

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0791.01 Megan McCall x4215

SENATE BILL 22-109

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Pico,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PROHIBITION OF CERTAIN LABOR ACTIONS AGAINST
102 PUBLIC EMPLOYERS.

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 bill prohibits every public employee and every employee organization from directly or indirectly inducing, instigating, encouraging, authorizing, ratifying, or participating in picketing, a strike, work stoppage, or work slowdown (prohibited action) against any public employer and prohibits a public employer from consenting to or condoning a prohibited action.

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

In the event of a prohibited action by a public employee or the imminent threat of a prohibited action, the bill authorizes a public employer to seek an injunction from the district court. If the court finds that a prohibited action has occurred or unless enjoined will occur, the bill directs the court to enjoin the continuance or the commencement of the prohibited action. The bill also specifies that the court will hold a public employee or an employee organization that fails to comply with the injunction in contempt of court and specifies the punishments for public employees or employee organizations found to be in contempt of court.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-1-129.5 as
3 follows:

4 **8-1-129.5. Prohibited actions by public employees - injunctive**
5 **relief - penalties - severability - legislative declaration - definitions.**

6 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

7 (a) IT IS THE PUBLIC POLICY OF THE STATE OF COLORADO THAT
8 PUBLIC EMPLOYEE STRIKES, WORK STOPPAGES, WORK SLOWDOWNS, AND
9 PICKETING IN A MANNER THAT INTERFERES WITH THE DELIVERY OF PUBLIC
10 SERVICES OR THE OPERATIONS OF PUBLIC EMPLOYERS IS NOT PERMITTED;

11 (b) THERE IS A NEED FOR UNIFORM STATEWIDE REGULATION AND
12 STANDARDS ON ISSUES OF PUBLIC EMPLOYEE RELATIONS;

13 (c) STRIKES OR OTHER MANNER OF DISRUPTION OF PUBLIC
14 SERVICES BY PUBLIC EMPLOYEES ADVERSELY IMPACT NEIGHBORING
15 MUNICIPALITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS,
16 COLORADO CITIZENS WHO TRAVEL THROUGH OR DO BUSINESS WITH
17 MUNICIPALITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS WHOSE
18 SERVICES ARE DISRUPTED BY ACTIONS OF PUBLIC EMPLOYEES, AND THE
19 STATE'S ECONOMY AS A WHOLE; AND

20 (d) LABOR RELATIONS ARE A MATTER OF STATEWIDE CONCERN

1 AND ARE TRADITIONALLY GOVERNED BY THE GENERAL ASSEMBLY.

2 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
3 REQUIRES:

4 (a) "EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION IN
5 WHICH PUBLIC EMPLOYEES MAY PARTICIPATE AND THAT EXISTS FOR THE
6 PURPOSE OF INTERACTING WITH A PUBLIC EMPLOYER CONCERNING ISSUES
7 OF MUTUAL CONCERN BETWEEN PUBLIC EMPLOYEES AND PUBLIC
8 EMPLOYERS.

9 (b) "PROHIBITED ACTION" MEANS PICKETING THAT INTERFERES
10 WITH THE PUBLIC EMPLOYER'S DELIVERY OF SERVICES OR ITS OPERATIONS,
11 A STRIKE, WORK STOPPAGE, OR WORK SLOWDOWN.

12 (c) "PUBLIC EMPLOYEE" MEANS AN OFFICER OR EMPLOYEE OF THE
13 STATE; ANY CITY, COUNTY, CITY AND COUNTY, TOWN, SPECIAL DISTRICT,
14 SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT, OR PUBLIC
15 INSTITUTION; ANY MUNICIPAL, QUASI-MUNICIPAL, OR PUBLIC
16 CORPORATION; OR ANY OTHER AGENCY THAT IS DESIGNATED BY LAW AS
17 A POLITICAL SUBDIVISION OF THE STATE, INCLUDING BUT NOT LIMITED TO
18 THE REGIONAL TRANSPORTATION DISTRICT CREATED PURSUANT TO
19 ARTICLE 9 OF TITLE 32.

20 (d) "PUBLIC EMPLOYER" MEANS THE STATE; ANY CITY, COUNTY,
21 CITY AND COUNTY, TOWN, SPECIAL DISTRICT, SCHOOL DISTRICT, LOCAL
22 IMPROVEMENT DISTRICT, OR PUBLIC INSTITUTION; ANY MUNICIPAL,
23 QUASI-MUNICIPAL, OR PUBLIC CORPORATION; OR ANY OTHER AGENCY
24 THAT IS DESIGNATED BY LAW AS A POLITICAL SUBDIVISION OF THE STATE,
25 INCLUDING BUT NOT LIMITED TO THE REGIONAL TRANSPORTATION
26 DISTRICT CREATED PURSUANT TO ARTICLE 9 OF TITLE 32.

27 (3) (a) NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE 1,

1 EVERY PUBLIC EMPLOYEE AND EVERY EMPLOYEE ORGANIZATION IS
2 PROHIBITED FROM DIRECTLY OR INDIRECTLY INDUCING, INSTIGATING,
3 ENCOURAGING, AUTHORIZING, RATIFYING, OR PARTICIPATING IN ANY
4 PROHIBITED ACTION AGAINST ANY PUBLIC EMPLOYER.

5 (b) A PUBLIC EMPLOYER MAY NOT AUTHORIZE, CONSENT TO, OR
6 CONDONE A PROHIBITED ACTION, OR PAY OR AGREE TO PAY ANY PUBLIC
7 EMPLOYEE FOR ANY DAY DURING WHICH A PUBLIC EMPLOYEE
8 PARTICIPATES IN A PROHIBITED ACTION.

9 (4) IN THE EVENT OF A VIOLATION OR AN IMMINENT THREAT OF A
10 VIOLATION OF SUBSECTION (3) OF THIS SECTION, A PUBLIC EMPLOYER
11 WHOSE EMPLOYEES ARE INVOLVED IN THE PROHIBITED ACTION OR
12 THREATENED PROHIBIT ACTION OR A PUBLIC EMPLOYER THAT IS AFFECTED
13 BY THE PROHIBITED ACTION OR THREATENED PROHIBITED ACTION MAY
14 APPLY TO THE DISTRICT COURT IN THE COUNTY IN WHICH THE VIOLATION
15 OCCURS OR IS THREATENED TO OCCUR FOR AN ORDER TO ENJOIN THE
16 PROHIBITED ACTION. THE APPLICATION TO THE COURT MUST ESTABLISH
17 THE FACTS CONSTITUTING THE PROHIBITED ACTION OR IMMINENTLY
18 THREATENED PROHIBITED ACTION. IF THE COURT FINDS THAT A
19 PROHIBITED ACTION HAS OCCURRED OR UNLESS ENJOINED IS LIKELY TO
20 OCCUR, THE COURT SHALL ISSUE AN ORDER TO ENJOIN THE CONTINUANCE
21 OR THE COMMENCEMENT OF THE PROHIBITED ACTION IN THE MANNER
22 PROVIDED IN THE COLORADO RULES OF CIVIL PROCEDURE.

23 (5) FAILURE TO COMPLY WITH AN INJUNCTION GRANTED PURSUANT
24 TO SUBSECTION (4) OF THIS SECTION CONSTITUTES A CONTEMPT OF COURT.
25 PUNISHMENT FOR CONTEMPT OF COURT MAY, IN THE COURT'S DISCRETION,
26 INCLUDE:

27 (a) FOR AN OFFICER OF AN EMPLOYEE ORGANIZATION WHO IS

1 WHOLLY OR PARTLY RESPONSIBLE FOR THE VIOLATION, A FINE OF NOT
2 MORE THAN FIVE HUNDRED DOLLARS FOR EACH DAY DURING WHICH THE
3 FAILURE TO COMPLY CONTINUES, IN ADDITION TO ANY PUNISHMENT FOR
4 CONTEMPT OF COURT PERMITTED UNDER LAW;

5 (b) FOR AN EMPLOYEE ORGANIZATION, A FINE OF NOT MORE THAN
6 TEN THOUSAND DOLLARS FOR EACH DAY DURING WHICH THE FAILURE TO
7 COMPLY CONTINUES; AND

8 (c) FOR AN INDIVIDUAL PUBLIC EMPLOYEE, ANY PUNISHMENT FOR
9 CONTEMPT OF COURT PERMITTED UNDER LAW.

10 (6) IF A PUBLIC EMPLOYEE IS FOUND TO BE IN CONTEMPT OF COURT
11 FOR FAILURE TO COMPLY WITH AN INJUNCTION PURSUANT TO THIS SECTION
12 OR IS CONVICTED OF VIOLATING THIS SECTION, THE PUBLIC EMPLOYER
13 SHALL IMMEDIATELY TERMINATE THE PUBLIC EMPLOYEE'S EMPLOYMENT,
14 UNLESS THE COURT REQUESTS THAT THE PUBLIC EMPLOYER STAY THE
15 TERMINATION TO PERMIT FURTHER JUDICIAL PROCEEDINGS. THE PUBLIC
16 EMPLOYEE IS INELIGIBLE FOR EMPLOYMENT WITH ANY PUBLIC EMPLOYER
17 FOR ONE YEAR FROM THE DATE OF TERMINATION OF EMPLOYMENT
18 PURSUANT TO THIS SUBSECTION (6).

19 (7) IF AN EMPLOYEE ORGANIZATION OR AN OFFICER OF THE
20 ORGANIZATION IS HELD TO BE IN CONTEMPT OF COURT FOR FAILURE TO
21 COMPLY WITH AN INJUNCTION PURSUANT TO THIS SECTION OR IS
22 CONVICTED OF VIOLATING THIS SECTION, THE EMPLOYEE ORGANIZATION
23 SHALL BE IMMEDIATELY DECERTIFIED AND SHALL CEASE TO REPRESENT OR
24 RECEIVE DUES FROM ANY PUBLIC EMPLOYEES. THE EMPLOYEE
25 ORGANIZATION MAY BECOME RECERTIFIED AFTER ONE YEAR FROM THE
26 DATE OF THE DECERTIFICATION.

27 (8) THE PENALTIES SPECIFIED IN THIS SECTION MAY BE SUSPENDED

1 OR MODIFIED BY THE COURT UPON REQUEST OF THE PUBLIC EMPLOYER AND
2 IF THE COURT DETERMINES THAT THE SUSPENSION OR MODIFICATION IS IN
3 THE PUBLIC INTEREST.

4 (9) A PUBLIC EMPLOYEE OR EMPLOYEE ORGANIZATION THAT
5 MAKES AN ACTIVE GOOD FAITH EFFORT TO COMPLY WITH AN INJUNCTION
6 ORDERED PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO BE IN
7 CONTEMPT OF COURT.

8 (10) AN EMPLOYEE ORGANIZATION AND A PUBLIC EMPLOYER
9 SHALL NOT BARGAIN WITH EACH OTHER AT ANY TIME REGARDING THE
10 SUSPENSION OR MODIFICATION OF ANY PENALTY AUTHORIZED PURSUANT
11 TO THIS SECTION OR REGARDING A REQUEST BY THE PUBLIC EMPLOYER TO
12 A COURT FOR SUCH SUSPENSION OR MODIFICATION.

13 (11) IN ADDITION TO THE PROVISIONS OF SEVERABILITY SET FORTH
14 IN SECTION 2-4-204, IF ANY PORTION OF THIS SECTION IS HELD
15 UNCONSTITUTIONAL OR INVALID AS APPLIED TO ANY PUBLIC EMPLOYER,
16 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS SECTION IS TO
17 HAVE FULL FORCE AND EFFECT AS TO ALL OTHER PUBLIC EMPLOYERS.

18 **SECTION 2. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.