

HB 793 INTRODUCED BY SQUIRES, ET AL.
REVISE DEFINITION OF PUBLIC EMPLOYEE

2/17 INTRODUCED
2/17 REFERRED TO STATE ADMINISTRATION
2/23 HEARING
2/23 COMMITTEE REPORT--BILL PASSED
2/24 2ND READING NOT PASSED

92 8

1 House BILL NO. 793
2 INTRODUCED BY Agnes Farrell

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
5 DEFINITION OF "PUBLIC EMPLOYEE" FOR PURPOSES OF THE LAW THAT
6 ALLOWS PUBLIC EMPLOYEES TO BARGAIN COLLECTIVELY; AMENDING
7 SECTION 39-31-103, MCA; AND PROVIDING AN APPLICABILITY DATE
8 AND AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 39-31-103, MCA, is amended to read:
12 "39-31-103. Definitions. When used in this chapter,
13 the following definitions apply:

14 (1) "Public employer" means the state of Montana or
15 any political subdivision thereof, including but not limited
16 to any town, city, county, district, school board, board of
17 regents, public and quasi-public corporation, housing
18 authority or other authority established by law, and any
19 representative or agent designated by the public employer to
20 act in its interest in dealing with public employees.

21 (2) (a) "Public employee" means:
22 (i) except as provided in subsection (2)(b) of this
23 section, a person employed by a public employer in any
24 capacity; and
25 (ii) an individual whose work has ceased as a

1 consequence of or in connection with any unfair labor
2 practice or concerted employee action.
3 (b) "Public employee" does not mean:
4 (i) an elected official;
5 (ii) a person directly appointed by the governor;
6 (iii) a supervisory employee, as defined in subsection
7 (3) of this section;
8 (iv) a management official, as defined in subsection
9 (4) of this section;
10 (v) a confidential employee, as defined in subsection
11 (12) of this section;
12 (vi) a member of any state board or commission who
13 serves the state intermittently;
14 ~~(vii) a school district clerk;~~
15 ~~(viii) a school administrator;~~
16 ~~(ix) (vii) a registered professional nurse performing~~
17 ~~service for a health care facility;~~
18 ~~(x) (viii) a professional engineer; or~~
19 ~~(xi) (ix) an engineer-in-training.~~
20 (3) "Supervisory employee" means any individual having
21 authority in the interest of the employer to hire, transfer,
22 suspend, lay off, recall, promote, discharge, assign,
23 reward, discipline other employees, having responsibility to
24 direct them, to adjust their grievances, or effectively to
25 recommend such action, if in connection with the foregoing



1 the exercise of such authority is not of a merely routine or
2 clerical nature but requires the use of independent
3 judgment.

4 (4) "Management official" means a representative of
5 management having authority to act for the agency on any
6 matters relating to the implementation of agency policy.

7 (5) "Labor organization" means any organization or
8 association of any kind in which employees participate and
9 which exists for the primary purpose of dealing with
10 employers concerning grievances, labor disputes, wages,
11 rates of pay, hours of employment, fringe benefits, or other
12 conditions of employment.

13 (6) "Exclusive representative" means the labor
14 organization which has been designated by the board as the
15 exclusive representative of employees in an appropriate unit
16 or has been so recognized by the public employer.

17 (7) "Board" means the board of personnel appeals
18 provided for in 2-15-1705.

19 (8) "Person" includes one or more individuals, labor
20 organizations, public employees, associations, corporations,
21 legal representatives, trustees, trustees in bankruptcy, or
22 receivers.

23 (9) "Unfair labor practice" means any unfair labor
24 practice listed in 39-31-401 or 39-31-402.

25 (10) "Labor dispute" includes any controversy

1 concerning terms, tenure, or conditions of employment or
2 concerning the association or representation of persons in
3 negotiating, fixing, maintaining, changing, or seeking to
4 arrange terms or conditions of employment, regardless of
5 whether the disputants stand in the proximate relation of
6 employer and employee.

7 (11) "Appropriate unit" means a group of public
8 employees banded together for collective bargaining purposes
9 as designated by the board.

10 (12) "Confidential employee" means any person found by
11 the board to be a confidential labor relations employee and
12 any person employed in the personnel division, department of
13 administration, who acts with discretionary authority in the
14 creation or revision of state classification
15 specifications."

16 NEW SECTION. Section 2. Extension of authority. Any
17 existing authority of the board of personnel appeals to make
18 rules on the subject of the provisions of this act is
19 extended to the provisions of this act.

20 NEW SECTION. Section 3. Saving clause. This act does
21 not affect rights and duties that matured, penalties that
22 were incurred, or proceedings that were begun before the
23 effective date of this act.

24 NEW SECTION. Section 4. Applicability. This act
25 applies only to collective bargaining agreements negotiated

LC 1499/01

1 after the effective date of this act.

2 NEW SECTION. Section 5. Effective date. This act is
3 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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2 INTRODUCED BY Agustines Farnell

3
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- 12 (vi) a member of any state board or commission who
- 13 serves the state intermittently;
- 14 ~~(vii) a school-district-clerk;~~
- 15 ~~(viii) a school-administrator;~~
- 16 ~~(ix)~~(vii) a registered professional nurse performing
- 17 service for a health care facility;
- 18 ~~(x)~~(viii) a professional engineer; or
- 19 ~~(xi)~~(ix) an engineer-in-training.

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