

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0483.02 Jessica Herrera x4218

SENATE BILL 23-111

SENATE SPONSORSHIP

Rodriguez,

HOUSE SPONSORSHIP

Woodrow,

Senate Committees
Local Government & Housing

House Committees

A BILL FOR AN ACT

101 **CONCERNING PUBLIC EMPLOYEES' WORKPLACE PROTECTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The "National Labor Relations Act" does not apply to federal, state, or local governments and the "Colorado Labor Peace Act" excludes governmental entities, with an exception for mass transportation systems, leaving public employees without the protection afforded by these labor laws. The bill grants certain public employees, including individuals employed by counties, municipalities, fire authorities, school districts, public colleges and universities, library districts, special districts, public defender's offices, the university of Colorado hospital authority, the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Denver health and hospital authority, the general assembly, and a board of cooperative services, the right to:

- Discuss or express views regarding public employee representation or workplace issues;
- Engage in protected, concerted activity for the purpose of mutual aid or protection;
- Fully participate in the political process while off duty and not in uniform, including speaking with members of the public employer's governing body on terms and conditions of employment and any matter of public concern and engaging in other political activities in the same manner as other citizens of Colorado without discrimination, intimidation, or retaliation; and
- Organize, form, join, or assist an employee organization or refrain from organizing, forming, joining, or assisting an employee organization.

The bill also prohibits certain public employers from discriminating against, coercing, intimidating, interfering with, or imposing reprisals against a public employee for engaging in any of the rights granted.

The Colorado department of labor and employment (department) is charged with enforcing any alleged violation of these rights and is granted rule-making authority. A party may appeal the department's final decision to the Colorado court of appeals. The bill requires the court of appeals to give deference to the department.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 32 to title
3 29 as follows:

4 **ARTICLE 32**

5 **Protections For Public Workers**

6 **29-32-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 32 IS
7 THE "PROTECTIONS FOR PUBLIC WORKERS ACT".

8 **29-32-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 HEREBY DECLARES THAT PUBLIC EMPLOYEES ARE THE BACKBONE OF THE
10 STATE AND ENSURE THAT COLORADANS HAVE ACCESS TO STRONG PUBLIC
11 SERVICES. HOWEVER, BECAUSE PUBLIC EMPLOYEES ARE EXEMPT FROM

1 PROTECTIONS AFFORDED BY THE "NATIONAL LABOR RELATIONS ACT"
2 AND THE "COLORADO LABOR PEACE ACT", WHEN THEY SPEAK OUT ON
3 ISSUES IN THEIR WORKPLACE OR COME TOGETHER WITH THEIR COWORKERS
4 TO IMPROVE THEIR WORKING CONDITIONS, THEY CAN BE DISCIPLINED AND
5 TERMINATED. THE GENERAL ASSEMBLY FURTHER DECLARES THAT PUBLIC
6 EMPLOYEES SHOULD HAVE THE FOLLOWING RIGHTS AND SHOULD BE
7 PROTECTED FROM RETALIATION, INCLUDING DISCIPLINE OR TERMINATION,
8 IF THEY CHOOSE TO EXERCISE THESE RIGHTS:

9 (a) TO SPEAK OUT ON ISSUES OF PUBLIC CONCERN AND FULLY
10 ENGAGE IN THE POLITICAL PROCESS OUTSIDE OF WORK IN THE SAME
11 MANNER AS OTHER CITIZENS OF COLORADO;

12 (b) TO SPEAK OUT ABOUT CONCERNS WITH THE TERMS AND
13 CONDITIONS OF THEIR EMPLOYMENT;

14 (c) TO ENGAGE IN PROTECTED CONCERTED ACTIVITY FOR THE
15 PURPOSE OF MUTUAL AID OR PROTECTION;

16 (d) TO ORGANIZE, FORM, JOIN, OR ASSIST AN EMPLOYEE
17 ORGANIZATION OR TO REFRAIN FROM DOING SO; AND

18 (e) TO PURSUE AN EMPLOYEE ORGANIZATION WITH THEIR
19 COWORKERS WITHOUT INTERFERENCE.

20 **29-32-103. Definitions.** AS USED IN THIS ARTICLE 32, UNLESS THE
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "COUNTY" MEANS ONLY:

23 (a) A CITY AND COUNTY; AND

24 (b) A COUNTY WITH A POPULATION OF LESS THAN SEVEN
25 THOUSAND FIVE HUNDRED PEOPLE PURSUANT TO THE OFFICIAL FIGURES OF
26 THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

27 (2) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND

1 STATISTICS WITHIN THE DEPARTMENT OF LABOR AND EMPLOYMENT.

2 (3) "EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION IN
3 WHICH PUBLIC EMPLOYEES MAY PARTICIPATE AND THAT EXISTS FOR THE
4 PURPOSE, IN WHOLE OR IN PART, OF ACTING ON BEHALF OF AND FOR THE
5 BENEFIT OF THE PUBLIC EMPLOYEES CONCERNING PUBLIC EMPLOYEE
6 GRIEVANCES, LABOR DISPUTES, WAGES, HOURS, AND OTHER TERMS AND
7 CONDITIONS OF EMPLOYMENT. "EMPLOYEE ORGANIZATION" INCLUDES ANY
8 AGENTS OR REPRESENTATIVES OF THE EMPLOYEE ORGANIZATION
9 DESIGNATED BY THE EMPLOYEE ORGANIZATION.

10 (4) "GOVERNING BODY" MEANS THE ELECTED OR APPOINTED
11 REPRESENTATIVE BODY OF A PUBLIC EMPLOYER.

12 (5) "PUBLIC EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY A
13 PUBLIC EMPLOYER.

14 (6) (a) "PUBLIC EMPLOYER" MEANS:

15 (I) A COUNTY OR A MUNICIPALITY;

16 (II) A DISTRICT, BUSINESS IMPROVEMENT DISTRICT, SPECIAL
17 DISTRICT CREATED PURSUANT TO TITLE 32, AUTHORITY, OR OTHER
18 POLITICAL SUBDIVISION OF THE STATE, A COUNTY, OR A MUNICIPALITY;

19 (III) THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND,
20 ESTABLISHED IN ARTICLE 80 OF TITLE 22;

21 (IV) A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN
22 SECTION 23-18-102 (10)(a), AND A LOCAL DISTRICT COLLEGE OPERATING
23 PURSUANT TO ARTICLE 71 OF TITLE 23;

24 (V) THE OFFICE OF STATE PUBLIC DEFENDER CREATED IN SECTION
25 21-1-101;

26 (VI) THE UNIVERSITY OF COLORADO HOSPITAL AUTHORITY
27 CREATED IN SECTION 23-21-503;

1 (VII) THE DENVER HEALTH AND HOSPITAL AUTHORITY CREATED
2 IN SECTION 25-29-103;

3 (VIII) THE JOINT BUDGET COMMITTEE STAFF, THE LEGISLATIVE
4 COUNCIL STAFF, THE OFFICE OF LEGISLATIVE LEGAL SERVICES, THE STAFF
5 OF THE OFFICE OF THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES,
6 AND THE SENATE SERVICES STAFF;

7 (IX) THE MAJORITY AND MINORITY CAUCUS STAFF OF THE HOUSE
8 OF REPRESENTATIVES AND THE SENATE; OR

9 (X) A BOARD OF COOPERATIVE SERVICES ESTABLISHED PURSUANT
10 TO THE "BOARDS OF COOPERATIVE SERVICES ACT OF 1965", ARTICLE 5 OF
11 TITLE 22.

12 (b) "PUBLIC EMPLOYER" DOES NOT INCLUDE THE STATE OR ANY
13 POLITICAL SUBDIVISION OF THE STATE WHERE THE STATE OR POLITICAL
14 SUBDIVISION OF THE STATE ACQUIRES OR OPERATES A MASS
15 TRANSPORTATION SYSTEM, OR ANY CARRIER BY RAILROAD, EXPRESS
16 COMPANY, OR SLEEPING CAR COMPANY SUBJECT TO THE FEDERAL
17 "RAILWAY LABOR ACT", 45 U.S.C. SEC. 151 ET SEQ., AS AMENDED.

18 (7) "UNFAIR LABOR PRACTICE" MEANS A VIOLATION OF THE RIGHTS
19 OR OBLIGATIONS DESCRIBED IN THIS ARTICLE 32.

20 **29-32-104. Protections for public workers.** (1) A PUBLIC
21 EMPLOYEE HAS THE RIGHT TO:

22 (a) DISCUSS OR EXPRESS THE PUBLIC EMPLOYEE'S VIEWS
23 REGARDING PUBLIC EMPLOYEE REPRESENTATION, WORKPLACE ISSUES, OR
24 THE RIGHTS GRANTED TO THE PUBLIC EMPLOYEE IN THIS ARTICLE 32;

25 (b) ENGAGE IN PROTECTED, CONCERTED ACTIVITY FOR THE
26 PURPOSE OF MUTUAL AID OR PROTECTION;

27 (c) FULLY PARTICIPATE IN THE POLITICAL PROCESS WHILE OFF

1 DUTY AND NOT IN UNIFORM, INCLUDING:

2 (I) SPEAKING WITH MEMBERS OF THE PUBLIC EMPLOYER'S
3 GOVERNING BODY ON TERMS AND CONDITIONS OF EMPLOYMENT AND ANY
4 MATTER OF PUBLIC CONCERN; AND

5 (II) ENGAGING IN OTHER POLITICAL ACTIVITIES IN THE SAME
6 MANNER AS OTHER CITIZENS OF COLORADO, WITHOUT DISCRIMINATION,
7 INTIMIDATION, OR RETALIATION; AND

8 (d) ORGANIZE, FORM, JOIN, OR ASSIST AN EMPLOYEE
9 ORGANIZATION OR REFRAIN FROM ORGANIZING, FORMING, JOINING, OR
10 ASSISTING AN EMPLOYEE ORGANIZATION.

11 (2) A PUBLIC EMPLOYER SHALL NOT:

12 (a) DISCRIMINATE AGAINST, COERCE, INTIMIDATE, INTERFERE
13 WITH, OR IMPOSE REPRISALS AGAINST, OR THREATEN TO DISCRIMINATE
14 AGAINST, COERCE, INTIMIDATE, INTERFERE WITH, OR IMPOSE REPRISALS
15 AGAINST, ANY PUBLIC EMPLOYEE FOR ENGAGING IN ANY OF THE RIGHTS
16 DESCRIBED IN THIS ARTICLE 32;

17 (b) DOMINATE OR INTERFERE IN THE ADMINISTRATION OF AN
18 EMPLOYEE ORGANIZATION; OR

19 (c) DISCHARGE OR DISCRIMINATE AGAINST A PUBLIC EMPLOYEE
20 BECAUSE THE PUBLIC EMPLOYEE HAS FILED AN AFFIDAVIT, PETITION, OR
21 COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY PURSUANT TO
22 THIS ARTICLE 32, OR BECAUSE THE PUBLIC EMPLOYEE HAS FORMED,
23 JOINED, ASSISTED, OR CHOSEN TO BE REPRESENTED BY AN EMPLOYEE
24 ORGANIZATION.

25 **29-32-105. Enforcement - rules.** (1) AN AGGRIEVED PARTY IS
26 BARRED FROM FILING A CLAIM THAT ALLEGES THAT A PUBLIC EMPLOYER
27 HAS VIOLATED THIS ARTICLE 32 UNLESS THE CLAIM IS FILED WITHIN SIX

1 MONTHS AFTER THE DATE ON WHICH THE AGGRIEVED PARTY KNEW OR
2 REASONABLY SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION.

3 (2) THE DIVISION SHALL ENFORCE THE RIGHTS AND OBLIGATIONS
4 OF THIS ARTICLE 32 AND SHALL PROMULGATE RULES AS MAY BE
5 NECESSARY FOR SUCH ENFORCEMENT. THE DIVISION SHALL PROMULGATE
6 SUCH RULES WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE
7 DATE OF THIS ARTICLE 32.

8 (3) THE DIVISION HAS THE AUTHORITY TO ADJUDICATE UNFAIR
9 LABOR PRACTICE CHARGES AND ISSUE DECISIONS PURSUANT TO ARTICLE
10 3 OF TITLE 8.

11 (4) A PARTY MAY APPEAL THE DIVISION'S FINAL DECISION TO THE
12 COLORADO COURT OF APPEALS AND THE COURT'S REVIEW MUST BE
13 LIMITED TO DETERMINING WHETHER THE DIVISION HAS EXCEEDED ITS
14 JURISDICTION OR ABUSED ITS DISCRETION BASED ON THE EVIDENCE IN THE
15 RECORD BEFORE THE DIVISION.

16 (5) THE COURT OF APPEALS SHALL UPHOLD THE ACTION OF THE
17 DIVISION AND TAKE APPROPRIATE STEPS TO ENFORCE THE ACTION UNLESS
18 THE COURT CONCLUDES THAT THE FINAL DECISION IS:

- 19 (a) ARBITRARY, CAPRICIOUS, OR AN ABUSE OF DISCRETION; OR
- 20 (b) OTHERWISE NOT IN ACCORDANCE WITH LAW.

21 (6) THE DIVISION MAY ENFORCE PROVISIONS OF THIS ARTICLE 32
22 THROUGH THE IMPOSITION OF APPROPRIATE ADMINISTRATIVE REMEDIES,
23 INCLUDING REMEDIES TO ADDRESS ANY LOSS SUFFERED BY A PUBLIC
24 EMPLOYEE OR GROUP OF PUBLIC EMPLOYEES FROM UNLAWFUL CONDUCT.

25 **29-32-106. Exemptions.** (1) THE STATE BOARD OF EDUCATION
26 SHALL NOT WAIVE THIS ARTICLE 32 OR ANY PROVISION OF THIS ARTICLE 32
27 AS IT PERTAINS TO AN INNOVATION SCHOOL OR INNOVATION SCHOOL ZONE

1 OF A SCHOOL DISTRICT OF INNOVATION PURSUANT TO SECTION
2 22-32.5-108.

3 (2) THE STATE BOARD OF EDUCATION SHALL NOT:

4 (a) INCLUDE ANY PROVISION OF THIS ARTICLE 32 ON THE LIST OF
5 AUTOMATIC WAIVERS CREATED PURSUANT TO SECTION 22-30.5-104 (6)(b);
6 OR

7 (b) GRANT A WAIVER OF ANY PROVISION OF THIS ARTICLE 32 TO A
8 CHARTER SCHOOL OR A SCHOOL DISTRICT ACTING ON BEHALF OF A
9 CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-104 (6)(c).

10 (3) A SCHOOL DISTRICT, ON BEHALF OF A CHARTER SCHOOL, SHALL
11 NOT APPLY TO THE STATE BOARD OF EDUCATION FOR A WAIVER OF ANY
12 PROVISION OF THIS ARTICLE 32 PURSUANT TO SECTION 22-30.5-104 (6)(c).

13 (4) THE STATE BOARD OF EDUCATION SHALL NOT WAIVE ANY OF
14 THE REQUIREMENTS OR PROVISIONS OF THIS ARTICLE 32.

15 **SECTION 2.** In Colorado Revised Statutes, **add** 29-5-215 as
16 follows:

17 **29-5-215. Protect public workers.** ON AND AFTER THE EFFECTIVE
18 DATE OF ARTICLE 32 OF THIS TITLE 29, FIREFIGHTERS SHALL HAVE ALL THE
19 RIGHTS AND PROTECTIONS ENUMERATED UNDER ARTICLE 32 OF THIS TITLE
20 29.

21 **SECTION 3.** In Colorado Revised Statutes, 22-2-117 **amend**
22 (1)(b)(IX), (1)(b)(X), and (1.5); and **add** (1)(b)(XI) as follows:

23 **22-2-117. Additional power - state board - waiver of**
24 **requirements - rules.** (1) (b) The state board shall not waive any of the
25 requirements specified in any of the following statutory provisions:

26 (IX) Any provisions of section 22-1-128 relating to
27 comprehensive human sexuality education content requirements; ~~or~~

1 (X) Any provision of section 22-30.5-104 (3), 22-30.5-507 (3),
2 22-32-109 (1)(ll), 22-32-110 (1)(k), 22-38-104 (1)(d), or 22-63-206 (1)
3 relating to discrimination based on hair texture, hair type, or a protective
4 hairstyle that is commonly or historically associated with race; OR

5 (XI) ANY PROVISION OF ARTICLE 32 OF TITLE 29.

6 (1.5) Notwithstanding any provision of this section or any other
7 provision of law, the state board shall not waive requirements contained
8 in article 11 of this ~~title~~ or TITLE 22; sections 22-7-1006.3, 22-32-105,
9 22-32-109 (1)(bb)(I) and (2), 22-32-109.1 (2)(a), 22-32-146, and
10 22-33-104 (4); OR ANY PROVISION OF ARTICLE 32 OF TITLE 29.

11 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-104, **amend**
12 (6)(b)(II.5), (6)(b)(III), (6)(c)(VIII), and (6)(c)(IX); and **add** (6)(b)(IV)
13 and (6)(c)(X) as follows:

14 **22-30.5-104. Charter school - requirements - authority - rules**
15 **- definitions.** (6) (b) The state board shall promulgate rules that list the
16 automatic waivers for all charter schools. In promulgating the list of
17 automatic waivers, the state board shall consider the overall impact and
18 complexity of the requirements specified in the statute and the potential
19 consequences that waiving the statute may have on the practices of a
20 charter school. In accordance with its rule-making authority, the state
21 board may review the list of automatic waivers at its discretion.
22 Notwithstanding any provision of this subsection (6)(b) to the contrary,
23 the state board shall not include the following statutes on the list of
24 automatic waivers:

25 (II.5) Section 22-32-110 (1)(y), concerning the power to accept
26 and expend gifts, donations, or grants; ~~and~~

27 (III) Part 2 of article 63 of this title 22, concerning the

1 employment of licensed personnel; AND

2 (IV) ANY PROVISION OF ARTICLE 32 OF TITLE 29.

3 (c) A school district, on behalf of a charter school, may apply to
4 the state board for a waiver of a state statute or state rule that is not an
5 automatic waiver. Notwithstanding any provision of this subsection (6)
6 to the contrary, the state board may not waive any statute or rule relating
7 to:

8 (VIII) Section 22-33-106.1 concerning suspension and expulsion
9 of students in preschool through second grade; ~~or~~

10 (IX) Subsection (3) of this section and sections 22-32-110 (1)(k)
11 and 22-63-206 (1) relating to discrimination based on hair texture, hair
12 type, or a protective hairstyle that is commonly or historically associated
13 with race; OR

14 (X) ANY PROVISION OF ARTICLE 32 OF TITLE 29.

15 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-507, **amend**
16 (7)(a)(II.5), (7)(a)(III), (7)(b)(VIII), and (7)(b)(IX); and **add** (7)(a)(IV)
17 and (7)(b)(X) as follows:

18 **22-30.5-507. Institute charter school - requirements -**
19 **authority - rules - definitions.** (7) (a) Pursuant to the charter contract,
20 an institute charter school may operate free from specified statutes and
21 state board rules. The state board shall promulgate rules that list the
22 automatic waivers for all charter schools, including institute charter
23 schools. In promulgating the list of automatic waivers, the state board
24 shall consider the overall impact and complexity of the requirements
25 specified in the statute and the potential consequences that waiving the
26 statute may have on the practices of a charter school, including an
27 institute charter school. In accordance with its rule-making authority, the

1 state board may review the list of automatic waivers at its discretion.
2 Notwithstanding any provision of this subsection (7)(a) to the contrary,
3 the state board shall not include the following statutes on the list of
4 automatic waivers:

5 (II.5) Section 22-32-110 (1)(y), concerning the power to accept
6 and expend gifts, donations, or grants; ~~and~~

7 (III) Part 2 of article 63 of this title 22, concerning the
8 employment of licensed personnel; AND

9 (IV) ANY PROVISION OF ARTICLE 32 OF TITLE 29.

10 (b) An institute charter school may apply to the state board,
11 through the institute, for a waiver of state statutes and state rules that are
12 not automatic waivers. The state board may waive state statutory
13 requirements or rules promulgated by the state board; except that the state
14 board may not waive any statute or rule relating to:

15 (VIII) Section 22-33-106.1 concerning suspension and expulsion
16 of students in preschool through second grade; ~~or~~

17 (IX) Subsection (3) of this section and sections 22-32-110 (1)(k)
18 and 22-63-206 (1) relating to discrimination based on hair texture, hair
19 type, or a protective hairstyle that is commonly or historically associated
20 with race; OR

21 (X) ANY PROVISION OF ARTICLE 32 OF TITLE 29.

22 **SECTION 6.** In Colorado Revised Statutes, 22-32.5-108, **amend**
23 (1)(b) and (1)(c); and **add** (1)(d) as follows:

24 **22-32.5-108. District of innovation - waiver of statutory and**
25 **regulatory requirements.** (1) Upon designation of a district of
26 innovation, the state board shall waive any statutes or rules specified in
27 the school district's innovation plan as they pertain to the innovation

1 schools or innovation school zones of the district of innovation; except
2 that the state board shall not waive:

3 (b) Any provision of article 64 of this ~~title~~; or TITLE 22;

4 (c) Any statutes that are not included in this ~~title~~ TITLE 22,
5 including but not limited to article 51 of title 24; ~~C.R.S.~~ OR

6 (d) ANY PROVISION OF ARTICLE 32 OF TITLE 29.

7 **SECTION 7. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.