

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0483.02 Jessica Herrera x4218

SENATE BILL 23-111

SENATE SPONSORSHIP

Rodriguez,

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.**

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,

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.

public colleges and universities, library districts, special districts, public defender's offices, the university of Colorado hospital authority, the 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:

ARTICLE 32

Protections For Public Workers

8 **29-32-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 HEREBY DECLARIES THAT PUBLIC EMPLOYEES ARE THE BACKBONE OF THE
10 STATE AND ENSURE THAT COLORADANS HAVE ACCESS TO STRONG PUBLIC

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

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

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

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

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

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

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

23 (1) "COUNTY" MEANS ONLY:

24 (a) A CITY AND COUNTY; AND

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

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

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 (7) "UNFAIR LABOR PRACTICE" MEANS A VIOLATION OF THE RIGHTS
24 OR OBLIGATIONS DESCRIBED IN THIS ARTICLE 32. NOTHING IN THIS
25 ARTICLE 32 SHALL BE CONSTRUED TO MEAN THE RIGHT OR OBLIGATION TO
26 RECOGNIZE OR TO NEGOTIATE A COLLECTIVE BARGAINING AGREEMENT.

27 **29-32-104. Protections for public workers.** (1) EXCEPT AS

1 PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PUBLIC EMPLOYEE HAS
2 THE RIGHT TO:

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

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

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

10 (I) SPEAKING WITH MEMBERS OF THE PUBLIC EMPLOYER'S
11 GOVERNING BODY ON TERMS AND CONDITIONS OF EMPLOYMENT AND ANY
12 MATTER OF PUBLIC CONCERN; AND

13 (II) ENGAGING IN OTHER POLITICAL ACTIVITIES IN THE SAME
14 MANNER AS OTHER CITIZENS OF COLORADO, WITHOUT DISCRIMINATION,
15 INTIMIDATION, OR RETALIATION; AND

16 (d) ORGANIZE, FORM, JOIN, OR ASSIST AN EMPLOYEE
17 ORGANIZATION OR REFRAIN FROM ORGANIZING, FORMING, JOINING, OR
18 ASSISTING AN EMPLOYEE ORGANIZATION.

19 (2) A PUBLIC EMPLOYER DESCRIBED IN SECTION 29-32-103
20 (6)(a)(VIII) MAY LIMIT THE RIGHTS OF AN EMPLOYEE DESCRIBED IN
21 29-32-104 (1)(c) TO THE EXTENT NECESSARY TO MAINTAIN THE
22 NONPARTISAN ROLE OF THE EMPLOYER.

23 (3) A PUBLIC EMPLOYER SHALL NOT:

24 (a) DISCRIMINATE AGAINST, COERCE, INTIMIDATE, INTERFERE
25 WITH, OR IMPOSE REPRISALS AGAINST, OR THREATEN TO DISCRIMINATE
26 AGAINST, COERCE, INTIMIDATE, INTERFERE WITH, OR IMPOSE REPRISALS
27 AGAINST, ANY PUBLIC EMPLOYEE FOR ENGAGING IN ANY OF THE RIGHTS

1 DESCRIBED IN THIS ARTICLE 32;

2 (b) DOMINATE OR INTERFERE IN THE ADMINISTRATION OF AN
3 EMPLOYEE ORGANIZATION; OR

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

10 **29-32-105. Enforcement - rules.** (1) AN AGGRIEVED PARTY IS
11 BARRED FROM FILING A CLAIM THAT ALLEGES THAT A PUBLIC EMPLOYER
12 HAS VIOLATED THIS ARTICLE 32 UNLESS THE CLAIM IS FILED WITHIN SIX
13 MONTHS AFTER THE DATE ON WHICH THE AGGRIEVED PARTY KNEW OR
14 REASONABLY SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION.

15 (2) THE DIVISION SHALL ENFORCE THE RIGHTS AND OBLIGATIONS
16 OF THIS ARTICLE 32 AND SHALL PROMULGATE RULES AS MAY BE
17 NECESSARY FOR SUCH ENFORCEMENT. THE DIVISION SHALL PROMULGATE
18 SUCH RULES WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE
19 DATE OF THIS ARTICLE 32.

20 (3) THE DIVISION HAS THE AUTHORITY TO ADJUDICATE UNFAIR
21 LABOR PRACTICE CHARGES AND ISSUE DECISIONS PURSUANT TO ARTICLE
22 3 OF TITLE 8.

23 (4) A PARTY MAY APPEAL THE DIVISION'S FINAL DECISION TO THE
24 COLORADO COURT OF APPEALS AND THE COURT'S REVIEW MUST BE
25 LIMITED TO DETERMINING WHETHER THE DIVISION HAS EXCEEDED ITS
26 JURISDICTION OR ABUSED ITS DISCRETION BASED ON THE EVIDENCE IN THE
27 RECORD BEFORE THE DIVISION.

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

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

10 **29-32-106. Exemptions.** (1) THE STATE BOARD OF EDUCATION
11 SHALL NOT WAIVE THIS ARTICLE 32 OR ANY PROVISION OF THIS ARTICLE 32
12 AS IT PERTAINS TO AN INNOVATION SCHOOL OR INNOVATION SCHOOL ZONE
13 OF A SCHOOL DISTRICT OF INNOVATION PURSUANT TO SECTION
14 22-32.5-108.

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

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

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

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

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

27 SECTION 2. In Colorado Revised Statutes, add 29-5-215 as

1 follows:

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

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

8 **22-2-117. Additional power - state board - waiver of**
9 **requirements - rules.** (1) (b) The state board shall not waive any of the
10 requirements specified in any of the following statutory provisions:

11 (IX) Any provisions of section 22-1-128 relating to
12 comprehensive human sexuality education content requirements; **or**

13 (X) Any provision of section 22-30.5-104 (3), 22-30.5-507 (3),
14 22-32-109 (1)(ll), 22-32-110 (1)(k), 22-38-104 (1)(d), or 22-63-206 (1)
15 relating to discrimination based on hair texture, hair type, or a protective
16 hairstyle that is commonly or historically associated with race; **OR**

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

18 (1.5) Notwithstanding any provision of this section or any other
19 provision of law, the state board shall not waive requirements contained
20 in article 11 of this ~~title~~**or** TITLE 22; sections 22-7-1006.3, 22-32-105,
21 22-32-109 (1)(bb)(I) and (2), 22-32-109.1 (2)(a), 22-32-146, and
22 22-33-104 (4); **OR ANY PROVISION OF ARTICLE 32 OF TITLE 29.**

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

26 **22-30.5-104. Charter school - requirements - authority - rules**
27 **- definitions.** (6) (b) The state board shall promulgate rules that list the

1 automatic waivers for all charter schools. In promulgating the list of
2 automatic waivers, the state board shall consider the overall impact and
3 complexity of the requirements specified in the statute and the potential
4 consequences that waiving the statute may have on the practices of a
5 charter school. In accordance with its rule-making authority, the state
6 board may review the list of automatic waivers at its discretion.
7 Notwithstanding any provision of this subsection (6)(b) to the contrary,
8 the state board shall not include the following statutes on the list of
9 automatic waivers:

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

12 (III) Part 2 of article 63 of this title 22, concerning the
13 employment of licensed personnel; **AND**

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

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

20 (VIII) Section 22-33-106.1 concerning suspension and expulsion
21 of students in preschool through second grade; **or**

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

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

27 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-507, **amend**

1 (7)(a)(II.5), (7)(a)(III), (7)(b)(VIII), and (7)(b)(IX); and **add** (7)(a)(IV)
2 and (7)(b)(X) as follows:

22-30.5-507. Institute charter school - requirements -

4 **authority - rules - definitions.** (7) (a) Pursuant to the charter contract,
5 an institute charter school may operate free from specified statutes and
6 state board rules. The state board shall promulgate rules that list the
7 automatic waivers for all charter schools, including institute charter
8 schools. In promulgating the list of automatic waivers, the state board
9 shall consider the overall impact and complexity of the requirements
10 specified in the statute and the potential consequences that waiving the
11 statute may have on the practices of a charter school, including an
12 institute charter school. In accordance with its rule-making authority, the
13 state board may review the list of automatic waivers at its discretion.
14 Notwithstanding any provision of this subsection (7)(a) to the contrary,
15 the state board shall not include the following statutes on the list of
16 automatic waivers:

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

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

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

27 (VIII) Section 22-33-106.1 concerning suspension and expulsion

1 of students in preschool through second grade; **or**

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

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

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

9 **22-32.5-108. District of innovation - waiver of statutory and**
10 **regulatory requirements.** (1) Upon designation of a district of
11 innovation, the state board shall waive any statutes or rules specified in
12 the school district's innovation plan as they pertain to the innovation
13 schools or innovation school zones of the district of innovation; except
14 that the state board shall not waive:

15 (b) Any provision of article 64 of this **title; or** TITLE 22;

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

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

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