

**§1316. Testimony presented by employees of public utilities, competitive electricity providers, affiliated interests or utility contractors to legislative committees, the Public Utilities Commission and the Public Advocate**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employee" means a person who currently performs or formerly performed a service for wages or other remuneration under a contract of hire, expressed or implied, for a public utility, competitive electricity provider, affiliated interest or utility contractor. [PL 2023, c. 405, Pt. A, §124 (RPR).]

A-1. "Affiliated interest" has the same meaning as in section 707, subsection 1, paragraph A. [PL 2023, c. 405, Pt. A, §124 (RPR).]

B. "Employer" means a public utility, competitive electricity provider, affiliated interest or utility contractor licensed to do business in this State with one or more employees. [PL 2023, c. 405, Pt. A, §124 (RPR).]

C. "Legislative committee" means a joint standing committee or a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business. [PL 2023, c. 405, Pt. A, §124 (RPR).]

D. "Own time" means an employee's vacation or personal time, earned as a condition of employment. [PL 2023, c. 405, Pt. A, §124 (RPR).]

E. "Utility contractor" means a person that provides goods or services to a public utility or competitive electricity provider. [PL 2023, c. 405, Pt. A, §124 (RPR).]  
[PL 2023, c. 405, Pt. A, §124 (RPR).]

**2. Right of employees to provide testimony.** Employees have the right to represent themselves and to testify before or provide information to a legislative committee, the commission or the Public Advocate on their own time. An employee who complies with this section may not be denied the right to testify before or provide information to a legislative committee, the commission or the Public Advocate.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**2-A. Right of utility contractors to provide testimony.** A utility contractor has the right to testify before or provide information to a legislative committee, the commission or the Public Advocate.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**3. Discharge of, threats to or discrimination against employees for testimony presented to legislative committees, the commission or the Public Advocate.** A supervisor may not discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, in compliance with this section, in good faith testifies before or provides information to a legislative committee, the commission or the Public Advocate regarding the operation of the business of a public utility or competitive electricity provider or because the employee brings the subject matter of the testimony or information to the attention of a person having supervisory authority.

This subsection does not apply to an employee who has testified before or provided information to a legislative committee, the commission or the Public Advocate unless the employee has first brought the subject matter of the testimony or information in writing to the attention of a person having supervisory authority with the employer and has allowed the employer a reasonable time to address the subject matter of the testimony or information. If appropriate, the employer shall respond in writing.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**4. Exceptions.** The protections created in subsections 3 and 9 do not apply to testimony or information that, upon reasonable inquiry by the employee or utility contractor, would be found to be false.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**5. Civil actions for injunctive relief or other remedies by employees.** An employee who alleges a violation of rights under this section and who has made reasonable efforts to exhaust all grievance procedures, as provided for in the contract of employment or that otherwise may be available at the employee's place of employment, may bring a civil action, including an action for injunctive relief, within 90 days after the occurrence of that alleged violation or after the grievance procedure or similar process terminates. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides. An employee must establish each element of the employee's case by a preponderance of the evidence.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**5-A. Civil actions for injunctive relief or other remedies by utility contractors.** A utility contractor that alleges a violation of rights under this section may bring a civil action, including an action for injunctive relief, within 90 days after the occurrence of that alleged violation. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides. A utility contractor must establish each element of the utility contractor's case by a preponderance of the evidence.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**6. Remedies ordered by court.** A court, in rendering a judgment in an action brought pursuant to this section, may order reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. If an employee or utility contractor is the prevailing party, a court shall award the employee or utility contractor all or a portion of the costs of litigation, including reasonable attorney's fees and witness fees.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**7. Agreements.** This section does not diminish or impair the rights of a person under any collective bargaining agreement. A public utility, competitive electricity provider or affiliated interest may not enter into an agreement preventing employees from exercising their rights to testify before or provide information to a legislative committee, the commission or the Public Advocate pursuant to this section.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**8. Jury trial; common-law rights.** Any action brought under this section may be heard by a jury. Nothing in this section derogates any common-law rights of an employee or employer.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**9. Contracts with utility contractors.** If a utility contractor, in compliance with this section and in good faith, testifies before or provides information to a legislative committee, the commission or the Public Advocate, a public utility or competitive electricity provider may not respond to such action by the utility contractor by:

A. Terminating or threatening to terminate a contract with the utility contractor; or [PL 2023, c. 405, Pt. A, §124 (RPR).]

B. Harming or threatening to harm the utility contractor financially. [PL 2023, c. 405, Pt. A, §124 (RPR).]

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**10. Notice of rights required.** A public utility and a competitive electricity provider shall notify the public utility's and the competitive electricity provider's employees, affiliated interests and utility contractors of their rights under this section.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**11. Penalties.** The commission may impose penalties for violations of this section. This subsection does not apply in the case of an employee of a utility contractor alleging a violation under subsection 3.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

**12. Rulemaking.** The commission may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2023, c. 405, Pt. A, §124 (RPR).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 769, §A137 (AMD). PL 1999, c. 398, §A21 (AMD). PL 1999, c. 398, §§A104,105 (AFF). PL 2021, c. 659, §§5-9 (AMD). PL 2021, c. 702, §4 (AMD). PL 2023, c. 405, Pt. A, §124 (RPR).

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