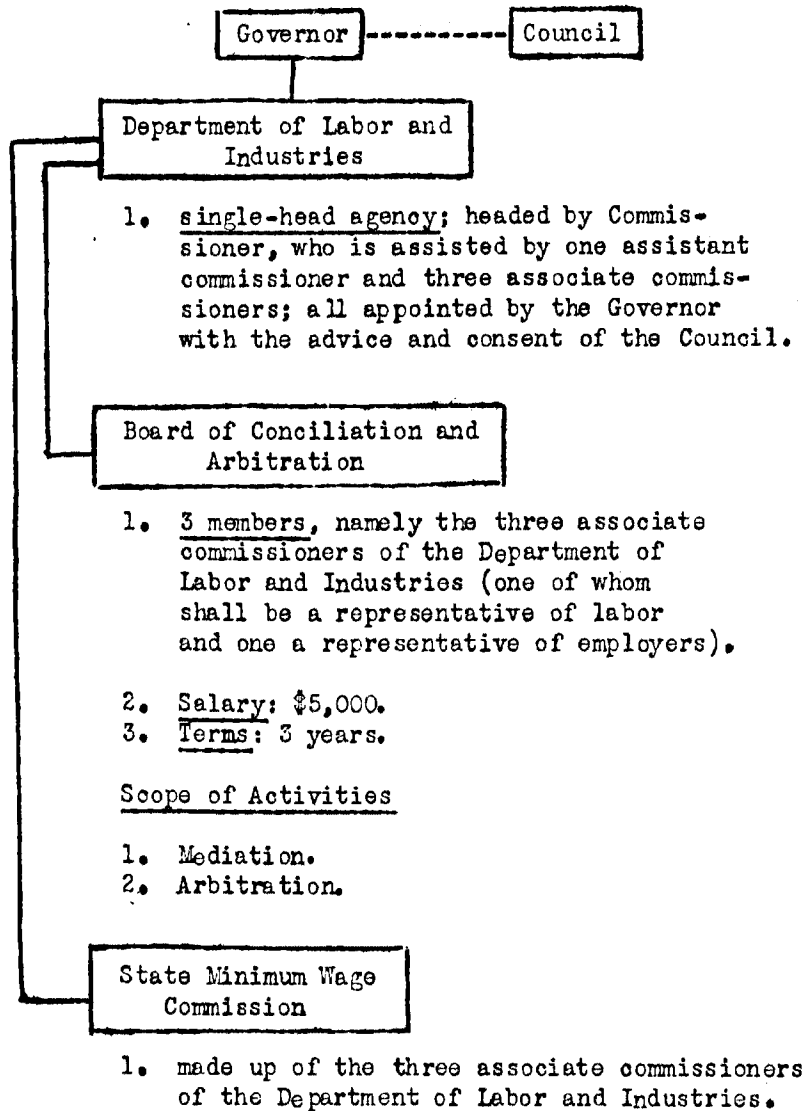
Where a joint wage agreement exists between an employer and any labor organization and provides for the settlement of disputes, any disputes that arise must be settled by the terms of the contract and, when so settled, is binding and final upon the Commissioner.

Massachusetts¹:--The State Board of Conciliation and Arbitration is located in the Department of Labor and Industries, and is composed of the three Associate Commissioners of the Department, one of whom is a representative of employers of labor. (These same Associate Commissioners of the Department of Labor and Industries also comprise the State Minimum Wage Commission which is likewise located in the Department.) The Department of Labor and Industries is authorized to establish rules of procedure for the Board from time to time.

When the Board of Conciliation and Arbitration receives knowledge that a strike or lockout is threatened, or has actually occurred, it must, as soon as possible: 1) communicate with the employer and employees concerned and endeavor, by mediation, to obtain an amicable settlement; or 2) endeavor to persuade them to submit the controversy to a local board of conciliation and arbitration. If a settlement is not agreed upon, and the parties refuse to submit the matter in dispute to arbitration, the Board has authority to: 1) investigate the cause of the controversy; 2) ascertain which of the parties thereto is mainly responsible or blameworthy for the existence or

1. Laws (Annotated) Vol. 1 (Recompiled-1944) Title 2, c. 23; Laws (Annotated) Vol. 4 (Recompiled-1942), c. 149, 150, and 151

CHART IV: MASSACHUSETTS



continuance of the dispute; and 3) unless a settlement of the controversy is reached, make and publish a report finding such cause and assigning such responsibility or blame. Subject to the approval of the Commissioner of Labor and Industries, the Board may employ agents to assist in such investigations.

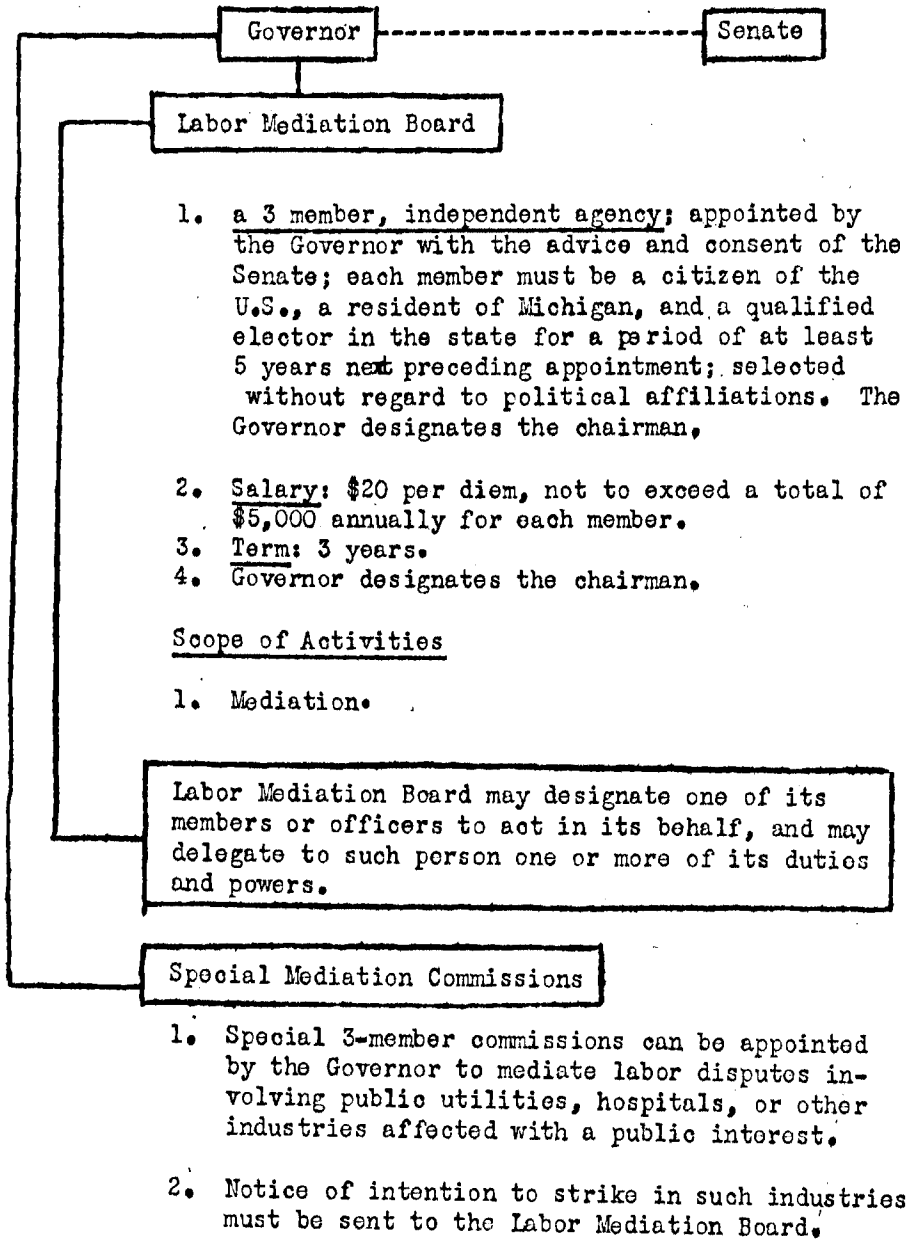
The Board of Conciliation and Arbitration is required, by publication or otherwise, to inform employers and employees of their duty to give notice to the Board prior to resorting to a strike or lockout, and of legal provisions affecting the rights of employers and employees relative to industrial disputes. Upon receipt of a request from the Governor, the Board must investigate and report on any controversy which, in his opinion, seriously affects or threatens seriously to affect the public welfare.

The Board of Conciliation and Arbitration is also authorized to engage in the arbitration of industrial disputes. Furthermore, the Board is authorized to determine, only after a full hearing at which all persons involved shall be entitled to be heard and represented by counsel, whether the legal provisions shall apply which prohibit an employer from advertising or soliciting (orally or in writing) for persons to fill the places of strikers without at the same time including in such advertisements or solicitations an explicit statement to the effect that a strike, lockout or other labor trouble exists among his employees.

Michigan¹.--The Labor Mediation Board is an independent, three-member agency, appointed by the Governor with the advice and consent of the Senate. Each member must be a citizen of the United States, a resident of the state, and a qualified elector in the state for at least five years next preceding the appointment. Board members must be selected without regard to political affiliations.

1. Public Acts 1939, No. 176

CHART V: MICHIGAN



When an industrial dispute has arisen which the parties thereto are unable to settle, no strike or lockout is allowed to take place or be put into effect unless the employees or the employer serve a notice upon the Board of the existence of the dispute and a statement of the issues involved. For a period of five days after the serving of this notice, or until the Board undertakes the adjustment and settlement of the dispute--within five days--both employees and employer must avoid a cessation of employment or a change in the normal operation of the business.* During this period, the parties concerned are to undertake a mediation of the dispute. The violation of these provisions is considered a misdemeanor, and is punishable as such.

The Labor Mediation Board may attempt to effect a voluntary, amicable and expeditious adjustment and settlement of the labor dispute: 1) after receipt of the notice from employees or employer; 2) upon its own motion in an existing, imminent or threatened labor dispute; and 3) upon the direction of the governor. The duties of the Board in such a situation include the following: 1) to arrange for, hold adjourn or reconvene a conference between the disputants and their representatives; 2) to invite the disputants and their representatives to attend such conferences and submit either orally, or in writing, the grievances and differences between them; 3) to discuss such grievances and differences with the disputants and their representatives; and 4) to assist in negotiating and drafting agreements for the adjustment or settlement of such grievances and differences and for the termination or avoidance of the existing or threatened labor dispute.

When a labor dispute involves a public utility, hospital, or any other industry affected with a public interest, a thirty-day waiting period must be observed by the disputants, during which time the Governor shall appoint a special three-member commission of qualified and disinterested residents of

* In case of a labor dispute involving a public utility, hospital, etc., there must be no interference with production for 30 days

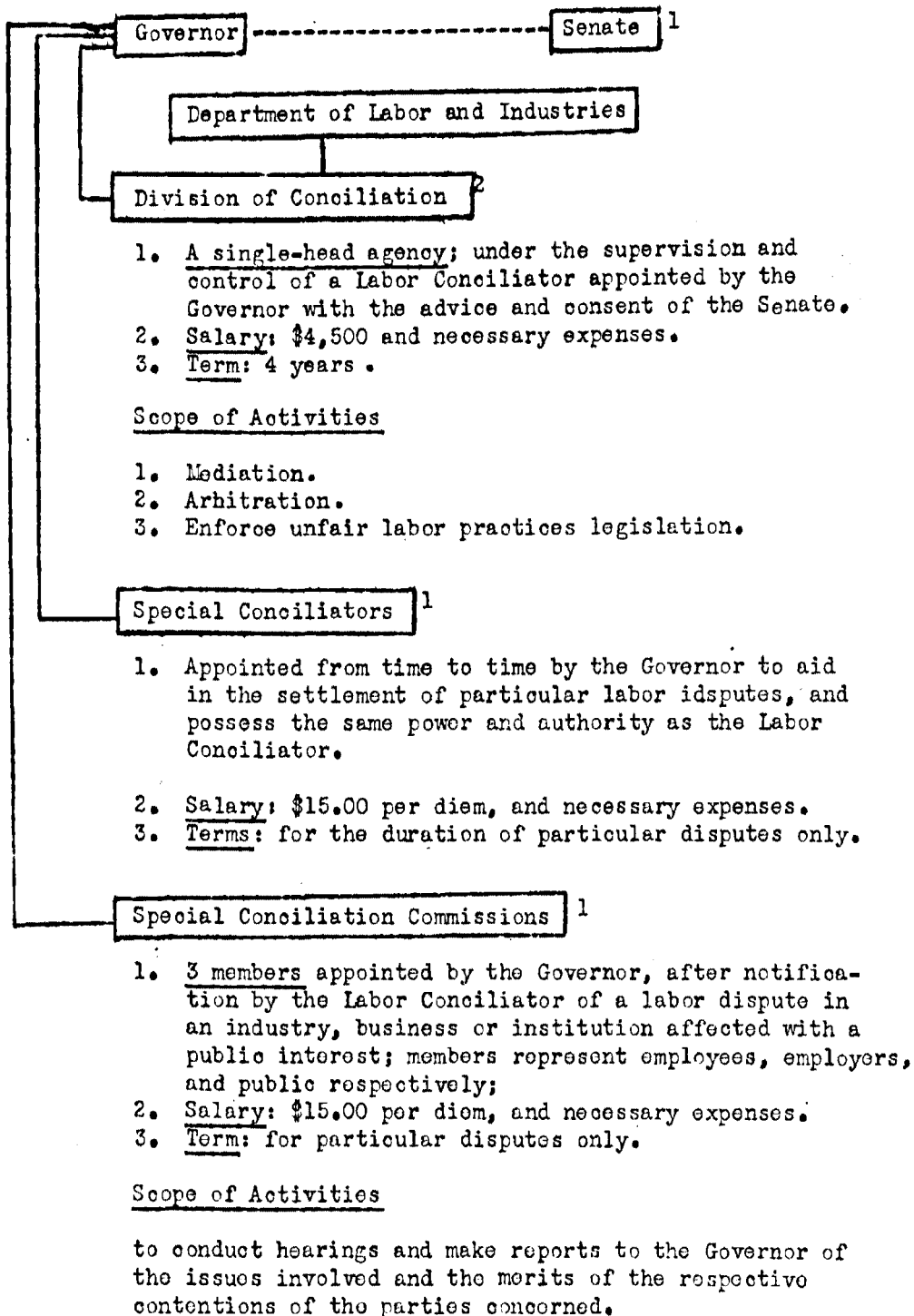
the state to attempt to mediate the dispute. Such special commissions have authority to prescribe rules and regulations governing procedure, and to incur such expenses as are necessary and which are paid as a part of the expenses of the Labor Mediation Board. Special commissions report their findings to the Governor.

Minnesota,¹--The Division of Conciliation is located in the Department of Labor and Industries but is not in any way subject to the control of that Department. It is under the supervision and control of a Labor Conciliator who is appointed by the Governor with the advice and consent of the Senate. In addition, the Governor has authority to appoint special conciliators to aid in the settlement of specific labor disputes. The Labor Conciliator is required to prepare a roster of persons qualified to act as special conciliators and to keep this roster revised at all times and available to the Governor and the public.

The Minnesota law requires employers and employees to attempt to reach agreements in good faith. To this end, the employee, or the employer, must give written notice of any changes desired to the employer. If no agreement is reached at the expiration of ten days after the service of the notice, notice of intention to strike or lockout may be given by the employees or the employer. However, it is unlawful for either party to institute a strike or lockout unless the party so intending has also given a notice of intention to strike or lockout upon the Labor Conciliator and the other parties to the dispute at least ten days before it is to become effective. If the strike or lockout is not commenced within ninety days from the date of the service of the notice upon the Labor Conciliator, it is illegal for any of the parties to institute or aid in the conduct of a strike or lockout without serving a

1. Laws 1939, c. 440; as amended by Laws 1941, c. 469, and Laws 1943, c. 624 and 658

CHART VI: MINNESOTA



1. The advice and consent of the Senate is not required when the Governor is appointing special conciliators or special conciliation commissions.
2. Division of Conciliation is located in the Department of Labor and Industries but is not in any way subject to the control of that Department.

new notice in the manner prescribed for the original notice, unless the ninety-day period is extended by a written agreement of the parties filed with the Labor Conciliator. The notice should contain a brief statement of the nature of the dispute and of the demands of the party who serves it.

Upon receipt of such a notice, the Labor Conciliator must: 1) fix a time and place for a conference with the parties to the labor dispute; and 2) take whatever steps he deems expedient to bring about a settlement of the dispute. The parties involved must respond to the summons of the Labor Conciliator for conferences and must continue in such conferences until excused by the Labor Conciliator for at least the ten-day period required after serving notice on the Labor Conciliator.

In a labor dispute in which negotiations for settlement have failed, the Labor Conciliator may take jurisdiction, as above, if either party to the dispute, before a strike or lockout, files a petition: 1) requesting the Labor Conciliator to act in the dispute; 2) setting forth the issues of the dispute; 3) stating the efforts to agree; and 4) stating the failure to reach agreement.

When a labor dispute involves an industry, business or institution in which a temporary suspension of operation would endanger the life, safety, health or well-being of a substantial number of people of any community, one of two procedures may be followed: 1) the Labor Conciliator may take jurisdiction and the provisions outlined above would be applicable; or 2) the Governor may appoint a commission of three to conduct a hearing and make a report, to be filed with the Governor not less than 5 days before the end of a thirty-day period, on the issues involved and the merits of the respective contentions of the parties to the dispute. In any event, the Labor Conciliator must notify the Governor of such a dispute.

When appointing such special commissions, the Governor must so advise the Labor Conciliator who is then required to notify the parties to the

labor dispute of this action, informing them also of the date of the notification to the Governor. The members of these special commissions must represent employees, employers, and the public respectively. If the Governor appoints such a commission, neither party to the dispute is allowed to make any change in the situation affecting the dispute and no strike or lockout can be instituted for a period of thirty days after the Labor Conciliator's notice to the Governor. If the Governor does not make the appointments to the commission within five days after notification, this limitation is not effective, although if the Governor appoints such a commission at a later date, the limitation becomes operative but not for more than the original thirty-day period. This 30-day period may be extended by an agreement signed by the parties to the labor dispute and filed with Labor Conciliator, in which case the commission report must be filed with the Governor not less than five days before the end of the extended period.

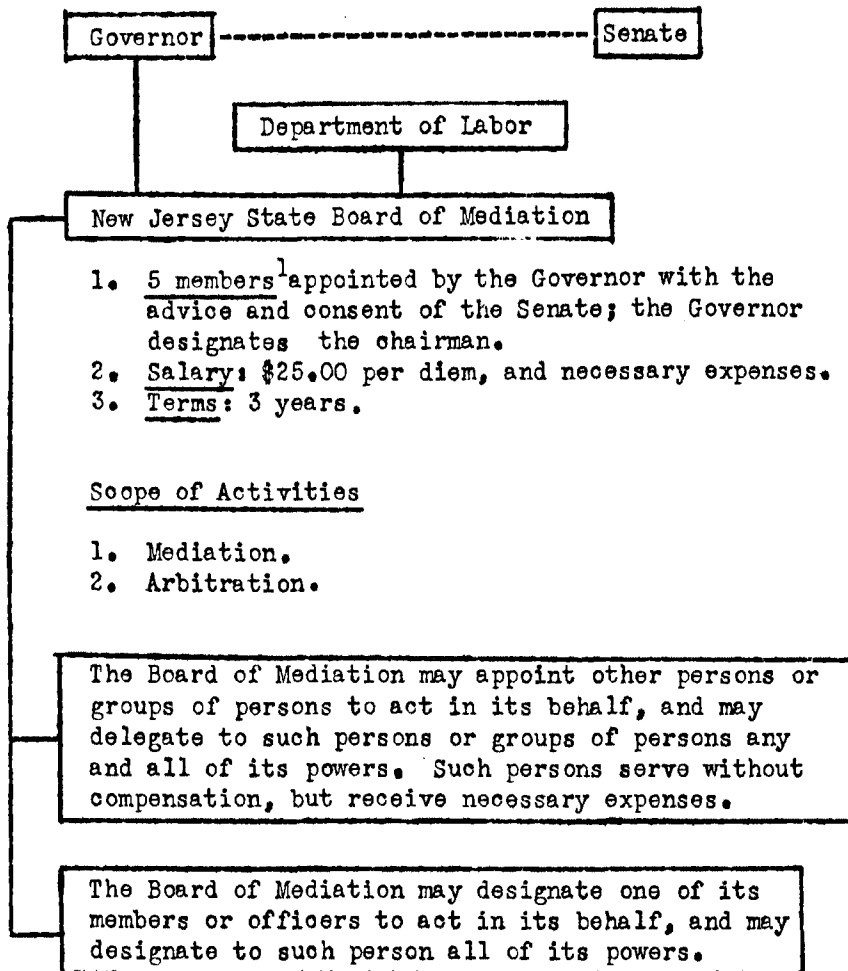
The Labor Conciliator, or any employee, under the provisions of these laws, who exerts his influence, directly or indirectly to induce any other person to adopt his political views, or to favor any particular candidate for office, or to contribute funds for political purposes, must be removed from his office or position by the appointing authority. Before removal, the Labor Conciliator is entitled to a hearing before the Governor, and any other employee is entitled to a similar hearing before the Labor Conciliator.

The Labor Conciliator is also authorized to engage in the arbitration of industrial disputes, and to administer the labor relations provisions of the state law.

New Jersey¹:--The State Board of Mediation is located in the Department of Labor, and consists of five members appointed by the Governor with the

¹. Laws 1941, c. 100 and 299

CHART VII: NEW JERSEY



1. disqualification: No member or officer of the Board having any financial or other interest in a trade, business, industry or occupation in which a labor dispute exists or is threatened and of which the Board has taken cognizance, shall be qualified to participate in any way in the acts or efforts of the Board in connection with the settlement or avoidance thereof.

advice and consent of the Senate. Any Board member, or officer of the Board, having any financial or other interest in a trade, business, industry, or occupation in which a labor dispute exists or is threatened and of which the Board has taken jurisdiction, is thereby disqualified from participation in any way in the activities of the Board in connection with the settlement or avoidance of such dispute.

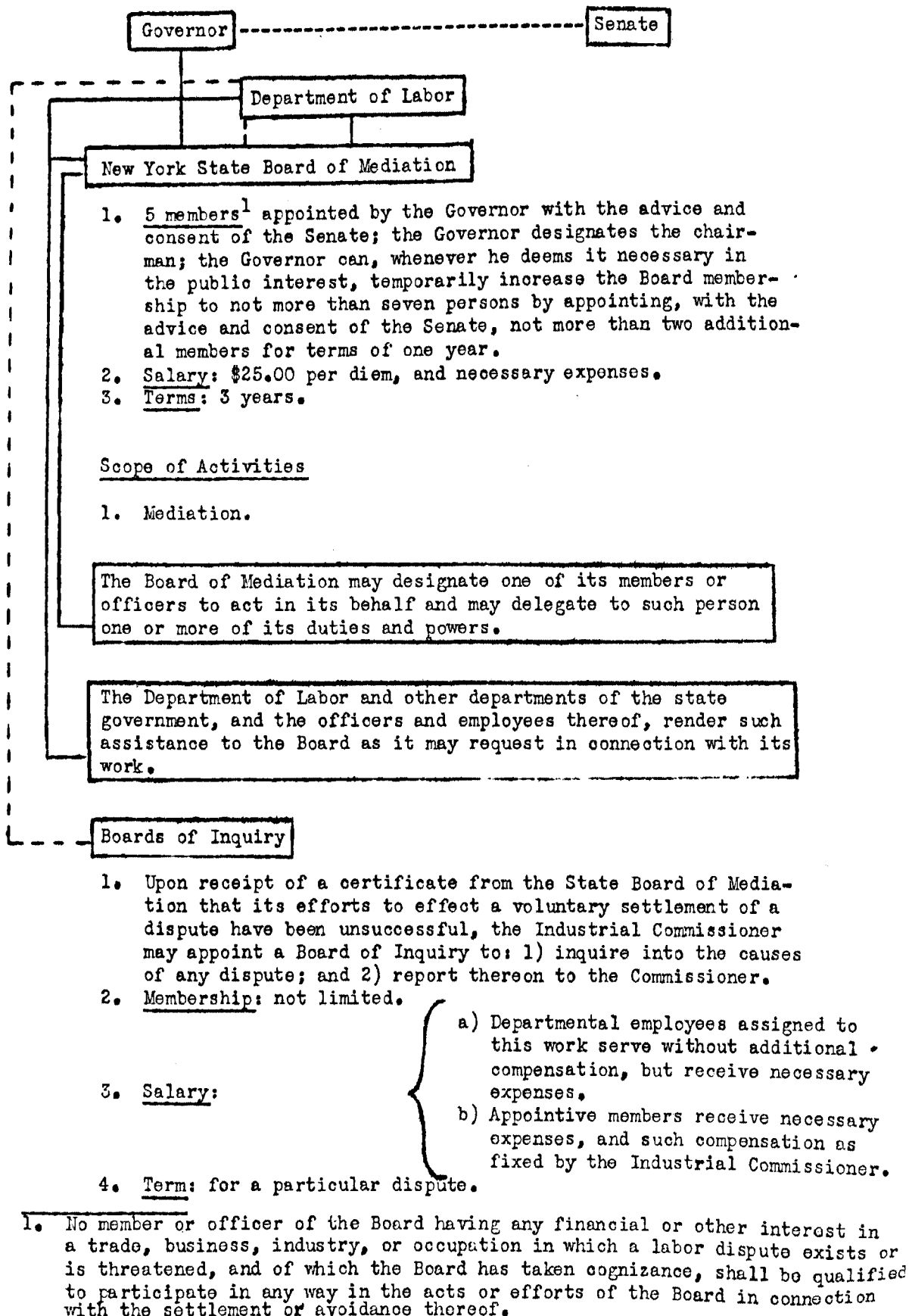
The State Board of Mediation may, upon its own motion in an existing, imminent or threatened labor dispute, or must, upon the request of either or both parties to the dispute, take such steps as it may deem expedient to effect a voluntary, amicable and expeditious settlement of the controversy. For this purpose, the Board is authorized: 1) to arrange for, hold, adjourn or reconvene conferences between the disputants; 2) to invite the disputants to attend such conferences and submit, orally or in writing, the grievances and differences concerned; 3) to discuss such grievances and differences with the disputants; and 4) to assist in negotiating and drafting agreements for the adjustment or settlement of the controversy and for the termination or avoidance of a labor dispute.

The Board is authorized to appoint other persons or groups of persons to act for and on its behalf. The Board may delegate to such appointees any and all of its powers reasonably necessary to effectuate the purposes of the state law. While such appointees receive their necessary expenses, they serve without compensation. The Board may avail itself of the services of any officer or employee of the Department of Labor, and is authorized to require such persons to render such assistance as it needs without additional compensation.

New York¹:--The State Board of Mediation is a five-member agency, appointed by the Governor with the consent and advice of the Senate, and located in the

1. Laws (Thompson's) 1939, c. 31; art. 21; Cumulative Supplement (Thompson's) 1942, art. 21 and 22

CHART VIII: NEW YORK



Department of Labor. The Governor may, whenever he deems it necessary in the public interest, temporarily increase the Board membership to not more than seven persons by appointing, with the advice and consent of the Senate, not more than two additional members for terms of one year. Any Board member, or officer of the Board, having any financial or other interest in a trade, business, industry, or occupation in which a labor dispute exists or is threatened and of which the Board has taken jurisdiction, is thereby disqualified from participation in any way in the activities of the Board in connection with the settlement or avoidance of such dispute.

The Board of Mediation may, upon its own motion in an existing, imminent or threatened labor dispute, or must, upon the direction of the Governor, take such steps as it may deem expedient to effect a voluntary, amicable and expeditious settlement of the controversy. For this purpose, the Board is authorized: 1) to arrange for, hold, adjourn or reconvene conferences between the disputants; 2) to invite the disputants to attend such conferences and submit, orally or in writing, the grievances or differences concerned; 3) to discuss such grievances and differences with the disputants; and 4) to assist in negotiating and drafting agreements for the adjustment or settlement of the controversy and for the termination or avoidance of a labor dispute.

Board members and employees of the Board cannot be compelled to disclose to any administrative or judicial tribunal any information relating to or acquired in the course of their official activities. Reports, minutes, written communications, or other documents of the Board pertaining to such information are not subject to subpoena. However, where the information so required indicates that the person appearing, or who has appeared, before the Board has been the victim or subject of a crime, the Board may be requested to testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of a crime is the subject of inquiry.

The Board is authorized to utilize the services of any officer or employee of the Department of Labor to render such assistance as the Board may require without additional compensation. The Department of Labor, and the other departments of the state government, are required to render such assistance to the Board as it may request in connection with its work.

In addition to the work of the State Board of Mediation in the field of conciliation and mediation, the laws of New York provide that the Industrial Commissioner, upon receipt of a certificate from the Board of Mediation to the effect that its efforts for a voluntary settlement of a labor dispute have been unsuccessful, may refer any matters appearing to him to be connected with or relevant to the dispute to a board of inquiry appointed by him for the purpose of such reference. Such a board of inquiry may: 1) inquire into the causes of the dispute; 2) hold public or private meetings of inquiry at any place within the state; 3) make interim reports; and 4) make a final report to the Industrial Commissioner as to the matters referred to it. The final report of a board of inquiry is made public by the Industrial Commissioner unless the strike, lockout, or other industrial dispute is terminated or adjusted prior thereto, or is re-submitted by all parties to the dispute for voluntary settlement to the State Board of Mediation. A board of inquiry consists of a chairman and such other persons as the Industrial Commissioner appoints. Also, the Industrial Commissioner may assign to the work of a board of inquiry any officer or employee of the Department of Labor.

Any member of the State Board of Mediation, or officer thereof, having any financial or other interest in a trade, business, industry, or occupation in which a labor dispute exists or is threatened, and of which the Board has taken cognizance, is disqualified from participating in any way in the acts or efforts of the Board in connection with the settlement or avoidance thereof.

Oregon¹:--The State Board of Conciliation is an independent, three-member agency. Two of the Board members are appointed by the Governor--one from a list of five names submitted by the Employer's Association of Portland; another from a list of five names submitted by the State Federation of Labor. The third member of the Board is chosen by these two members. However, if they do not agree on a third person within ten days after their own appointment, the Governor is authorized to appoint the third member.

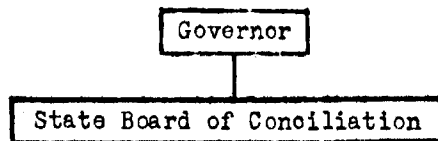
The State Board of Conciliation, when a controversy or difference, not involving a question which may be the subject of an action or proceeding in a court of Oregon, exists between an employer and his employees, or whenever it comes to the knowledge of the Board that a strike or lockout is seriously threatened involving an employer and his employees, if he is employing not less than 50 persons, is authorized to: 1) communicate immediately with the parties concerned; 2) ascertain the cause of the difference, strike or lockout; and 3) endeavor to persuade the parties to the dispute to adjust it.

If the employer and employees concerned are unable to adjust the controversy, then either of them, or the officials of the county in which the dispute occurs if outside any incorporated city or town, may request the Board to make an investigation of the causes of the dispute. Upon receipt of such a request, the Board shall: 1) proceed immediately to the locality of the dispute; 2) make an investigation by means of a public hearing; and 3) issue a notice of the time, place and purpose of such hearing to the parties concerned. The Board is authorized to make such findings and recommendations to the respective parties as it may deem just. If either or both parties to the dispute are dissatisfied with these findings and recommendations, then either party may make a written request to the Board to have the controversy submitted for decision to a board of arbitration. If either party refuses to accept the findings and recommendations of the Board of

1. Compiled Laws (Annotated) 1940, Vol. 7, Title 102, c. 2; Laws 1941, c. 398

CHART IX: OREGON

37



1. A 3 member, independent agency; two members are appointed by the Governor, one representing employers and one representing employees; the third member is chosen by these two within ten days, or, if not chosen by them within that time, by the Governor. The Board elects its own chairman and secretary.
2. Salary: \$5.00 per diem, plus expenses.
3. Term: 4 years.

Scope of Activities

1. Mediation.
2. Arbitration.

Conciliation, or refuses to consent to the appointment of, and abide by the award of a board of arbitration, then the Board of Conciliation is authorized to: 1) prepare written findings; 2) determine therein the responsibility for the existence or continuance of the controversy; and 3) deliver one copy of these findings to the county court in which the investigation was held, and one copy to the State Commissioner of Labor, both copies being public documents.

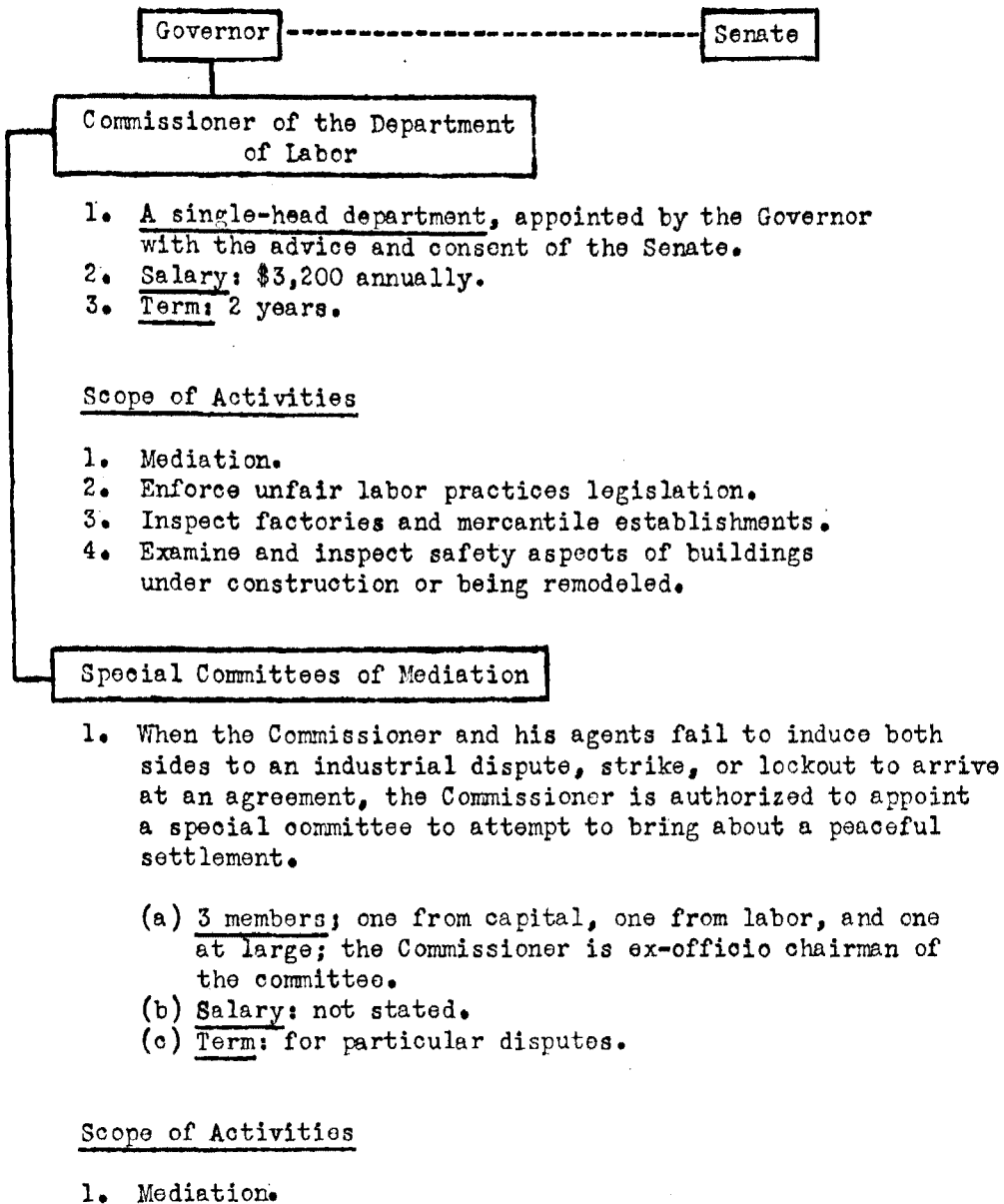
Each year, on the last day of July, the Board of Conciliation is required to make a report to the Governor containing: 1) statements, facts and explanations which disclose its methods and activities; and 2) such suggestions as it may deem proper as to legislation conducive to the adjustment of industrial disputes.

The Governor has authority to remove any Commissioner at any time for inefficiency, neglect of duty, or malfeasance in office. However, prior to such removal, the Governor must give the Commissioner a copy of the charges against him and fix the time when he can be heard in his own defence, which must be within ten days after the fixing of the time of hearing. The hearing is open to the public. If the Commissioner is removed, then the Governor must file in the office of the Secretary of State a complete statement of all the charges made against the Commissioner, including his findings thereon and a record of all proceedings. The Governor's power of removal, under these conditions, is absolute. There is no right of review by any court.

South Carolina¹:--The Commissioner of Labor, and his agents, are authorized to: 1) investigate industrial disputes, strikes, or lockouts arising between employers and employees; 2) ascertain the causes of such controversies; 3) make a finding of fact in respect thereto; 4) endeavor to induce both parties to such a controversy to arrive at an agreement; 5) endeavor to remove

1. Code of Laws 1942, Vol. 2

CHART X: SOUTH CAROLINA



misunderstandings or differences; 6) report the findings of fact to the Governor as soon as may be practicable, and annually to the General Assembly; and 7) nominate, appoint or act as arbitrators when so requested by both sides to the controversy. When the Commissioner of Labor and his agent deem it advisable no report is made to the Governor and General Assembly.

If the Commissioner of Labor and his agents fail to induce both sides of an industrial conflict to arrive at an agreement, the Commissioner is authorized to appoint a committee of three which has the same duties as those of the Commissioner. One member represents capital; one represents labor; and one is from at large. The Commissioner of Labor is ex-officio chairman of such committees.

Any person, firm or corporation that hinders or obstructs the Commissioner of Labor and his agents in the full and free performance of their duties shall be deemed guilty of a misdemeanor in each and every offense, and upon conviction in a court of competent jurisdiction, shall be fined not less than \$25.00 nor more than \$100, or sentenced to serve not more than thirty days upon the county chain gang.

The Commissioner of Labor has many additional duties including: the enforcement of unfair labor practices legislation; the inspection of factories and mercantile establishments; the examination and inspection of the safety aspects of buildings under construction or being remodeled.

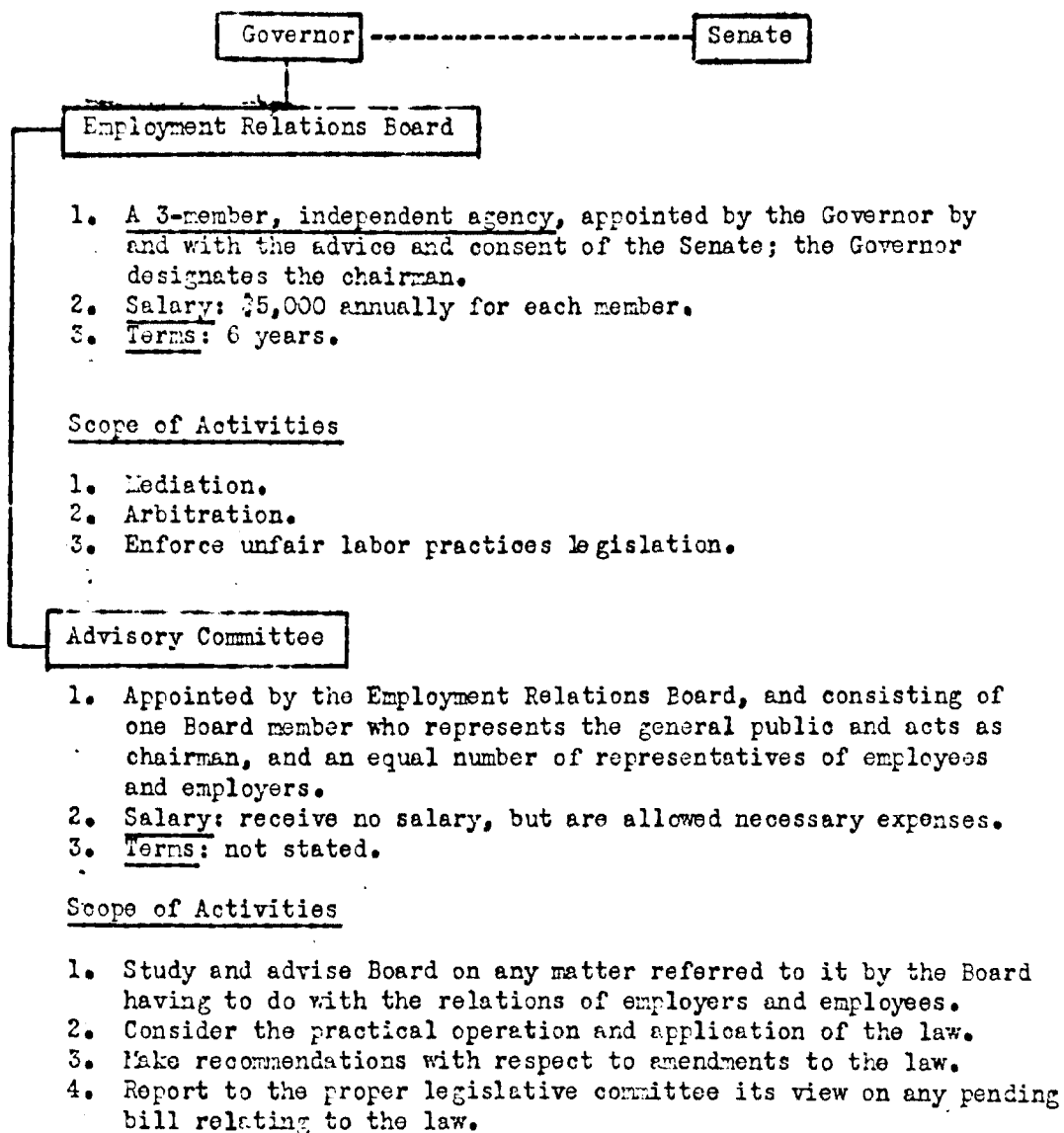
Wisconsin¹.--The Employment Relations Board is an independent, three-member agency appointed by the Governor with the advice and consent of the Senate.

The Employment Relations Board is authorized to appoint any competent, impartial, disinterested person to act as mediator in any labor dispute either

1. Laws 1939, c. 57; Laws (1943) c. 493

CHART XI: WISCONSIN

41



upon its own initiative or upon the request of one of the parties to the dispute. Such a mediator shall bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute. However, neither the mediator nor the Board has any power of compulsion in mediation proceedings. The Board provides expenses for such mediators as it may appoint; orders reasonable compensation not exceeding ten dollars per day for each mediator; and prescribes rules of procedure for such mediators.

Persons employed in the production, harvesting, or initial processing of any farm or dairy product produced in the state, which would be destroyed or seriously deteriorated in case of a strike, must give the Board at least ten days notice of their intention to strike. Immediately upon receipt of such a notice, the Employment Relations Board must: 1) notify the employer; 2) take steps to effect mediation; and 3) in the event of failure of mediation efforts, endeavor to induce the parties to arbitrate the controversy.

The Employment Relations Board is assisted by an advisory committee which is appointed by the Board, and consists of one member of the Board, who represents the general public, and is chairman of the advisory committee, and an equal number of representatives of employers and employees. The Board may refer to this advisory committee, for study and advice, any matter having to do with the relations of employers and employees. The advisory committee gives consideration to the practical operation and application of the work of the Employment Relations Board, and may make recommendations with respect to amendments to the law, and is authorized to report to the proper legislative committee its view on any pending legislation concerning employment relations. Members of the advisory committee receive no salary or compensation for service, but are paid necessary expenses.

The Employment Relations Board is authorized to engage in the arbitration of industrial disputes, and is required to enforce unfair labor practices legislation.

TABLE III. POWERS AND DUTIES OF VARIOUS STATE AGENCIES ESTABLISHED FOR THE MEDIATION AND CONCILIATION OF INDUSTRIAL DISPUTES

State	Powers and Duties													
	1. Investigate Labor Disputes	2. Promote Peaceful and Voluntary Settlement of Labor Disputes	3. Make Findings of Fact, and Recommendations		4. Hold Hearings	5. Subpoena Witnesses, Books, Records, Documents, Papers	6. Enter any Place of Employment, Public Assembly or Public Building	7. Engage in Mediation and/or Conciliation	8. Make Studies and/or Reports	9. Require Notice Prior to Strike, Lockout, or Changes Desired	10. Provide Penalties for Violations	11. Employ Special Mediators, Conciliators, and/or Investigators	12. Prohibit Strike or Lockout Activities during Period of Mediation	13. Pay Expenses of Witnesses
1. Ala.	x	x	x	x	x	x	x
2. Ariz.	..	x	..	..	..	..	..	..	..	..	..	..	..	x
3. Ark.	x	x	..	..	..	..	..	..	..	..	..	..	..	x
4. Calif.	x	..	..	..	..	..	x	..	..	..	..	..	..	..
5. Colo.	x	x	x	x	x	..	x	x	x	x	x	x	..	..
6. Conn.	x	..	x ¹	x	x	x	x	x	x ³	..	x	..	..	..
7. Ga.	x	x	..	..	..	..	..	x	..	..	..	..	..	..
8. Ill.	x	..	x	x	x	..	x	..	x ³	..	..	..	..	..
9. Ind.	..	x	..	..	..	x	..	..	..	..	..	..	..	..
10. Iowa	..	..	..	..	..	..	x	..	..	..	x	..	..	..
11. Ky.	x	x	x	x	..	..	x	..	..	..	x	x	..	..
12. La.	..	x	..	..	..	..	..	..	..	..	..	..	..	x
13. Mo.	x	..	x	..	..	..	x	x	x	..	..	..	..	x
14. Md.	x	x	x	x	x	..	x	x	..	..	..	..	..	..
15. Mass.	x	x	x	x	x	..	x	..	x	..	x	..	x	..
16. Mich.	..	..	..	x	x	..	x	..	x ⁴	x	x	x ⁴	..	x
17. Minn.	x	..	x ⁵	x	x	..	x	..	x ⁴	x	x	x ⁴	..	x

1. Information must be held confidential, unless specifically released by party concerned
2. Not mandatory
3. Not necessarily prior
4. In case of a public utility, hospital, etc., a thirty day waiting period is required after notice of intention to strike, lockout is given
5. In case of an industry, business, institution affected with a public interest

Table III (cont'd)

State	Powers and Duties													
	1. Investigate Labor Disputes	2. Promote Peaceful and Voluntary Settlement of Labor Disputes	3. Make Findings of Fact, and Recommendations	4. Hold Hearings	5. Subpoena Witnesses, Books, Records, Documents, Papers	6. Enter any Place of Employment, Public Assembly or Public Building	7. Engage in Mediation and/or Conciliation	8. Make Studies and/or Reports	9. Require Notice Prior to Strike, Lockout, or Changes Desired	10. Provide Penalties for Violations	11. Employ Special Mediators, Conciliators, and/or Investigators	12. Prohibit Strike or Lockout Activities during Period of Mediation	13. Pay Expenses of Witnesses	14. Establish or Change Rules and Procedures for Voluntary Settlement of Industrial Disputes
18. Nev.	--	--	--	--	--	--	x	--	--	--	--	--	--	--
19. N.H.	x	--	x	x	--	--	x	--	--	--	--	--	--	--
20. N.J.	--	--	--	--	--	--	x	--	--	--	--	--	--	x
21. N.Y.	x ⁶	--	x ⁶	x	x	--	x	--	--	--	x ⁷	--	--	--
22. N.C.	--	--	--	--	--	--	x	--	--	--	x	--	--	--
23. Ohio	--	x	--	--	--	--	--	--	--	--	--	--	--	--
24. Okla.	x	--	--	--	--	--	--	--	x ⁸	--	--	--	--	--
25. Ore.	x	--	x	x	x	--	x	--	x ⁹	x	--	--	x	x
26. Pa.	--	--	--	--	--	--	x	--	--	--	x ¹⁰	--	--	--
27. R.I.	x	x	--	x	x	--	x	--	--	x	x	--	--	x
28. S.C.	x	x	x	--	x	x	x	x	--	x	x ¹¹	--	--	--
29. Tex.	--	--	x	x	x	--	--	x	--	--	--	--	x	--
30. Utah	--	x	--	--	--	--	--	x	--	--	--	--	--	--
31. Vt.	--	--	x	--	--	--	x	--	x ⁸	--	--	--	--	--
32. Wash.	--	--	--	--	--	--	x	--	--	--	--	--	--	--
33. W.Va.	--	x	--	--	--	--	--	x	--	--	--	--	--	--
34. Wis.	--	--	--	--	--	--	x	--	x ¹²	--	x	--	--	x

6. Special boards of inquiry, to be used only after efforts for voluntary settlement have failed.
7. Secure cooperation of personnel from other state departments
8. Not necessarily prior
9. Concerning intended changes in rates of pay and/or working conditions for employee's of people's utility districts.
10. A commission or panel, whose members serve without pay
11. A special, 3-member committee.
12. A 10-day notice required only in connection with farm or dairy products

TABLE IV. JURISDICTION OF STATE LABOR
MEDIATION AND CONCILIATION AGENCIES

State	Voluntary Action*	Action Requested**	Minimum No. of Employees Involved	Before Strike or Lockout	During Strike or Lockout
Ala.	x	--	--	x	x
Calif.	--	x	--	--	x
Colo.	x ¹	--	--	x	x
Conn.	x	x ²	--	x ²	x
Ill.	x	--	25	x	x
Iowa	--	x	10	x	x
Ky.	x ³	x	--	x	x
Maine	x	--	10	--	x
Md.	x	--	10	x	x
Mass.	x	--	--	x	x
Mich.	x	--	--	x	x
Minn.	--	x	--	x	x
Nev.	--	x	--	x	x
N.H.	x	--	10	x	x
N.J.	x	x	--	x	x
N.Y.	x	--	--	x	x
N.C.	x	--	--	x	x
Okla.	x	--	25	x	x
Ore.	x	x	50	x	x
Pa.	x	x	--	x	x
R.I.	x	--	--	x	x
S.C.	x	--	--	x	x
Tex.	x	--	--	x	x
Vt.	x	--	--	x	x
Wash.	--	x	--	x	--
Wis.	x	x	--	x	x

1. Not compulsory

2. Upon request of either party, the same powers can be used by the State Board of Mediation and Arbitration as are available to it in case of a strike for purposes of mediation and conciliation prior to a strike

3. However, the parties must be willing to accept the offer for conciliation and mediation

* Where the state government is authorized to take action on its own motion

** Where the state government is authorized to take action upon request from either or both parties to an industrial dispute

CONSTITUTIONAL PROVISIONS FOR CONCILIATION
AND MEDIATION

Four state constitutions (Idaho, Nebraska, Oklahoma, and Wyoming) contain provisions for the settling of disputes between employers and employees. The Nebraska constitution states that:

Laws may be enacted providing for the investigation, submission and determination of controversies between employers and employees in any business or vocation affected with a public interest....

An Industrial Commission may be created for the purpose of administering such laws, and appeals shall lie to the Supreme Court from the final orders and judgments of such commission.¹

The Nebraska legislature has not approved legislation to implement this section of the constitution.

Section 21, Article 6, of the Oklahoma constitution provides that

The Legislature shall create a Board of Arbitration and Conciliation in the Department of Labor, and the Commissioner of Labor shall be ex-officio chairman.

The Oklahoma legislature has enacted legislation establishing a Board of Arbitration and Conciliation in the Department of Labor.²

The constitutional provisions of the other states--Idaho and Wyoming--call for the establishment of arbitration procedures in the settlement of labor disputes, and in no manner do they refer to conciliation or mediation.³

1. Nebraska, Constitution, art. 15, §9

2. Oklahoma Statutes, 1941, Title 40, c. 1

3. Idaho, Constitution, art. 13, §7
Wyoming, Constitution, art. 19, §5

SUGGESTED GUIDE FOR LEGISLATION ESTABLISHING STATE
MACHINERY FOR THE CONCILIATION AND MEDIATION OF
LABOR DISPUTES

Legislation calling for the establishment of state administrative machinery for the conciliation and mediation of labor disputes should include at least the following items:

1. Declaration of policy.
2. Establishment of the agency and appointment of leadership.
 - a) multiple- or single-head agency .
 - b) eligibility requirements; and disqualifications.
 - c) power of removal by appointing officer; including hearing prior to removal.
 - d) filling of vacancies.
 - e) chairman to be named by governor, or elected by board (if board is agency established).
3. Jurisdiction.
4. Powers and Duties.
5. Personnel.
 - a) civil service.
 - b) cooperation of personnel from other Departments.
6. Remuneration (Salary and expenses); including payment for witnesses.
7. Annual and special reports.
8. Advisory board.
9. Exceptions:
 - a) Little Wagner acts .
 - b) Federal jurisdictions .
 - c) R.R. Labor Act .
 - d) Arbitration .
 - e) Collective Bargaining agreements.
10. Cooperation with other Departments.
11. Local offices, and/or cooperation with county or municipal conciliation and mediation activities.
12. Prohibition of strikes or lockouts during conciliation and mediation activities .
13. Educational activities .
14. Require notice of intention, on the part of employees and employers,
 - a) to change conditions, hours, wages, etc.
 - b) to strike.
 - c) to lockout.
15. Relationship of conciliation and mediation to arbitration.
16. Power to adopt reasonable and proper rules and regulations, etc.
17. Safety clause.

SELECTED READING LIST

- Eaker, Harold Bruss, Mediation and Arbitration of Labor Disputes by State Agency in Indiana. 58p Indianapolis, Butler University, 1942
- Braun, Kurt, The Settlement of Industrial Disputes. 306p Philadelphia, Blakiston Company, 1944
- California. University. Bureau of Public Administration, State Labor Relations Acts; by Arthur Harris. 30p (mim) (1939 Legislative Problems no. 2) Berkeley, February 10, 1939
- California. University. Bureau of Public Administration, Government Mediation and Arbitration in Industrial Disputes; by Arthur Harris. 25p (mim) (1939 Legislative Problems No. 10) Berkeley, March
- Colorado. Industrial Commission, Colorado Employment Act. 33p Denver, 1943
- Commons, John R. and Andrews, John B., Principles of Labor Legislation. ed. 4, rev. 606p New York, Harper & Brothers Publishers, 1936
- Herzog, Paul M., "A State Labor Relations Act in Operation," American Labor Legislation Review 30: 171-179, December 1940
- Indiana Inter-Organization Council. Governmental Research Division, Study of Proposed Labor Relations Legislation. 43p (mim) (Report No. 4) Indianapolis March 1938
- Leiserson, William M., Right and Wrong in Labor Relations. 86p Berkeley, University of California Press, 1942
- Michigan. Labor Mediation Board, The Michigan Labor Mediation Act and Its Administration; by Arthur E. Raab. 29p (processed) Lansing, 1939
- Reed, George L., Law of Labor Relations. 449p Newark, Soney & Sage, 1942
- U.S. Department of Labor. Conciliation Service, State Agencies in the Field of Mediation and Conciliation; by Alfred Alosee. 14p (mim) Washington, D.C., 1938
- U.S. Department of Labor. Conciliation Service, What State Labor Departments Can Do in the Field of Conciliation; by John R. Steelman 7p (mim) Washington, D.C., 1938
- Virginia. Labor Relations Commission, Report. 155p (Senate Document No. 3) Richmond, 1940