

HB0045/854462/1

BY: Appropriations Committee

AMENDMENTS TO HOUSE BILL 45
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “bargaining;” insert “providing that a certain employee may be deemed supervisory under certain circumstances for certain purposes; establishing that the exercise of a certain function may not necessarily require a certain conclusion; prohibiting a class title alone from being the basis for a certain determination;”; and in line 10, after “manner;” insert “authorizing a certain employee organization to file a certain petition; establishing certain requirements for a certain petition; establishing the petition process; establishing a certain election process; prohibiting a certain election from being conducted within a certain period of time; establishing a certain decertification procedure;”.

On page 2, in line 4, after “bargaining;” insert “authorizing a certain employee to discuss certain matters with the employer; providing that a certain provision of this Act does not waive a certain right of the employee organization; establishing certain rights of the employer; prohibiting employees or an employee organization from striking; authorizing a certain court to enjoin a strike on request of the employer; prohibiting an employee from receiving compensation from the employer while the employee is engaged in a strike;”; and in line 11, strike “23-709” and substitute “23-712”.

AMENDMENT NO. 2

On page 2, after line 26, insert:

“(D) “CONFIDENTIAL EMPLOYEE” MEANS AN EMPLOYEE WHO HAS ACCESS TO CONFIDENTIAL INFORMATION, INCLUDING BUDGETARY AND FISCAL DATA, SUBJECT TO USE BY THE EMPLOYER IN COLLECTIVE BARGAINING OR IN THE ADJUSTMENT OF GRIEVANCES.”;

(Over)

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and in lines 27, 28, 29, and 31, strike “(D)”, “(E)”, “(F)”, and “(G)”, respectively, and substitute “(E)”, “(F)”, “(G)”, and “(H)”, respectively.

AMENDMENT NO. 3

On page 3, strike beginning with “AN” in line 1 down through “GRIEVANCES” in line 13 and substitute “**A CONFIDENTIAL EMPLOYEE, MANAGEMENT EMPLOYEE, OR SUPERVISORY EMPLOYEE**”; in lines 14 and 17, strike “(H)” and “(I)”, respectively, and substitute “(I)” and “(J)”, respectively; after line 17, insert:

“(K) “MANAGEMENT EMPLOYEE” MEANS AN EMPLOYEE WHO GENERALLY HAS AUTHORITY AND WHO:

(1) FORMULATES POLICY THAT IS APPLICABLE THROUGHOUT A REPRESENTATION UNIT;

(2) HAS A SIGNIFICANT ROLE IN PERSONNEL ADMINISTRATION, EMPLOYEE RELATIONS, OR THE PREPARATION AND ADMINISTRATION OF BUDGETS FOR THE EMPLOYER; OR

(3) MAY REASONABLY BE REQUIRED TO:

(i) ASSIST DIRECTLY IN THE PREPARATION FOR AND CONDUCT OF COLLECTIVE BARGAINING NEGOTIATIONS ON BEHALF OF THE EMPLOYER; OR

(ii) HAVE A MAJOR ROLE IN THE ADMINISTRATION OF RESULTING COLLECTIVE BARGAINING AGREEMENTS.

(L) “SUPERVISORY EMPLOYEE” MEANS AN EMPLOYEE WHO IS AUTHORIZED TO:

(1) HIRE, TRANSFER, SUSPEND, LAY OFF, RECALL, PROMOTE, DISCHARGE, ASSIGN, REWARD, OR DISCIPLINE EMPLOYEES;

(2) RESPONSIBLY DIRECT EMPLOYEES FOR MORE THAN 50% OF THE EMPLOYEE'S WORKING HOURS; OR

(3) ADDRESS AND RESOLVE THE GRIEVANCES OF EMPLOYEES.

23-702.

(A) AN EMPLOYEE WHO MAY EFFECTIVELY RECOMMEND AN ACTION LISTED IN § 23-701(L) OF THIS SUBTITLE MAY BE DEEMED A SUPERVISORY EMPLOYEE IF THE EMPLOYEE'S EXERCISE OF THE AUTHORITY REQUIRES THE EXERCISE OF INDEPENDENT JUDGMENT AND IS NOT MERELY OF A ROUTINE OR CLERICAL NATURE.

(B) THE EXERCISE OF ANY SINGLE FUNCTION LISTED IN § 23-701(L) OF THIS SUBTITLE MAY NOT NECESSARILY REQUIRE THE CONCLUSION THAT THE INDIVIDUAL EXERCISING THAT FUNCTION IS IN FACT A SUPERVISORY EMPLOYEE WITHIN THE MEANING OF THE DEFINITION.

(C) IN DIFFERENTIATING A SUPERVISORY EMPLOYEE FROM A NONSUPERVISORY EMPLOYEE, A CLASS TITLE ALONE MAY NOT BE THE BASIS FOR DETERMINATION.”;

in line 18, strike “23-702.” and substitute “23-703.”; and in line 27, strike “23-703.” and substitute “23-704.”.

AMENDMENT NO. 4

(Over)

On page 4, in line 10, strike “~~23-704.~~” and substitute “23-705.”; in line 19, strike “~~23-705.~~”; after line 19, insert:

“23-706.”

(A) (1) AN EMPLOYEE ORGANIZATION SEEKING CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE FOR THE BARGAINING UNIT OF EMPLOYEES MAY FILE A PETITION WITH THE DIRECTOR INDICATING THIS INTENT.

(2) THE PETITION MAY BE FILED DURING ANY TIME OF THE YEAR.

(3) THE PETITION SHALL CONTAIN:

(I) A REQUEST THAT THE BOARD RECOGNIZE THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES IN THE BARGAINING UNIT;

(II) A STATEMENT THAT THE EMPLOYEE ORGANIZATION IS ONE IN WHICH EMPLOYEES PARTICIPATE AND THAT HAS ONE OF ITS PURPOSES THE REPRESENTATION OF PUBLIC EMPLOYEES IN MATTERS OF WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT;

(III) A STATEMENT THAT THE EMPLOYEE ORGANIZATION HAS NO TERMS OR CONDITIONS OF MEMBERSHIP THAT DISCRIMINATE WITH REGARD TO RACE, COLOR, CREED, GENDER, AGE, POLITICAL AFFILIATION, NATIONAL ORIGIN, RELIGION, MARITAL STATUS, OR DISABILITY; AND

(IV) A STATEMENT THAT THE EMPLOYEE ORGANIZATION HAS IN ITS POSSESSION WRITTEN PROOF DATED NOT MORE THAN 1 YEAR BEFORE THE DAY ON WHICH THE PETITION IS FILED ESTABLISHING THAT AT LEAST 30% OF

THE EMPLOYEES IN THE BARGAINING UNIT HAVE DESIGNATED THE EMPLOYEE ORGANIZATION TO REPRESENT THEM IN THEIR EMPLOYMENT RELATIONS WITH THE BOARD OF TRUSTEES.

(4) BEFORE A PETITION MAY BE PROCESSED, THE PROOF OF INTEREST SUBMITTED SHALL BE VERIFIED AS PROVIDED IN THIS SECTION.

(5) THE EMPLOYEE ORGANIZATION AND THE LIBRARY SYSTEM SHALL EQUALLY BEAR ANY COSTS ASSOCIATED WITH THE VERIFICATION.

(B) (1) WHEN AN EMPLOYEE ORGANIZATION OR EMPLOYEES IN A BARGAINING UNIT FILE A PETITION WITH THE DIRECTOR, THE EMPLOYEE ORGANIZATION OR EMPLOYEES SHALL SUBMIT TO A NEUTRAL DECISION MAKER FROM THE FEDERAL MEDIATION AND CONCILIATION SERVICE THE AUTHORIZATION CARDS SIGNED AND DATED BY AT LEAST 30% OF THE EMPLOYEES IN THE BARGAINING UNIT NOT MORE THAN 1 YEAR BEFORE THE DAY THE PETITION WAS FILED INDICATING, AS APPROPRIATE, THAT THE EMPLOYEES HAVE DESIGNATED THE EMPLOYEE ORGANIZATION TO REPRESENT THEM IN THEIR EMPLOYMENT RELATIONS WITH THE LIBRARY SYSTEM ADMINISTRATION.

(2) THE EMPLOYEE ORGANIZATION SHALL COPY THE DIRECTOR ON THE REQUEST FOR A NEUTRAL DECISION MAKER IN ORDER FOR THE LIBRARY SYSTEM TO RECEIVE NOTICE OF THE SELECTION OF THE NEUTRAL DECISION MAKER FOR THE CERTIFICATION PROCESS.

(C) (1) NOT MORE THAN 7 CALENDAR DAYS AFTER THE DAY ON WHICH THE DIRECTOR RECEIVES NOTICE OF THE ASSIGNMENT OF A NEUTRAL DECISION MAKER BY THE FEDERAL MEDIATION AND CONCILIATION SERVICE, THE

DIRECTOR SHALL SUBMIT TO THE NEUTRAL DECISION MAKER A LIST OF EMPLOYEES IN THE BARGAINING UNIT.

(2) IF THE DIRECTOR FAILS TO SUBMIT THE LIST OF EMPLOYEES TO THE NEUTRAL DECISION MAKER WITHIN THE REQUIRED TIME, IT SHALL BE CONCLUSIVELY DEEMED THAT AT LEAST 30% OF THE EMPLOYEES IN THE BARGAINING UNIT HAVE INDICATED A DESIRE TO BE REPRESENTED BY THE EMPLOYEE ORGANIZATION.

(D) (1) THE NEUTRAL DECISION MAKER SHALL CHECK THE WRITTEN AUTHORIZATION CARDS SUBMITTED BY THE EMPLOYEE ORGANIZATION OR THE EMPLOYEES AGAINST THE LIST OF EMPLOYEES SUBMITTED BY THE DIRECTOR.

(2) IF THE NEUTRAL DECISION MAKER DETERMINES THAT AT LEAST 30% OF THE EMPLOYEES ON THE LIST HAVE INDICATED A DESIRE TO BE REPRESENTED BY THE EMPLOYEE ORGANIZATION OR TO DECERTIFY AN EXCLUSIVE REPRESENTATIVE, THE NEUTRAL DECISION MAKER SHALL NOTIFY THE DIRECTOR OF THE DETERMINATION.

(E) (1) IF THE DIRECTOR DISAGREES WITH THE PETITIONING EMPLOYEE ORGANIZATION OR THE PETITIONING EMPLOYEES AS TO THE INCLUSION OR EXCLUSION OF SPECIFIC EMPLOYEES IN THE BARGAINING UNIT, THE PARTIES SHALL REFER THE ISSUE IMMEDIATELY TO A NEUTRAL DECISION MAKER FROM THE FEDERAL MEDIATION AND CONCILIATION SERVICE TO RESOLVE THE ISSUE.

(2) THE NEUTRAL DECISION MAKER SHALL HOLD A HEARING ON THE ISSUE REFERRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITH THE INTERESTED PARTIES PRESENTING EVIDENCE WITH RESPECT TO THEIR

POSITIONS ON THE ISSUE OF THE INCLUSION OR EXCLUSION OF THE EMPLOYEES
IN QUESTION.

(3) THE NEUTRAL DECISION MAKER'S FINDINGS SHALL BE FINAL
AND BINDING ON BOTH PARTIES.

(F) AN ELECTION MAY NOT BE CONDUCTED IN A BARGAINING UNIT
UNLESS AT LEAST 1 YEAR HAS PASSED SINCE THE LAST ELECTION HELD IN THE
BARGAINING UNIT.

(G) (1) AFTER A DECISION ON DISPUTED EMPLOYEE INCLUSION OR
EXCLUSION, IF REQUIRED, THE DIRECTOR SHALL NOTIFY ALL EMPLOYEES
WITHIN THE BARGAINING UNIT THAT AN ELECTION WILL BE HELD AND REQUEST
A NEUTRAL DECISION MAKER FROM THE FEDERAL MEDIATION AND
CONCILIATION SERVICE TO OVERSEE AND CONDUCT AN ELECTION BY SECRET
BALLOT.

(2) THE BALLOT FOR AN ELECTION SHALL INCLUDE THE
FOLLOWING CHOICES:

(I) IN ACCORDANCE WITH THE ISSUES PRESENTED BY THE
PETITION OR PETITIONS, EXCLUSIVE REPRESENTATION BY ANY EMPLOYEE
ORGANIZATION SEEKING TO OBTAIN OR CONTINUE REPRESENTATION RIGHTS;
AND

(II) NO EXCLUSIVE REPRESENTATION.

(H) AN EMPLOYEE ORGANIZATION MAY INTERVENE IN THE ELECTION
AND HAVE ITS NAME PLACED ON THE BALLOT IF:

(Over)

(1) THE EMPLOYEE ORGANIZATION FILES A PETITION NOT MORE THAN 15 CALENDAR DAYS AFTER THE DATE ON WHICH THE ORIGINAL PETITION IS FILED;

(2) THE EMPLOYEE ORGANIZATION CERTIFIES THAT AT LEAST 30% OF THE EMPLOYEES OF THE UNIT HAVE DESIGNATED THE EMPLOYEE ORGANIZATION TO REPRESENT THEM IN THEIR EMPLOYMENT RELATIONS WITH THE LIBRARY SYSTEM ADMINISTRATION; AND

(3) THE SHOWING OF INTEREST IS VERIFIED AS PROVIDED IN THIS SECTION.

(I) (1) THE ELECTION SHALL BE CONDUCTED ACCORDING TO THE PROCEDURES ESTABLISHED BY THE FEDERAL MEDIATION AND CONCILIATION SERVICE NEUTRAL DECISION MAKER CONDUCTING THE ELECTION.

(2) AN EMPLOYEE ORGANIZATION SHALL BE CERTIFIED AS EXCLUSIVE REPRESENTATIVE FOLLOWING AN ELECTION IF THE EMPLOYEE ORGANIZATION HAS RECEIVED THE VOTE OF A MAJORITY OF THE VALID VOTES CAST IN THE BARGAINING UNIT IN WHICH THE ELECTION IS HELD.

(3) (I) IF AN ELECTION INCLUDES THREE OR MORE CHOICES AND NO CHOICE RECEIVES A MAJORITY OF THE VALID VOTES CAST, THE NEUTRAL DECISION MAKER SHALL CONDUCT A RUNOFF ELECTION BETWEEN THE TWO CHOICES THAT RECEIVED THE LARGEST NUMBER OF VALID VOTES CAST.

(II) THE CHOICE RECEIVING THE MAJORITY OF THE VALID VOTES CAST IN THE RUNOFF ELECTION SHALL BE CERTIFIED.

(4) THE NEUTRAL DECISION MAKER CONDUCTING THE ELECTION SHALL ISSUE TO ALL THE PARTICIPANTS IN AN ELECTION A CERTIFICATION OF REPRESENTATION, IF AN EMPLOYEE ORGANIZATION IS CERTIFIED, OR THE RESULTS OF THE ELECTION, IF NO REPRESENTATIVE IS CHOSEN.

(J) (1) IF EMPLOYEES ARE REPRESENTED BY AN EMPLOYEE ORGANIZATION, EMPLOYEES MAY FILE A PETITION WITH THE DIRECTOR THAT CONTAINS THE FOLLOWING:

(I) AN ASSERTION THAT THE MAJORITY OF THE EMPLOYEES NO LONGER WISH TO BE REPRESENTED BY THE EMPLOYEE ORGANIZATION;

(II) A STATEMENT THAT THE EMPLOYEES HAVE IN THEIR POSSESSION SUBSTANTIVE DOCUMENTARY PROOF, DATED NOT MORE THAN 6 MONTHS BEFORE THE DAY ON WHICH THE PETITION IS FILED, THAT AT LEAST 30% OF THE EMPLOYEES WITHIN THE BARGAINING UNIT APPROVE OF THE DECERTIFICATION OF THE EMPLOYEE ORGANIZATION; AND

(III) A STATEMENT EXPLAINING THAT THE EMPLOYEES ARE SEEKING DECERTIFICATION OF THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE FOR THE BARGAINING UNIT.

(2) (I) THE PETITION SHALL BE PROCESSED AS DESCRIBED IN THIS SECTION, INCLUDING VERIFICATION OF PROOF OF INTEREST AND AN ELECTION.

(II) AN EMPLOYEE ORGANIZATION SHALL BE DECERTIFIED AS EXCLUSIVE REPRESENTATIVE FOLLOWING AN ELECTION IF THE MAJORITY OF

(Over)

THE VALID VOTES CAST IN THE UNIT IN WHICH THE ELECTION IS HELD ARE FOR NO REPRESENTATION.

23-707.”;

and strike beginning with “**IF**” in line 20 down through “**REPRESENTATIVE**” in line 22 and substitute “**IF AN EMPLOYEE ORGANIZATION IS CERTIFIED AS DESCRIBED IN THIS SUBTITLE, THE EMPLOYER AND THE EMPLOYEE ORGANIZATION**”.

AMENDMENT NO. 5

On page 5, in line 16, strike “**OR**”; in line 18, after “**REPRESENTATIVE**”, insert “;
OR

(IV) THE EXCLUSIVE REPRESENTATIVE RESIGNS FROM MEMBERSHIP IN THE EMPLOYEE ORGANIZATION”;

and in line 31, strike “**23-706.**” and substitute “**23-708.**”.

AMENDMENT NO. 6

On page 7, in line 15, strike “**23-707.**” and substitute “**23-709.**”; in line 17, strike “**§ 23-705**” and substitute “**§ 23-707**”; and in line 31, strike “**§ 23-706(A)(2)**” and substitute “**§ 23-708(A)(2)**”.

On page 8, in line 17, strike “**§ 23-706**” and substitute “**§ 23-708**”.

AMENDMENT NO. 7

On page 9, in line 12, strike “**23-708.**” and substitute “**23-710.**”; in line 29, strike “**OR**”; and after line 29, insert:

“(3) DISCIPLINE OR FINE A MEMBER OF THE EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL;

(4) DISCIPLINE OR FINE A MEMBER OF THE EMPLOYEE ORGANIZATION FOR THE PURPOSE OF IMPEDING THE MEMBER’S WORK PERFORMANCE; OR”.

AMENDMENT NO. 8

On page 10, in line 1, strike “(3)” and substitute “(5)”; after line 2, insert:

“(C) (1) AN EMPLOYEE WHO IS A MEMBER OF A BARGAINING UNIT WITH AN EXCLUSIVE REPRESENTATIVE MAY, WITHOUT THE INTERVENTION OF AN EMPLOYEE ORGANIZATION, DISCUSS ANY MATTER WITH THE EMPLOYER.

(2) THIS SUBSECTION DOES NOT WAIVE THE RIGHT OF THE EMPLOYEE ORGANIZATION TO BE THE EXCLUSIVE BARGAINING REPRESENTATIVE FOR ISSUES RELATED TO WAGES, HOURS, AND WORKING CONDITIONS AND IS NOT INTENDED TO CREATE AN ALTERNATE PATH TO ALTER TERMS AND CONDITIONS OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES.”;

in line 3, strike “23-709.” and substitute “23-711.”; after line 3, insert:

“(A) IT IS THE EXCLUSIVE RIGHT OF THE EMPLOYER TO:

(1) DETERMINE THE PURPOSES AND OBJECTIVES OF EACH OF ITS CONSTITUENT OFFICES AND DEPARTMENTS;

(2) SET STANDARDS OF SERVICES TO BE OFFERED TO THE PUBLIC;

(Over)

(3) EXERCISE CONTROL AND DISCRETION OVER ITS ORGANIZATION AND OPERATIONS; AND

(4) DETERMINE THE METHODS, MEANS, PERSONNEL, AND OTHER RESOURCES BY WHICH THE EMPLOYER'S OPERATIONS ARE TO BE CONDUCTED.

(B) SUBJECT TO APPLICABLE PROVISIONS OF A COLLECTIVE BARGAINING AGREEMENT OR MEMORANDUM OF UNDERSTANDING, OR IN ACCORDANCE WITH OTHER APPLICABLE LAWS, THE EMPLOYER MAY:

(1) DIRECT ITS EMPLOYEES;

(2) HIRE, PROMOTE, TRANSFER, ASSIGN, OR RETAIN EMPLOYEES;

(3) ESTABLISH REASONABLE WORK RULES; AND

(4) DEMOTE, SUSPEND, DISCHARGE, OR TAKE OTHER DISCIPLINARY ACTION AGAINST ITS EMPLOYEES FOR JUST CAUSE.

(C)";

and after line 7, insert:

"23-712.

(A) IN THIS SECTION, "STRIKE" HAS THE MEANING STATED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, DIRECT, SUPPORT, OR RATIFY A STRIKE.

(C) IF A STRIKE OCCURS, ON REQUEST OF THE EMPLOYER, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE.

(D) AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE EMPLOYER WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.”.