

§ 8-1-101. Definitions.

Colorado Statutes

Title 8. LABOR AND INDUSTRY

LABOR I - DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor - Industrial Claim Appeals Office

Article 1. Division of Labor - Industrial Claim Appeals Office

Current through 2013 Legislative Session

§ 8-1-101. Definitions

As used in this article, unless the context otherwise requires:

- (1) "Commission" means the industrial commission of Colorado, as said commission existed prior to July 1, 1986.
- (2) "Commissioner" means one of the members of the commission.
- (2.5) "Department" means the department of labor and employment.
- (3) "Deputy" means any person employed by the division designated as such deputy by the director, and who may be engaged in the performance of duties under the direction of the director.
- (4) "Director" means the director of the division of labor.
- (5) "Division" means the division of labor in the department of labor and employment.
- (6) "Employee" means every person in the service of an employer, under any contract of hire, express or implied, not including an elective official of the state, or of any county, city, town, irrigation, drainage, or school district thereof, and not including any officers or enlisted men of the National Guard of the state of Colorado.
- (7) (a) "Employer" means:
 - (I) The state, and each county, city, town, irrigation, and school district therein, and all public institutions and administrative boards thereof having four or more employees;
 - (II) Every person, association of persons, firm, and private corporation, including any public service corporation, manager, personal representative, assignee, trustee, and receiver, who has four or more persons regularly engaged in the same business or employment, except as otherwise expressly provided in this article, in service under any contract of hire, expressed or implied.
- (b) This article is not intended to apply to employers of private domestic servants or farm and ranch labor; nor to employers who employ less than four employees regularly in the same business, or in or about the same place of employment.

- (8) "Employment" means any trade, occupation, job, position, or process of manufacture or any method of carrying on any such trade, occupation, job, position, or process of manufacture in which any person is engaged, except as otherwise expressly provided in this article.
- (8.5) "Executive director" means the executive director of the department of labor and employment.
- (9) "General order" means an order of the director applying generally throughout the state to all persons, employments, or places of employment under the jurisdiction of the division. All other orders of the director shall be considered special orders.
- (10) "Local order" means any ordinance, order, rule, or determination of any common council, board of aldermen, board of supervisors, board of trustees, or board of commissioners of any county, town, city, or city and county operating under any general or special law of this state or of the board of health of the state or any municipality therein or any order or direction of any official of the state or municipality therein.
- (11) "Order" means any decision, rule, regulation, requirement, or standard promulgated by the director.
- (12) "Place of employment" means every place, whether indoors or outdoors or underground, and the premises, work places, works, and plants appertaining thereto or used in connection therewith where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation directly or indirectly relating to any industry, trade, or business is carried on, or where any person is directly or indirectly employed by another for direct or indirect gain or profit, except as otherwise expressly provided in this article.
- (13) "Safe" or "safety", as applied to an employment or place of employment, means such freedom from danger to the life, health, and safety of employees and such reasonable means of notification, egress, and escape in case of catastrophe as the nature of the employment reasonably permits.
- (14) "State personnel system" means the personnel system of the state as described in section 13 of article XII of the state constitution and the state personnel system as described in article 50 of title 24, C.R.S.

Cite as C.R.S § 8-1-101

History. L. 15: pp. 562, 563, §§ 1, 2, 4. L. 21: p. 828, § 2. C.L. §§ 4325, 4326, 4328. CSA: C. 97, §§ 1, 2, 4. CRS 53: §§ 80-1-1 to 80-1-3. C.R.S. 1963: §§ 80-1-1 to 80-1-3. L. 69: p. 573, §§ 18-20. L. 72: p. 601, §§ 94-96. L. 86: (1) and (11) amended and (2.5) and (8.5) added, p. 464, § 3, effective July 1. L. 2008: (14) added, p. 292, § 1, effective April 3.

Case Notes:

ANNOTATION

Law reviews. For article, "The Colorado Industrial Commission and Wage Disputes", see 9 Dicta 44 (1931). For article, "Governmental Adjustment of Colorado's Industrial Disputes 1915-1930", see 3 Rocky Mt. L. Rev. 223 (1931). For note, "Use of Evidence in Hearings Before Colorado Administrative Agencies", see 29 Dicta 437 (1952).

The act establishing this article was not irregularly passed because the purpose of the bill was changed during its course through the two houses. *People v. UMW*, Dist. 15, 70 Colo. 269, 201 P. 54 (1921).

One who goes from farm to farm operating a thresher is not a farm laborer within the exception contained in subsection (7)(c) of this section. *Indus. Comm'n v. Shadowen*, 68 Colo. 69, 187 P. 926 (1920).

By its definitions, the Industrial Relations Act grants the right to strike to all employees, private and public, and concurrently places conditions on the exercise of that right. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

Reading the Industrial Relations Act with the express definitions of employer and employee in mind, it can be concluded that public employees have a qualified or conditional right to strike, as do private employees. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

Disputes in the public sector, particularly those leading to strikes, are subject to the authority of the director of the division of labor. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

Teaching in a public school is certainly an "occupation" or "position" within the meaning of the Industrial Relations Act. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

As school districts are expressly included in the definition of employer, the director has the power to supervise the employment relationship between school districts and their teachers. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

In view of the general assembly's demonstrated ability to be selective by expressly excluding certain employers from the provisions of the Industrial Relations Act, the court cannot exclude public employers from the substantive provisions of the Industrial Relations Act, especially when those public employers are expressly included. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

Arguments advanced by the school district against the right of public employees to strike that invoke concepts of sovereignty and the control of the public purse and that are predicated on the classical distinction between the private and public sectors, are better directed to the general assembly since the plain definitions in the Industrial Relations Act include public employers and their employees. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

The principle of statutory construction that statutes in derogation of the common law must be narrowly construed is a principle applicable only when an ambiguity in the language of the statute in question permits such narrowing construction and when the intent of the legislature is not to the contrary and cannot be invoked to defeat the plain and manifest language of the Industrial Relations Act. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

The Industrial Relations Act and the Labor Peace Act do not conflict and the court will not infer from the passage of another act regulating collective bargaining in the private sector that the legislature intended to repeal the express provisions of the Industrial Relations Act and to return public sector labor relations to adjudication by the common law. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

Because the Industrial Relations Act provides the regulatory framework for the resolution of public sector labor disputes and ample statutory remedies, the common law need not be searched for remedies to resolve those disputes or claims arising from those disputes. *Martin v. Montezuma-Cortez Sch.* Dist. RE-1, 841 P.2d 237 (Colo. 1992).

1992).