



General Assembly

January Session, 2009

Raised Bill No. 6545

LCO No. 3806

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Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING THE RIGHT TO ORGANIZE FOR CERTAIN EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-270 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 When used in sections 5-270 to 5-280, inclusive:

4 (a) "Bureau heads" means individuals who head a major division of
5 a state agency and report to the head or deputy head of such agency,
6 provided: (1) The number of bureau heads of any state agency shall
7 not exceed the greater of (A) one, or (B) one-half of one per cent of the
8 total number of permanent full-time employees of the employer,
9 rounded to the next lowest whole number; (2) the number of bureau
10 heads in the state executive branch shall not exceed one-half of one per
11 cent of the total number of permanent full-time employees in the
12 branch, rounded to the next lowest whole number, and the number of
13 bureau heads in the state judicial branch shall not exceed one-half of
14 one per cent of the total number of permanent full-time employees in
15 the branch, rounded to the next lowest whole number; and (3) if a state

16 agency has more major divisions than the number of bureau heads
17 permitted to an employer by this subsection, the major divisions shall
18 be ranked by the number of permanent full-time employees in each,
19 and any individual heading a major division with a smaller number of
20 permanent full-time employees shall be excluded from being classified
21 as a bureau head before any individual heading a major division with
22 a larger number of full-time employees.

23 [(a)] (b) "Employer" means the state of Connecticut, its executive,
24 [and] judicial and legislative branches, including, without limitation,
25 any board, department, commission, institution, or agency of such
26 branches or any appropriate unit thereof and any board of trustees of a
27 state-owned or supported college or university and branches thereof,
28 public and quasi-public state corporation, or authority established by
29 state law, or any person or persons designated by the employer to act
30 in its interest in dealing with employees, but shall not include the State
31 Board of Labor Relations or the State Board of Mediation and
32 Arbitration.

33 [(b)] (c) "Employee" means any employee of an employer, whether
34 or not in the classified service of the employer, except elected or
35 appointed officials other than special deputy sheriffs, board and
36 commission members, disability policy specialists assigned to the
37 Council on Developmental Disabilities, [managerial employees]
38 bureau heads and confidential employees.

39 [(c)] (d) "Professional employee" means: (1) Any employee engaged
40 in work (A) predominantly intellectual and varied in character as
41 opposed to routine mental, manual, mechanical or physical work; (B)
42 involving the consistent exercise of discretion and judgment in its
43 performance; (C) of such a character that the output produced or the
44 result accomplished cannot be standardized in relation to a given time
45 period; (D) requiring knowledge of an advanced type in a field of
46 science or learning customarily acquired by a prolonged course of
47 specialized intellectual instruction and study in an institution of higher

48 learning or a hospital, as distinguished from a general academic
49 education or from an apprenticeship or from training in the
50 performance of routine mental, manual or physical processes; or (2)
51 any employee who has completed the courses of specialized
52 intellectual instruction and study described in [subsection (c) (1)(D)]
53 subparagraph (D) of subdivision (1) of this subsection and is
54 performing related work under the supervision of a professional
55 person to qualify himself to become a professional employee as
56 defined in [subsection (c) (1)] said subparagraph.

57 [(d)] (e) "Employee organization" means any lawful association,
58 labor organization, federation or council having as a primary purpose
59 the improvement of wages, hours and other conditions of employment
60 among state employees.

61 [(e)] (f) "Confidential employee" means any public employee who
62 would have access to confidential information used in collective
63 bargaining.

64 [(f)] (g) "Supervisory employee" means any individual in a position
65 in which the principal functions are characterized by not fewer than
66 two of the following: (1) Performing such management control duties
67 as scheduling, assigning, overseeing and reviewing the work of
68 subordinate employees; (2) performing such duties as are distinct and
69 dissimilar from those performed by the employees supervised; (3)
70 exercising judgment in adjusting grievances, applying other
71 established personnel policies and procedures and in enforcing the
72 provisions of a collective bargaining agreement; and (4) establishing or
73 participating in the establishment of performance standards for
74 subordinate employees and taking corrective measures to implement
75 those standards, provided in connection with any of the foregoing the
76 exercise of such authority is not merely of a routine or clerical nature,
77 but requires the use of independent judgment, and such individuals
78 shall be employees within the meaning of subsection [(b)] (c) of this
79 section. The above criteria for supervisory positions shall not

80 necessarily apply to police or fire departments.

81 [(g)] (f) "Managerial employee" means any individual in a position
82 in which the principal functions are characterized by not fewer than
83 two of the following, provided for any position in any unit of the
84 system of higher education, one of such two functions shall be as
85 specified in subdivision (4) of this subsection: (1) Responsibility for
86 direction of a subunit or facility of a major division of an agency or
87 assignment to an agency head's staff; (2) development, implementation
88 and evaluation of goals and objectives consistent with agency mission
89 and policy; (3) participation in the formulation of agency policy; or (4)
90 a major role in the administration of collective bargaining agreements
91 or major personnel decisions, or both, including staffing, hiring, firing,
92 evaluation, promotion and training of employees. Such individuals
93 shall be employees within the meaning of subsection (c) of this section.

94 Sec. 2. Subsection (a) of section 5-278 of the general statutes is
95 repealed and the following is substituted in lieu thereof (*Effective from*
96 *passage*):

97 (a) When an employee organization has been designated, in
98 accordance with the provisions of sections 5-270 to 5-280, inclusive, as
99 the exclusive representative of employees in an appropriate unit, the
100 employer shall be represented in collective bargaining with such
101 employee organization in the following manner: (1) In the case of an
102 executive branch employer, including the Division of Criminal Justice,
103 by the chief executive officer whether elected or appointed, or his or
104 her designated representative, [;] who shall maintain a close liaison
105 with the legislature relative to the negotiations and the potential fiscal
106 ramifications of any proposed settlement; (2) in the case of a judicial
107 branch employer, by the Chief Court Administrator, or his or her
108 designated representative; [and] (3) in the case of each segment of the
109 system of higher education, the faculty and professional employees
110 shall negotiate with their own board of trustees or its designated
111 representative; and (4) in the case of the legislative branch, the director

112 of the Office of Legislative Management, or his or her designated
113 representative.

114 Sec. 3. Section 31-101 of the general statutes is repealed and the
115 following is substituted in lieu thereof (*Effective from passage*):

116 When used in this chapter:

117 (1) "Agent" means the representative of the board who handles all
118 investigations of complaints and violations of this chapter;

119 (2) "Board" means the labor relations board provided for in section
120 31-102;

121 (3) "Commissioner" means the Labor Commissioner or any
122 representative designated by him;

123 (4) "Company union" means any committee, employee
124 representation plan or association of employees which exists for the
125 purpose, in whole or in part, of dealing with employers concerning
126 grievances or terms and conditions of employment which the
127 employer has initiated or created or whose initiation or creation he has
128 suggested or participated in or the formulation of whose governing
129 rules or policies or the conduct of whose management, policies or
130 elections the employer participates in or supervises or which the
131 employer manages, finances, controls, dominates or assists in
132 maintaining or financing, whether by compensation to anyone for
133 service performed in its behalf or by donating free service, equipment,
134 materials, office or meeting space or anything else of value or by any
135 other means;

136 (5) "Department" means the Labor Department;

137 (6) "Employee" includes, but shall not be restricted to, any
138 individual employed by a labor organization, any individual whose
139 employment has ceased as a consequence of, or in connection with,
140 any current labor dispute or because of any unfair labor practice, and

141 who has not obtained any other regular and substantially equivalent
142 employment, and shall not be limited to the employees of a particular
143 employer; but shall not include any individual employed by his parent
144 or spouse or in the domestic service of any person in his home, any
145 individual employed only for the duration of a labor dispute or any
146 individual employed as an agricultural worker;

147 (7) "Employer" means any person acting directly or indirectly in the
148 interest of an employer in relation to an employee, but shall not
149 include any person engaged in farming, or any person subject to the
150 provisions of the National Labor Relations Act, unless the National
151 Labor Relations Board has declined to assert jurisdiction over such
152 person, or any person subject to the provisions of the Federal Railway
153 Labor Act, or the state or any political or civil subdivision thereof or
154 any religious agency or corporation, or any labor organization, except
155 when acting as an employer, or any one acting as an officer or agent of
156 such labor organization. An employer licensed by the Department of
157 Public Health under section 19a-490 shall be subject to the provisions
158 of this chapter with respect to all its employees except those licensed
159 under chapters 370 and 379, unless such employer is the state or any
160 political subdivision thereof;

161 (8) "Labor dispute" includes, but shall not be restricted to, any
162 controversy between employers and employees or their
163 representatives concerning terms, tenure or conditions of employment
164 or concerning the association or representation of persons in
165 negotiating, fixing or maintaining, or seeking to negotiate, fix,
166 maintain or change, terms or conditions of employment;

167 (9) "Labor organization" means any organization which exists and is
168 constituted for the purpose, in whole or in part, of collective
169 bargaining, or of dealing with employers concerning grievances, terms
170 or conditions of employment, or other mutual aid or protection, and
171 which is not a company union as defined herein;

172 (10) "Person" includes individuals, partnerships, associations,

173 corporations, limited liability companies, trustees, receivers and legal
174 representatives;

175 (11) "Representative" includes a labor organization or an individual,
176 whether or not employed by the employer or those whom he
177 represents;

178 (12) "Unfair labor practice" means only those unfair labor practices
179 listed in section 31-105;

180 (13) "Supervisor" means any individual having the title of
181 supervisor and who may have the authority, in the interest of the
182 employer, to hire, transfer, suspend, lay off, recall, promote, discharge,
183 assign, reward or discipline other employees, or responsibility to direct
184 them, or to adjust their grievances, or effectively to recommend such
185 action, [if in connection with the foregoing the exercise of such
186 authority is not of a merely routine or clerical nature, but requires the
187 use of independent judgment,] and such individuals shall be
188 "employees" within the meaning of subdivision (6) of this section;

189 (14) "Professional employee" means (A) any employee engaged in
190 work (i) predominantly intellectual and varied in character as opposed
191 to routine mental, manual, mechanical or physical work; (ii) involving
192 the consistent exercise of discretion and judgment in its performance;
193 (iii) of such a character that the output produced or the result
194 accomplished cannot be standardized in relation to a given period of
195 time; and (iv) requiring knowledge of an advanced type in a field of
196 science or learning customarily acquired by a prolonged course of
197 specialized intellectual instruction and study in an institution of higher
198 learning or a hospital, as distinguished from a general academic
199 education or from an apprenticeship or from training in the
200 performance of routine mental, manual or physical processes; or (B)
201 any employee who (i) has completed the courses of specialized
202 intellectual instruction and study described in clause (iv) of
203 subparagraph (A) of this subdivision, and (ii) is performing related
204 work under the supervision of a professional person to qualify himself

205 to become a professional employee as defined in said subparagraph
206 (A).

207 Sec. 4. Section 7-467 of the general statutes is repealed and the
208 following is substituted in lieu thereof (*Effective from passage*):

209 When used in sections 7-467 to 7-477, inclusive:

210 (1) "Municipal employer" means any political subdivision of the
211 state, including any town, city, borough, district, district department of
212 health, school board, housing authority or other authority established
213 by law, a private nonprofit corporation which has a valid contract with
214 any town, city, borough or district to extinguish fires and to protect its
215 inhabitants from loss by fire, and any person or persons designated by
216 the municipal employer to act in its interest in dealing with municipal
217 employees;

218 (2) "Employee" means any employee of a municipal employer,
219 whether or not in the classified service of the municipal employer,
220 except elected officials, [administrative officials,] board and
221 commission members, [certified teachers, part-time employees who
222 work less than twenty hours per week on a seasonal basis,] department
223 heads and persons in such other positions as may be excluded from
224 coverage under sections 7-467 to 7-477, inclusive, in accordance with
225 subdivision (2) of section 7-471;

226 [(3) "Seasonal basis" means working for a period of not more than
227 one hundred twenty calendar days in any calendar year;]

228 [(4)] (3) "Department head" means an employee who heads any
229 department in a municipal organization, has substantial supervisory
230 control of a permanent nature over other municipal employees, and is
231 directly accountable to the board of selectmen of a town, city or
232 borough not having a charter or special act form of government, or to
233 the chief executive officer of any other town, city or borough;

234 [(5)] (4) "Department" means any major functional division in a

235 municipal organization, notwithstanding the provisions of any charter
236 or special act to the contrary;

237 [(6)] (5) "Employee organization" means any lawful association,
238 labor organization, federation or council having as a primary purpose
239 the improvement of wages, hours and other conditions of employment
240 among employees of municipal employers.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	5-270
Sec. 2	<i>from passage</i>	5-278(a)
Sec. 3	<i>from passage</i>	31-101
Sec. 4	<i>from passage</i>	7-467

Statement of Purpose:

To provide certain employees the right to organize who currently are unable to by law.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]