

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 24-1189.01 Alison Killen x4350

SENATE BILL 24-232

SENATE SPONSORSHIP

Rodriguez and Sullivan, Bridges, Buckner, Cutter, Exum, Gonzales, Jaquez Lewis, Michaelson Jenet, Mullica, Priola, Smallwood, Van Winkle, Winter F.

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

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

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>.)

Section 1 of the bill clarifies existing definitions in 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.

SENATE
3rd Reading Unamended
May 6, 2024

SENATE
2nd Reading Unamended
May 4, 2024

"Protections for Public Workers Act" (Act), including the definitions of "employee organization" and "public employee". **Section 2** applies the clarified definition of "public employee" in the context of "protected, concerted activity for the purpose of mutual aid or protection" and also adds guidance for interpretation of that particular right guaranteed to public employees by the Act. **Section 2** also modifies the scope and applicability of a public employer's authority to limit the rights of public employees in certain circumstances.

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

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

4 **29-33-103. Definitions.** As used in this article 33, unless the
5 context otherwise requires:

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

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

18 (5) (a) "Public employee" means an individual employed by a
19 public employer; except those employees employed in the personnel
20 system of the state established in section 13 of article XII of the state
21 constitution, or employees employed by an employer, as defined in

1 section 8-3-104 (12).

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

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

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

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

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

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

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

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

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

16 (2) (a) A public employer described in ~~section 29-33-103 (6)(h)~~
17 SECTION 29-33-103 (6) may limit the rights of an employee described in
18 ~~29-33-104 (1)(c)~~ THIS ARTICLE 33 to the extent necessary to maintain the
19 nonpartisan role of the ~~employer~~ EMPLOYER'S NONPARTISAN LEGISLATIVE,
20 JUDICIAL, OR ELECTION-RELATED STAFF.

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

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