

CHAPTER 487

LABOR AND INDUSTRY

SENATE BILL 24-232

BY SENATOR(S) Rodriguez and Sullivan, Bridges, Buckner, Cutter, Exum, Gonzales, Jaquez Lewis, Michaelson Jenet, Mullica, Priola, Smallwood, Van Winkle, Winter F.;
also REPRESENTATIVE(S) Woodrow and Titone, Amabile, Bacon, Bird, Boesenecker, Clifford, Duran, English, Froelich, Hamrick, Hernandez, Herod, Jodeh, Joseph, Kipp, Lieder, Lindsay, Marshall, Rutinel, Snyder, Story, Valdez, Young, McCluskie.

AN ACT

CONCERNING MODIFICATIONS TO THE PROTECTIONS FOR PUBLIC WORKERS, AND, IN CONNECTION THEREWITH, CLARIFYING CERTAIN DEFINITIONS AND STANDARDS RELATED TO PUBLIC EMPLOYEE RIGHTS AND THE AUTHORITY OF A PUBLIC EMPLOYER TO LIMIT SUCH RIGHTS CONSISTENT WITH THE "PROTECTIONS FOR PUBLIC WORKERS ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 29-33-103, **amend** (3) and (5) as follows:

29-33-103. Definitions. As used in this article 33, unless the context otherwise requires:

(3) (a) "Employee organization" means an organization independent of the employer in which public employees may participate and that exists for the purpose, in whole or in part, of acting on behalf of and for the benefit of the public employees concerning public employee grievances, labor disputes, wages, hours, and other terms and conditions of employment. "Employee organization" includes any agents or representatives of the employee organization designated by the employee organization.

(b) "EMPLOYEE ORGANIZATION" DOES NOT INCLUDE AN ORGANIZATION, INCLUDING A COMMITTEE, ADVISORY COUNCIL, OR OTHER SIMILAR GROUP, THAT INCLUDES PUBLIC EMPLOYEES BUT IS CREATED BY A PUBLIC EMPLOYEE'S EMPLOYER.

(5) (a) "Public employee" means an individual employed by a public employer; except those employees employed in the personnel system of the state established

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

in section 13 of article XII of the state constitution, or employees employed by an employer, as defined in section 8-3-104 (12).

(b) "PUBLIC EMPLOYEE" INCLUDES TWO TYPES OF EMPLOYEES AS FOLLOWS:

(I) "CONFIDENTIAL PUBLIC EMPLOYEE" MEANS A PUBLIC EMPLOYEE WHO:

(A) DEVELOPS OR PRESENTS THE POSITIONS OF THE EMPLOYER WITH RESPECT TO EMPLOYER-EMPLOYEE RELATIONS, CONTRIBUTES SIGNIFICANTLY TO THE EMPLOYER'S DECISION-MAKING IN CONNECTION WITH SUCH POSITIONS, OR ACCESSES CONFIDENTIAL INFORMATION, INCLUDING THE EMPLOYER'S NON-PUBLIC PLANNING OR STRATEGY INFORMATION, IN CONNECTION WITH THE DEVELOPMENT, PRESENTATION, OR DECISION-MAKING OF THE EMPLOYER'S POSITIONS WITH RESPECT TO EMPLOYER-EMPLOYEE RELATIONS; OR

(B) PROVIDES LEGAL ADVICE TO THE EMPLOYER AS THE EMPLOYER'S ATTORNEY RELATED TO THIS ARTICLE 33 OR OTHER LABOR RELATIONS MATTERS.

(II) "MANAGERIAL PUBLIC EMPLOYEE" MEANS AN EXECUTIVE-LEVEL PUBLIC EMPLOYEE WITH SIGNIFICANT DECISION-MAKING AUTHORITY INCLUDING THE AUTHORITY TO DEVELOP EMPLOYER POLICIES OR PROGRAMS OR ADMINISTER AN AGENCY OR OTHER SUBDIVISION OF THE EMPLOYER. "MANAGERIAL EMPLOYEE" DOES NOT INCLUDE A NON-POLICYMAKING EMPLOYEE EVEN IF THE EMPLOYEE OVERSEES, MANAGES, OR DIRECTS OTHER EMPLOYEES; EXCEPT THAT A FIREFIGHTER WHO IS A "SUPERVISOR", AS DEFINED IN SECTION 29-5-203 (15), IS A "MANAGERIAL EMPLOYEE" FOR PURPOSES OF THIS ARTICLE 33.

SECTION 2. In Colorado Revised Statutes, 29-33-104, **amend** (1)(b) and (2) as follows:

29-33-104. Protections for public workers. (1) Except as provided in subsection (2) of this section, a public employee has the right to:

(b) (I) Engage in protected, concerted activity for the purpose of mutual aid or protection;

(II) FOR PURPOSES OF THIS SUBSECTION (1)(b), "PROTECTED, CONCERTED ACTIVITY FOR THE PURPOSE OF MUTUAL AID AND PROTECTION" INCLUDES THE PROTECTED RIGHTS OF EMPLOYEES SET FORTH IN 29 U.S.C. SEC. 157; EXCEPT THAT "PROTECTED, CONCERTED ACTIVITY FOR THE PURPOSE OF MUTUAL AID AND PROTECTION" DOES NOT INCLUDE THE RIGHT OR OBLIGATION TO RECOGNIZE OR NEGOTIATE A COLLECTIVE BARGAINING AGREEMENT. "PROTECTED, CONCERTED ACTIVITY FOR THE PURPOSE OF MUTUAL AID AND PROTECTION" ALSO DOES NOT INCLUDE THE ACTIVITIES OF A CONFIDENTIAL PUBLIC EMPLOYEE OR A MANAGERIAL PUBLIC EMPLOYEE, AS DEFINED IN SECTION 29-33-103 (5)(b).

(2) (a) A public employer described in ~~section 29-33-103 (6)(h)~~ SECTION 29-33-103 (6) may limit the rights of an employee described in ~~29-33-104 (1)(c)~~ THIS ARTICLE 33 to the extent necessary to maintain the nonpartisan role of the ~~employer~~ EMPLOYER'S NONPARTISAN LEGISLATIVE, JUDICIAL, OR ELECTION-RELATED STAFF.

(b) ACTIVITY BY A PUBLIC EMPLOYEE OR GROUP OF PUBLIC EMPLOYEES THAT RESULTS IN MATERIAL DISRUPTION OF A PUBLIC EMPLOYEE'S DUTIES, A PUBLIC EMPLOYER'S OPERATIONS, OR THE DELIVERY OF PUBLIC SERVICES IS NOT PROTECTED ACTIVITY; EXCEPT THAT AN EMPLOYER'S OR OTHER INDIVIDUAL'S DISAGREEMENT WITH THE CONTENT OR VIEWPOINT EXPRESSED THROUGH AN EMPLOYEE'S ACTIVITY OR A STRIKE BY EMPLOYEES DOES NOT CONSTITUTE MATERIAL DISRUPTION.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 7, 2024