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ELECTIONS
SECRETARY OF STATE

61.35 PM
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Proposed Initiative
2007-2008 #76
ORIGINAL

Be it enacted by the People of the State of Colorado:

SECTION 1. Article XVIII of the Colorado Constitution is amended BY THE ADDITION OF A NEW SECTION 13 to read:

SECTION 13. JUST CAUSE FOR EMPLOYEE DISCHARGE OR SUSPENSION.

(1) AN EMPLOYEE MAY BE DISCHARGED OR SUSPENDED ONLY IF HIS OR HER EMPLOYER HAS FIRST ESTABLISHED JUST CAUSE FOR THE DISCHARGE OR SUSPENSION.

(2) FOR PURPOSES OF THIS SECTION:

(a) "JUST CAUSE" MEANS:

- (I) INCOMPETENCE;
- (II) SUBSTANDARD PERFORMANCE OF ASSIGNED JOB DUTIES;
- (III) NEGLIGENCE OF ASSIGNED JOB DUTIES;
- (IV) REPEATED VIOLATIONS OF THE EMPLOYER'S WRITTEN POLICIES AND PROCEDURES RELATING TO JOB PERFORMANCE;
- (V) GROSS INSUBORDINATION THAT AFFECTS JOB PERFORMANCE;
- (VI) WILLFUL MISCONDUCT THAT AFFECTS JOB PERFORMANCE;
- (VII) CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE;
- (VIII) FILING OF BANKRUPTCY BY THE EMPLOYER; OR
- (IX) DISCHARGE OR SUSPENSION DUE TO SPECIFIC ECONOMIC CIRCUMSTANCES THAT DIRECTLY AND ADVERSELY AFFECT THE EMPLOYER AND ARE DOCUMENTED BY THE EMPLOYER, PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(b) "EMPLOYEE" MEANS ANY NATURAL PERSON WHO:

- (I) HAS WORKED AS A FULL-TIME EMPLOYEE FOR AT LEAST SIX CONSECUTIVE MONTHS FOR A PRIVATE SECTOR EMPLOYER; AND
- (II) IS NOT COVERED BY A BONA FIDE COLLECTIVE BARGAINING AGREEMENT WHICH CONTAINS A PROVISION THAT REQUIRES JUST CAUSE FOR DISCHARGE AND/OR SUSPENSION FROM EMPLOYMENT.

(c) "EMPLOYER" MEANS ANY BUSINESS ENTITY THAT EMPLOYS AT LEAST TWENTY FULL-TIME EMPLOYEES IN COLORADO. "EMPLOYER" EXCLUDES ANY GOVERNMENTAL ENTITY, CHARITABLE ORGANIZATION OR FOUNDATION EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C) OF THE INTERNAL REVENUE CODE AS AMENDED OR ANY SUCCESSOR PROVISION, OR DESIGNATED NON-PROFIT.

(d) "GOVERNMENTAL ENTITY" MEANS ANY AGENCY OR DEPARTMENT OF FEDERAL, STATE, OR LOCAL GOVERNMENT, INCLUDING BUT NOT LIMITED TO ANY BOARD, COMMISSION, BUREAU, COMMITTEE, COUNCIL, AUTHORITY, INSTITUTION OF HIGHER EDUCATION, POLITICAL

SUBDIVISION, OR OTHER UNIT OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCHES OF THE STATE; ANY CITY, COUNTY, CITY AND COUNTY, TOWN, OR OTHER UNIT OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCHES THEREOF; ANY SPECIAL DISTRICT, SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT, OR SPECIAL TAXING DISTRICT AT THE STATE OR LOCAL LEVELS OF GOVERNMENT; OR ANY OTHER KIND OF MUNICIPAL, PUBLIC, OR QUASI-PUBLIC CORPORATION.

(3) AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WHO HAS BEEN DISCHARGED OR SUSPENDED WITH THE EMPLOYER'S WRITTEN DOCUMENTATION OF THE JUST CAUSE USED TO JUSTIFY SUCH DISCHARGE OR SUSPENSION.

(4) (a) ANY EMPLOYEE WHO BELIEVES HE OR SHE WAS DISCHARGED OR SUSPENDED WITHOUT JUST CAUSE MAY, WITHIN ONE HUNDRED EIGHTY DAYS AFTER NOTIFICATION OF THE DISCHARGE OR SUSPENSION, FILE A CIVIL ACTION IN STATE DISTRICT COURT. IF THE DISCHARGE OR SUSPENSION IS HELD TO HAVE BEEN WRONGFUL UNDER THE PROVISIONS OF THIS SECTION, THE COURT SHALL, AT ITS DISCRETION, AWARD THE EMPLOYEE REINSTATEMENT IN HIS FORMER JOB, BACK WAGES, DAMAGES, OR ANY COMBINATION THEREOF.

(b) IN ADDITION TO ANY AWARD MADE PURSUANT TO THIS SUBSECTION, THE COURT MAY ALSO AWARD ATTORNEYS FEES TO THE PREVAILING PARTY.

(c) THE DECISION OF THE DISTRICT COURT MAY BE APPEALED TO THE COLORADO COURT OF APPEALS AND THE COLORADO SUPREME COURT AS PERMITTED UNDER THE COLORADO RULES OF CIVIL PROCEDURE.

(5) THE GENERAL ASSEMBLY MAY ENACT LEGISLATION TO FACILITATE THE PURPOSES OF THIS SECTION.

(6) THIS SECTION SHALL BECOME EFFECTIVE UPON PROCLAMATION OF THE GOVERNOR REGARDING THE VOTES CAST ON THIS AMENDMENT.