

**HOUSE . . . . . No. 2492**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Daniel B. Winslow***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to management rights of public employees.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>	<i>1/20/2011</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>	<i>2/3/2011</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/3/2011</i>
<i>Robert L. Hedlund</i>		<i>2/3/2011</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>2/3/2011</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>	<i>2/4/2011</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>2/3/2011</i>

**HOUSE . . . . . No. 2492**

By Mr. Winslow of Norfolk, a petition (accompanied by bill, House, No. 2492) of Daniel B. Winslow and others relative to collective bargaining and management rights of public employees. Public Service.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

An Act relative to management rights of public employees.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section 1. Chapter 150E of the General Laws, as appearing in the 2008 Official Edition,  
2 is hereby amended by inserting at the end thereof the following new section: -

3 Section 16. Notwithstanding any general or special law to the contrary, a public  
4 employer shall have no authority to bargain collectively and shall have no authority to enter into  
5 collective bargaining agreements with respect to matters of inherent management right which  
6 shall include the right:

7 (i) to direct, appoint, and employ officers, agents and employees and to determine the  
8 standards therefor;

9 (ii) to discharge or terminate employees subject to the provisions of clauses (a) and (b).

10 (a) No such action to discharge or terminate shall be sustained if, in a proceeding invoked in  
11 accordance with the provisions of clause (b), the employee shall establish by a preponderance of  
12 the evidence that it was based upon race, sex, color, religion, creed, sexual orientation, age,

13 national origin, handicapping condition, marital status, or political affiliation, or activities or  
14 union activities or union organizing of the employees; a reprisal against the employee for  
15 disclosure of information by an employee which the employee reasonably believes evidences a  
16 violation of any law, rule or regulation or mismanagement, a gross waste of funds, or abuse of  
17 authority; a reprisal against any employee for the refusal of any person to engage in political  
18 activity. (b) The parties may include in any written agreement a grievance procedure culminating  
19 in final and binding arbitration which may be invoked in the event any employee is aggrieved by  
20 any action taken to so discharge or terminate employees;

21 (iii) to plan and determine the levels of service provided by the employer;

22 (iv) to direct, supervise, control, and evaluate the departments, units, or programs; to  
23 classify the various positions and ascribe duties and standards of productivity therefor;

24 (v) to develop and determine levels of staffing and training; provided, however, that to  
25 the extent that levels of staffing and training have an impact on the safety of employees the  
26 determination, development and implementation of such levels of staffing and training shall not  
27 constitute a matter of inherent management right and the public employer shall have the  
28 authority to bargain collectively on such subjects with labor organizations representing  
29 employees; and provided further, that such public employer and labor organizations may include  
30 in any written agreement a grievance procedure culminating in final and binding arbitration  
31 before a neutral arbitrator which may be invoked in the event that an employee to whom such  
32 agreement applies is aggrieved by actions taken by management respect with to the development,  
33 determination or implementation of levels of staffing and training which have an impact on the  
34 safety of employees;

35 (vi) to determine whether goods or services should be made, leased, contracted for, or  
36 purchased on either a temporary or permanent basis;

37 (vii) to assign and apportion overtime;

38 (viii) to hire part-time employees;

39 (ix) to require random urine testing to assure that employees are free from alcohol and  
40 illicit drugs during working hours; provided that all members of management shall be subject to  
41 the same provisions.

42 The public employer is hereby prohibited from bargaining collectively or entering into  
43 any agreement to make pension benefit payments to its employees that are determined in a  
44 manner that includes the amount of overtime earnings of said employees.

45 The public employer is hereby prohibited from bargaining collectively or entering into a  
46 contract which provides for automatic cost-of-living salary adjustments which are based on  
47 changes in the consumer price index or other similar adjustments unless specifically authorized  
48 by law.