

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 23-0483.02 Jessica Herrera x4218

SENATE BILL 23-111

SENATE SPONSORSHIP

Rodriguez, Exum, Gonzales, Jaquez Lewis, Kolker, Marchman, Moreno, Priola, Sullivan,
Winter F.

HOUSE SPONSORSHIP

Woodrow,

Senate Committees

Local Government & Housing
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING PUBLIC EMPLOYEES' WORKPLACE PROTECTION FROM**
102 **EMPLOYER RETALIATION, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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

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.

SENATE
3rd Reading Unamended
April 17, 2023

SENATE
Amended 2nd Reading
April 14, 2023

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

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

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

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

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

20 (e) TO PURSUE AN EMPLOYEE ORGANIZATION WITH THEIR
21 COWORKERS WITHOUT INTERFERENCE.

22 **29-32-103. Definitions.** AS USED IN THIS ARTICLE 32, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "COUNTY" MEANS ONLY:

25 (a) A CITY AND COUNTY; AND

26 (b) A COUNTY WITH A POPULATION OF LESS THAN SEVEN
27 THOUSAND FIVE HUNDRED PEOPLE PURSUANT TO THE OFFICIAL FIGURES OF

1 THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

2 (2) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
3 STATISTICS WITHIN THE DEPARTMENT OF LABOR AND EMPLOYMENT.

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

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

15 (5) "PUBLIC EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY A
16 PUBLIC EMPLOYER; EXCEPT THOSE EMPLOYEES EMPLOYED IN THE
17 PERSONNEL SYSTEM OF THE STATE ESTABLISHED IN SECTION 13 OF ARTICLE
18 XII OF THE STATE CONSTITUTION.

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

20 (I) A COUNTY OR A MUNICIPALITY;

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

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

26 (IV) A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN
27 SECTION 23-18-102 (10)(a), AND A LOCAL DISTRICT COLLEGE OPERATING

1 PURSUANT TO ARTICLE 71 OF TITLE 23;

2 (V) THE OFFICE OF STATE PUBLIC DEFENDER CREATED IN SECTION
3 21-1-101;

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

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

8 (VIII) THE JOINT BUDGET COMMITTEE STAFF, THE LEGISLATIVE
9 COUNCIL STAFF, THE OFFICE OF LEGISLATIVE LEGAL SERVICES, THE STAFF
10 OF THE OFFICE OF THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES,
11 AND THE SENATE SERVICES STAFF;

12 (IX) THE MAJORITY AND MINORITY CAUCUS STAFF OF THE HOUSE
13 OF REPRESENTATIVES AND THE SENATE; OR

14 (X) A BOARD OF COOPERATIVE SERVICES ESTABLISHED PURSUANT
15 TO THE "BOARDS OF COOPERATIVE SERVICES ACT OF 1965", ARTICLE 5 OF
16 TITLE 22.

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

23 "PUBLIC EMPLOYER" DOES NOT INCLUDE THE STATE OR ANY POLITICAL
24 SUBDIVISION OF THE STATE, EXCEPT FOR INSTITUTIONS OF HIGHER
25 EDUCATION, LOCAL DISTRICT COLLEGES, AND STATE AGENCIES SPECIFIED
26 IN SUBSECTION (6)(a) OF THIS SECTION.

27 (7) "UNFAIR LABOR PRACTICE" MEANS A VIOLATION OF THE RIGHTS

1 OR OBLIGATIONS DESCRIBED IN THIS ARTICLE 32. NOTHING IN THIS
2 ARTICLE 32 SHALL BE CONSTRUED TO MEAN THE RIGHT OR OBLIGATION TO
3 RECOGNIZE OR TO NEGOTIATE A COLLECTIVE BARGAINING AGREEMENT.

4 **29-32-104. Protections for public workers.** (1) EXCEPT AS
5 PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PUBLIC EMPLOYEE HAS
6 THE RIGHT TO:

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

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

12 (c) FULLY PARTICIPATE IN THE POLITICAL PROCESS WHILE OFF
13 DUTY AND NOT IN UNIFORM, INCLUDING:

14 (I) SPEAKING WITH MEMBERS OF THE PUBLIC EMPLOYER'S
15 GOVERNING BODY ON TERMS AND CONDITIONS OF EMPLOYMENT AND ANY
16 MATTER OF PUBLIC CONCERN; AND

17 (II) ENGAGING IN OTHER POLITICAL ACTIVITIES IN THE SAME
18 MANNER AS OTHER CITIZENS OF COLORADO, WITHOUT DISCRIMINATION,
19 INTIMIDATION, OR RETALIATION; AND

20 (d) ORGANIZE, FORM, JOIN, OR ASSIST AN EMPLOYEE
21 ORGANIZATION OR REFRAIN FROM ORGANIZING, FORMING, JOINING, OR
22 ASSISTING AN EMPLOYEE ORGANIZATION.

23 (2) A PUBLIC EMPLOYER DESCRIBED IN SECTION 29-32-103
24 (6)(a)(VIII) MAY LIMIT THE RIGHTS OF AN EMPLOYEE DESCRIBED IN
25 29-32-104 (1)(c) TO THE EXTENT NECESSARY TO MAINTAIN THE
26 NONPARTISAN ROLE OF THE EMPLOYER.

27 (3) A PUBLIC EMPLOYER SHALL NOT:

1 (a) DISCRIMINATE AGAINST, COERCE, INTIMIDATE, INTERFERE
2 WITH, OR IMPOSE REPRISALS AGAINST, OR THREATEN TO DISCRIMINATE
3 AGAINST, COERCE, INTIMIDATE, INTERFERE WITH, OR IMPOSE REPRISALS
4 AGAINST, ANY PUBLIC EMPLOYEE FOR ENGAGING IN ANY OF THE RIGHTS
5 DESCRIBED IN THIS ARTICLE 32;

6 (b) DOMINATE OR INTERFERE IN THE ADMINISTRATION OF AN
7 EMPLOYEE ORGANIZATION; OR

8 (c) DISCHARGE OR DISCRIMINATE AGAINST A PUBLIC EMPLOYEE
9 BECAUSE THE PUBLIC EMPLOYEE HAS FILED AN AFFIDAVIT, PETITION, OR
10 COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY PURSUANT TO
11 THIS ARTICLE 32, OR BECAUSE THE PUBLIC EMPLOYEE HAS FORMED,
12 JOINED, ASSISTED, OR CHOSEN TO BE REPRESENTED BY AN EMPLOYEE
13 ORGANIZATION.

14 **29-32-105. Enforcement - rules.** (1) AN AGGRIEVED PARTY IS
15 BARRED FROM FILING A CLAIM THAT ALLEGES THAT A PUBLIC EMPLOYER
16 HAS VIOLATED THIS ARTICLE 32 UNLESS THE CLAIM IS FILED WITHIN SIX
17 MONTHS AFTER THE DATE ON WHICH THE AGGRIEVED PARTY KNEW OR
18 REASONABLY SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION.

19 (2) THE DIVISION SHALL ENFORCE THE RIGHTS AND OBLIGATIONS
20 OF THIS ARTICLE 32 AND PROMULGATE RULES AS MAY BE NECESSARY TO
21 IMPLEMENT THIS ARTICLE 32. THE DIVISION SHALL CREATE AND
22 ADMINISTER A PROCESS TO ACCEPT, REVIEW, AND INVESTIGATE
23 COMPLAINTS OR OTHER LEADS CONCERNING A VIOLATION THAT, IN THE
24 DIRECTOR'S GOOD FAITH DISCRETION AND JUDGMENT, WARRANTS
25 INVESTIGATION. THE DIVISION ALSO MAY:

26 (a) PUBLISH GUIDANCE ON OTHER POSSIBLE EMPLOYEE REDRESS
27 FOR THOSE WHOSE CLAIMS ARE NOT INVESTIGATED; AND

1 **(b) AT ITS DISCRETION, PROVIDE ALTERNATIVE DISPUTE**
2 **RESOLUTION CONSISTENT WITH SECTIONS 8-3-112 AND 8-3-113.**

3 (3) THE DIVISION HAS THE AUTHORITY TO ADJUDICATE UNFAIR
4 LABOR PRACTICE CHARGES AND ISSUE DECISIONS PURSUANT TO ARTICLE
5 3 OF TITLE 8.

6 (4) A PARTY MAY APPEAL THE DIVISION'S FINAL DECISION TO THE
7 COLORADO COURT OF APPEALS AND THE COURT'S REVIEW MUST BE
8 LIMITED TO DETERMINING WHETHER THE DIVISION HAS EXCEEDED ITS
9 JURISDICTION OR ABUSED ITS DISCRETION BASED ON THE EVIDENCE IN THE
10 RECORD BEFORE THE DIVISION.

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

14 (a) ARBITRARY, CAPRICIOUS, OR AN ABUSE OF DISCRETION; OR

15 (b) OTHERWISE NOT IN ACCORDANCE WITH LAW.

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

20 **(7) ANY FUNDS APPROPRIATED TO COVER THE DIVISION'S COSTS**
21 **RELATING TO THE ENFORCEMENT OF THIS ARTICLE 32 MUST BE FROM THE**
22 **GENERAL FUND.**

23 **(8) NO PUBLIC EMPLOYER HAS THE AUTHORITY TO WAIVE ANY**
24 **PROVISIONS OF THIS ARTICLE, AND ANY LAW, RULE, OR POLICY THAT**
25 **AUTHORIZES A WAIVER IS NULL AND VOID. ___**

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

1 **29-5-215. Protect public workers.** ON AND AFTER THE EFFECTIVE
2 DATE OF ARTICLE 32 OF THIS TITLE 29, FIREFIGHTERS SHALL HAVE ALL THE
3 RIGHTS AND PROTECTIONS ENUMERATED UNDER ARTICLE 32 OF THIS TITLE
4 29.

5 =====
6 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
7 year, \$151,751 is appropriated to the department of labor and
8 employment. This appropriation is from the general fund. To implement
9 this act, the department may use this appropriation as follows:

10 (a) \$94,651 for use by the division of labor standards and statistics
11 for program costs related to labor standards, which amount is based on an
12 assumption that the division will require an additional 0.9 FTE; and

13 (b) \$57,100 for the purchase of legal services.

14 (2) For the 2023-24 state fiscal year, \$57,100 is appropriated to
15 the department of law. This appropriation is from reappropriated funds
16 received from the department of labor and employment under subsection
17 (1)(b) of this section and is based on an assumption that the department
18 of law will require an additional 0.3 FTE. To implement this act, the
19 department of law may use this appropriation to provide legal services for
20 the department of labor and employment.

21 **SECTION 4. Act subject to petition - effective date.** Section
22 29-32-105 (3) of this act takes effect on July 1, 2024, and the remainder
23 of this act takes effect at 12:01 a.m. on the day following the expiration
24 of the ninety-day period after final adjournment of the general assembly;
25 except that, if a referendum petition is filed pursuant to section 1 (3) of
26 article V of the state constitution against this act or an item, section, or
27 part of this act within such period, then the act, item, section, or part will

1 not take effect unless approved by the people at the general election to be
2 held in November 2024 and, in such case, will take effect on the date of
3 the official declaration of the vote thereon by the governor.