

As Introduced

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H. B. No. 619

Representative Szollosi

**Cosponsors: Representatives Gerberry, Slesnick, Boyd, Brown, Foley,
Letson, Beatty, Hagan, R., Lundy, Stewart, D., Yuko, DeBose, Budish,
Otterman, J., Domenick, Dyer, Skindell, Bolon, Mallory, Garrison, Brady,
Ujvagi, Heard, Luckie, DeGeeter, Sykes, Okey, Miller**

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A B I L L

To amend section 4117.01 of the Revised Code to 1
eliminate an exemption from the Public Employees' 2
Collective Bargaining Law for specified employees 3
of the courts and clerks of courts. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4117.01 of the Revised Code be 5
amended to read as follows: 6

Sec. 4117.01. As used in this chapter: 7

(A) "Person," in addition to those included in division (C) 8
of section 1.59 of the Revised Code, includes employee 9
organizations, public employees, and public employers. 10

(B) "Public employer" means the state or any political 11
subdivision of the state located entirely within the state, 12
including, without limitation, any municipal corporation with a 13
population of at least five thousand according to the most recent 14
federal decennial census; county; township with a population of at 15

least five thousand in the unincorporated area of the township 16
according to the most recent federal decennial census; school 17
district; governing authority of a community school established 18
under Chapter 3314. of the Revised Code; state institution of 19
higher learning; public or special district; state agency, 20
authority, commission, or board; or other branch of public 21
employment. 22

(C) "Public employee" means any person holding a position by 23
appointment or employment in the service of a public employer, 24
including any person working pursuant to a contract between a 25
public employer and a private employer and over whom the national 26
labor relations board has declined jurisdiction on the basis that 27
the involved employees are employees of a public employer, except: 28

(1) Persons holding elective office; 29

(2) Employees of the general assembly and employees of any 30
other legislative body of the public employer whose principal 31
duties are directly related to the legislative functions of the 32
body; 33

(3) Employees on the staff of the governor or the chief 34
executive of the public employer whose principal duties are 35
directly related to the performance of the executive functions of 36
the governor or the chief executive; 37

(4) Persons who are members of the Ohio organized militia, 38
while training or performing duty under section 5919.29 or 5923.12 39
of the Revised Code; 40

(5) Employees of the state employment relations board; 41

(6) Confidential employees; 42

(7) Management level employees; 43

(8) ~~Employees and officers of the courts, assistants~~ 44
Assistants to the attorney general, and assistant prosecuting 45

attorneys, and employees of the clerks of courts who perform a	46
judicial function;	47
(9) Employees of a public official who act in a fiduciary	48
capacity, appointed pursuant to section 124.11 of the Revised	49
Code;	50
(10) Supervisors;	51
(11) Students whose primary purpose is educational training,	52
including graduate assistants or associates, residents, interns,	53
or other students working as part-time public employees less than	54
fifty per cent of the normal year in the employee's bargaining	55
unit;	56
(12) Employees of county boards of election;	57
(13) Seasonal and casual employees as determined by the state	58
employment relations board;	59
(14) Part-time faculty members of an institution of higher	60
education;	61
(15) Employees of the state personnel board of review;	62
(16) Participants in a work activity, developmental activity,	63
or alternative work activity under sections 5107.40 to 5107.69 of	64
the Revised Code who perform a service for a public employer that	65
the public employer needs but is not performed by an employee of	66
the public employer if the participant is not engaged in paid	67
employment or subsidized employment pursuant to the activity;	68
(17) Employees included in the career professional service of	69
the department of transportation under section 5501.20 of the	70
Revised Code;	71
(18) Employees of community-based correctional facilities and	72
district community-based correctional facilities created under	73
sections 2301.51 to 2301.58 of the Revised Code who are not	74
subject to a collective bargaining agreement on June 1, 2005.	75

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this

section. 108

(3) With respect to faculty members of a state institution of 109
higher education, heads of departments or divisions are 110
supervisors; however, no other faculty member or group of faculty 111
members is a supervisor solely because the faculty member or group 112
of faculty members participate in decisions with respect to 113
courses, curriculum, personnel, or other matters of academic 114
policy; 115

(4) No teacher as defined in section 3319.09 of the Revised 116
Code shall be designated as a supervisor or a management level 117
employee unless the teacher is employed under a contract governed 118
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 119
is assigned to a position for which a license deemed to be for 120
administrators under state board rules is required pursuant to 121
section 3319.22 of the Revised Code. 122

(G) "To bargain collectively" means to perform the mutual 123
obligation of the public employer, by its representatives, and the 124
representatives of its employees to negotiate in good faith at 125
reasonable times and places with respect to wages, hours, terms, 126
and other conditions of employment and the continuation, 127
modification, or deletion of an existing provision of a collective 128
bargaining agreement, with the intention of reaching an agreement, 129
or to resolve questions arising under the agreement. "To bargain 130
collectively" includes executing a written contract incorporating 131
the terms of any agreement reached. The obligation to bargain 132
collectively does not mean that either party is compelled to agree 133
to a proposal nor does it require the making of a concession. 134

(H) "Strike" means continuous concerted action in failing to 135
report to duty; willful absence from one's position; or stoppage 136
of work in whole from the full, faithful, and proper performance 137
of the duties of employment, for the purpose of inducing, 138
influencing, or coercing a change in wages, hours, terms, and 139

other conditions of employment. "Strike" does not include a 140
stoppage of work by employees in good faith because of dangerous 141
or unhealthful working conditions at the place of employment that 142
are abnormal to the place of employment. 143

(I) "Unauthorized strike" includes, but is not limited to, 144
concerted action during the term or extended term of a collective 145
bargaining agreement or during the pendency of the settlement 146
procedures set forth in section 4117.14 of the Revised Code in 147
failing to report to duty; willful absence from one's position; 148
stoppage of work; slowdown, or abstinence in whole or in part from 149
the full, faithful, and proper performance of the duties of 150
employment for the purpose of inducing, influencing, or coercing a 151
change in wages, hours, terms, and other conditions of employment. 152
"Unauthorized strike" includes any such action, absence, stoppage, 153
slowdown, or abstinence when done partially or intermittently, 154
whether during or after the expiration of the term or extended 155
term of a collective bargaining agreement or during or after the 156
pendency of the settlement procedures set forth in section 4117.14 157
of the Revised Code. 158

(J) "Professional employee" means any employee engaged in 159
work that is predominantly intellectual, involving the consistent 160
exercise of discretion and judgment in its performance and 161
requiring knowledge of an advanced type in a field of science or 162
learning customarily acquired by a prolonged course in an 163
institution of higher learning or a hospital, as distinguished 164
from a general academic education or from an apprenticeship; or an 165
employee who has completed the courses of specialized intellectual 166
instruction and is performing related work under the supervision 167
of a professional person to become qualified as a professional 168
employee. 169

(K) "Confidential employee" means any employee who works in 170
the personnel offices of a public employer and deals with 171

information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in 203
the employ of a fire department of a municipal corporation or a 204
township as a fire cadet, full-time regular firefighter, or 205
promoted rank as the result of an appointment from a duly 206
established civil service eligibility list or under section 207
505.38, 709.012, or 737.22 of the Revised Code. 208

(Q) "Day" means calendar day. 209

Section 2. That existing section 4117.01 of the Revised Code 210
is hereby repealed. 211