

2010 -- H 7940

LC02251

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS – PUBLIC EMPLOYEE ORGANIZATION

Introduced By: Representative Joseph S. Almeida

Date Introduced: March 24, 2010

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-7-3, 28-7-14, 28-7-16 and 28-7-40 of the General Laws in  
2 Chapter 28-7 entitled "Labor Relations Act" are hereby amended to read as follows:

3 **28-7-3. Definitions.** -- When used in this chapter:

4 (1) "Board" means the labor relations board created by section 28-7-4.

5 (2) "Company union" means any committee employee representation plan or association  
6 of employees which exists for the purpose, in whole or in part, of dealing with employers  
7 concerning grievances or terms and conditions of employment, which the employer has initiated  
8 or created or whose initiation or creation he or she has suggested, participated in or in the  
9 formulation of whose governing rules or policies or the conducting of whose management,  
10 operations, or elections the employer participates in or supervises, or which the employer  
11 maintains, finances, controls, dominates, or assists in maintaining or financing, whether by  
12 compensating any one for services performed in its behalf or by donating free services,  
13 equipment, materials, office or meeting space or any thing else of value, or by any other means.

14 (3) (i) "Employees" includes, but is not restricted to, any individual employed by a labor  
15 organization; any individual whose employment has ceased as a consequence of, or in connection  
16 with, any current labor dispute or because of any unfair labor practice, and who has not obtained  
17 any other regular and substantially equivalent employment; and shall not be limited to the  
18 employees of a particular employer, unless the chapter explicitly states otherwise;

1 (ii) "Employees" does not include any individual employed by his or her parent or  
2 spouse or in the domestic service of any person in his or her home, or any individuals employed  
3 only for the duration of a labor dispute, or any individuals employed as farm laborers.

4 (4) "Employer" includes any person acting on behalf of or in the interest of an employer,  
5 directly or indirectly, with or without his or her knowledge, but a labor organization or any officer  
6 or its agent shall only be considered an employer with respect to individuals employed by the  
7 organization.

8 (5) "Labor dispute" includes, but is not restricted to, any controversy between employers  
9 and employees or their representatives as defined in this section concerning terms, tenure, or  
10 conditions of employment or concerning the association or representation of persons in  
11 negotiating, fixing, maintaining, changing, or seeking to negotiate, fix, maintain, or change terms  
12 or conditions of employment, or concerning the violation of any of the rights granted or affirmed  
13 by this chapter, regardless of whether the disputants stand in the proximate relation of employer  
14 and employee.

15 (6) "Labor organization" means any organization which exists and is constituted for the  
16 purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning  
17 grievances, terms or conditions of employment, or of other mutual aid or protection and which is  
18 not a company union as defined in this section.

19 (7) "Person" includes one or more individuals, partnerships, associations, corporations,  
20 legal representatives, trustees, trustees in bankruptcy, or receivers.

21 (8) "Policies of this chapter" means the policies set forth in section 28-7-2.

22 (9) "Public Employee" includes an individual employed by the state, subdivision of the  
23 state, or quasi-public entities.

24 ~~(9)~~ (10) "Representatives" includes a labor organization or an individual whether or not  
25 employed by the employer of those whom he or she represents.

26 ~~(10)~~ (11) "Unfair labor practice" means only those unfair labor practices listed in sections  
27 28-7-13 and 28-7-13.1.

28 **28-7-14. Exclusive representation of employees.** -- Representatives designated or  
29 selected for the purposes of collective bargaining by the majority of the employees in a unit  
30 appropriate for those purposes as evidenced by signed authorization cards by public employees  
31 or otherwise, or by the majority of the employees voting in an election conducted pursuant to  
32 sections 28-7-15 -- 28-7-19, shall be the exclusive representatives of all the employees in the  
33 appropriate unit for the purposes of collective bargaining in respect to rates of pay, wages, hours  
34 of employment, or other conditions of employment; provided, that employees, directly or through

1 representatives, shall have the right at any time to present grievances to their employer.

2 **28-7-16. Controversies as to representation.** -- (a) Whenever it is alleged by an  
3 employee or his or her representative that there is a question or controversy concerning the  
4 representation of employees, the board shall investigate the question or controversy and certify in  
5 writing to all persons concerned the name or names of the representatives who have been  
6 designated or selected.

7 (b) Whenever it is alleged by an employer or his or her representative that there is a  
8 question or controversy concerning the representation of employees, the board shall investigate  
9 the question or controversy after a public hearing held upon due notice.

10 (c) In any investigation the board shall provide for an appropriate hearing upon due  
11 notice, either in conjunction with a proceeding under sections 28-7-21 -- 28-7-25 or otherwise,  
12 and may conduct an election by secret ballot of employees, or use any other suitable method to  
13 ascertain the representatives either before or after the hearing; however, the board shall certify an  
14 exclusive representative for the purposes of collective bargaining upon evidence in writing by  
15 authorization cards demonstrating interest in union representation by seventy percent (70%) of  
16 public employees in a bargaining unit. In the absence of such evidence for a unit comprised of  
17 public employees the board shall conduct a secret ballot election upon such terms as it shall  
18 determine; provided, that the board does not have authority to investigate any question or  
19 controversy between individuals or groups within the same labor organization or between labor  
20 organizations affiliated with the same parent labor organization.

21 (d) Any employer or labor organization may bring a complaint that a party has engaged  
22 in coercion during a bid to achieve representation. An allegation shall be investigated by the  
23 board. A violation shall be subject to a penalty specified in section 28-7-40.

24 **28-7-40. Penalty for violations.** -- Any person who willfully resists, prevents, impedes,  
25 or interferes with any member of the board or any of its agents or agencies in the performance of  
26 duties pursuant to this chapter, or who in any manner interferes with the free exercise by  
27 employees of their right to select representatives ~~in an election directed by the board~~ pursuant to  
28 sections 28-7-14 -- 28-7-19, shall be punished by a fine of not more than five thousand dollars  
29 (\$5,000), or by imprisonment for not more than one year, or both.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would authorize the labor board to certify and recognize union representatives of  
2 public employees that submit authorization cards signed by at least seventy percent (70%) of its  
3 eligible employee members. It would empower the labor board to investigate and prosecute  
4 coercion used to influence the outcome of controversy as to union representation.

5           This act would take effect upon passage.

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