

By Mr. Blanchette of Lawrence, petition of Kevin P. Blanchette for legislation to establish a labor court in the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT ESTABLISHING A LABOR COURT IN THE COMMONWEALTH.

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. The General Laws are hereby amended by
2 inserting after chapter 185C the following chapter: —

3 **CHAPTER 185D.**

4 **THE LABOR COURT.**

5 Section 1. The labor court department established under
6 section one of chapter two hundred and eleven B shall be a court
7 of record, and wherever the words "labor court", or wherever the
8 word "labor" is used in that context, they shall refer to the labor
9 court department of the trial court, and the words "judge of the
10 labor court" or the word "judge", in context, shall mean an
11 associate justice of the trial court appointed to the labor court
12 department.

13 Section 2. The labor court shall sit in the city of Boston and
14 at such other locations within the commonwealth as the supreme
15 judicial court shall determine by rule or order. The commonwealth
16 shall provide adequate quarters and facilities for the labor court.
17 The chief justice, with the approval of the supreme judicial court,
18 shall arrange such sessions of the labor court as may be required
19 to discharge its business. Such sittings may be adjourned to such
20 places and times as shall appear to the court to be most conducive
21 to the dispatch of its business and to the interests of the public.

22 The court shall have jurisdiction throughout the common-
23 wealth, shall always be open, except on Saturdays, Sundays and
24 legal holidays, and shall have a seal with which all orders,
25 processes and papers made by or proceeding from the court and
26 requiring a seal shall be sealed; provided, that, if the convenience
27 of the public so requires, the court shall be open on such
28 Saturdays, not legal holidays, and during such hours thereof, as
29 the judges thereof may determine. Its notices, orders and processes
30 may run into any county and be returnable as it directs.

31 The court shall from time to time make general rules and forms
32 for procedure, which, before taking effect, shall be approved by
33 the supreme judicial court or by a justice thereof.

34 Section 3. The labor court department shall consist of three
35 associate justices appointed to the labor court department. The
36 justice as provided under section one of chapter two hundred and
37 eleven B as the administrative justice for the labor court
38 department, in addition to his judicial powers and duties, subject
39 to the superintendence authority of the supreme judicial court and
40 the administrative authority of the chief administrative justice of
41 the trial court, shall be the administrative head of the labor court
42 department.

43 Section 4. The labor court department shall have common law
44 and statutory original jurisdiction concurrent with the divisions
45 of the district court department, the superior court department
46 and the appeals court department of all crimes and of all civil
47 actions arising, under section eleven K of chapter twenty-three,
48 sections two, forty-three, and forty-four of chapter thirty-one,
49 section sixteen of chapter thirty-two, sections nine, twenty B,
50 twenty C, twenty-four, twenty-four H, and one hundred and five A
51 of chapter one hundred and forty-nine, so much of chapter one
52 hundred and fifty as pertains to terms, conditions and places of
53 employment, sections six, six B, and seven of chapter one hundred
54 and fifty A, sections four and five of chapter one hundred and
55 fifty B, so much of chapter one hundred and fifty C as pertains
56 to terms, conditions and places of employment, section eleven of
57 chapter one hundred and fifty E, sections forty-two and seventy-
58 two of chapter one hundred and fifty-one A, sections four, five
59 and six of chapter one hundred and fifty-one B, sections twelve,

60 twelve A, fifteen, seventeen, thirty-seven, fifty-two F, fifty-five,
61 sixty A, sixty-five L, sixty-five M, and seventy-five B of chapter
62 one hundred and fifty-two, sections six and six A of chapter two
63 hundred and fourteen, so much of chapter two hundred and fifty-
64 one as pertains to terms, conditions, and places of employment,
65 and any other general or special law, ordinance, by-law, rule or
66 regulation as is concerned directly or indirectly with the terms,
67 conditions and places of employment, and shall also have
68 jurisdiction in equity, concurrent with the divisions of the district
69 court department, the divisions of the probate and family court
70 department, the superior court department, the appeals court, and
71 the supreme judicial court, of all cases and matters so arising.

72 In all matters within their jurisdiction, the labor court
73 department shall have all the powers of the superior court
74 department including the power to grant temporary restraining
75 orders and preliminary injunctions as justice and equity may
76 require. The labor court department shall also have the power and
77 authority for enforcing orders, sentences and judgments made or
78 pronounced in the exercise of any jurisdiction vested in it, and
79 for punishing contempts of such orders, sentences and judgments
80 and other contempts of its authority, as are vested for such or
81 similar purposes in the supreme judicial court or superior court
82 department.

83 Section 5. The labor court shall have a clerk, who shall be
84 appointed by the governor and shall hold office during good
85 behavior, subject, however, to retirement under the provisions of
86 any applicable general or special law relative to retirement
87 systems.

88 Section 6. The clerk and all assistant clerks shall be paid,
89 subject to appropriation, in accordance with the provisions of
90 section twenty-eight of chapter five hundred and nineteen of the
91 acts of nineteen hundred and eighty-six.

92 Section 7. In the case of the absence, death or removal of the
93 clerk, the judge may appoint a temporary clerk, to act until the
94 clerk resumes his duties or until the vacancy is filled.

95 Section 8. The clerk may, subject to the approval of the chief
96 administrative justice, appoint such number of assistant clerks as
97 he may from time to time determine, subject to appropriation.

98 All powers conferred by statute upon the clerk may be exercised,
99 subject to the control of the clerk, by an assistant clerk. The clerk
100 shall be responsible for all official acts of the assistant clerks; and
101 they shall be removable at the pleasure of the clerk or of the judge.

102 Section 9. The clerk, any temporary clerk and all assistant
103 clerks shall be sworn; and in the case of any temporary clerk and
104 of every assistant clerk, the oath of office shall be administered
105 by the judge who shall, upon administering the same, forthwith
106 make return of such act with the date thereof to the state secretary.

107 Section 10. The clerk, any temporary clerk and every assistant
108 clerk, before entering upon the performance of his official duties,
109 and thereafter, at intervals of not more than one year, so long
110 as he continues to hold such office, shall give to the
111 commonwealth a bond, conditioned to perform faithfully his
112 official duties, with a surety company, authorized to transact
113 business in the commonwealth as surety, in a sum approved by
114 the judge, but in no event less than five thousand dollars. Failure
115 to give such bond shall be sufficient cause for his removal.

116 Section 11. The clerk, temporary clerk and assistant clerks or
117 one of them shall attend all sessions of the labor court and shall
118 keep a record of all its proceedings. The clerk shall have all the
119 care and custody of all the records, books and papers appertaining
120 to, or filed or deposited in, his office. The clerk shall make and
121 issue writs and processes, shall make returns of the labor court,
122 tax bills of costs and receive fines, forfeitures, fees and costs
123 accruing from the civil and criminal business of the labor court,
124 including fees for blanks and copies. The clerk shall have other
125 such powers and duties as the judge may from time to time order.
126 The clerk shall be allowed annually for clerical assistance such
127 amount as the chief administrative justice may approve, subject
128 to appropriation.

129 The clerk and assistant clerks of the labor court may sign
130 process issued by the labor court, and the labor court records,
131 documents or other legal papers or copies thereof made or issued
132 by such clerk or assistant clerks in conformity with law, except
133 search warrants and process authorizing arrests or commitments,
134 by imprinting thereon a facsimile of the signature of the clerk or
135 assistant clerk; and such facsimile signatures shall have the same
136 validity as their written signatures.

137 Section 12. The judge may, subject to the approval of the chief
138 administrative justice of the trial court and subject to
139 appropriation, appoint such number of court officers for the labor
140 court as he may from time to time determine. Any court officer
141 may be removed for any cause considered by the judge to be
142 sufficient. Any vacancy caused by removal or otherwise may be
143 filled by the judge. The court officers shall attend the sessions of
144 the labor court, shall preserve order and may serve warrants,
145 mittimus, precepts, orders and processes of the labor court.
146 Each court officer shall give bond for the faithful performance
147 of his duties in the sum of one thousand dollars payable to the
148 commonwealth, with sufficient sureties approved by the judge.
149 Each court officer, while on duty in the labor court, shall wear
150 a uniform approved by the judge, which shall be furnished at the
151 expense of the commonwealth.

152 Section 13. The judge may appoint such number of labor
153 specialists as he from time to time may determine. The judge may
154 designate one of them as chief labor specialist. All labor specialists
155 shall hold office at the pleasure of the judge, subject, however,
156 to retirement under the provisions of any applicable general and
157 special law relative to retirement systems. All labor specialists
158 shall be knowledgeable in matters of employment and workplace
159 laws and regulations. The labor specialists shall have such powers
160 and perform such duties as the judge shall from time to time
161 prescribe including without limitation: pre-trial case evaluation,
162 settlement conferences, and conciliation and mediation
163 alternatives to litigation. Every labor specialist shall be sworn by
164 the judge, who shall, upon administering the oath, forthwith make
165 return of such act with the date thereof to the state secretary.

166 Section 14. No clerk, temporary clerk, assistant clerk or labor
167 specialist shall be retained or employed as an attorney in any
168 complaint, action or suit in the labor court or which has been
169 examined or tried therein.

170 Section 15. At the trial of any issue of fact, the judge presiding
171 at the trial may appoint a stenographer, who shall be sworn and
172 shall attend the trial, or such part thereof as may be directed, and
173 perform like duties and receive the same compensation therefor
174 as a stenographer appointed by the superior court who is not on

175 salary; and the sums so payable for his attendance at court for
176 any transcript of his notes or part thereof furnished to the judge
177 presiding at the trial by his direction shall be paid by the
178 commonwealth upon the certificate of the judge. In the alternative
179 to such stenographic service, the judge presiding may provide for
180 electronic recordings sufficient for the preparation of such
181 transcripts.

182 The judge may employ stenographic service for the labor court
183 to such amount as the commonwealth may appropriate; and
184 within the limits of available appropriations, the clerk of the labor
185 court may procure such law books and such blank books, blanks,
186 stationery and other incidentals required by the labor court as the
187 judge may approve. Expenses so incurred shall be paid upon
188 vouchers approved by the judge.

189 Section 16. All costs and expenses of the labor court shall be
190 paid by the commonwealth. The clerk of the labor court shall pay
191 into the general fund of the commonwealth all sums received by
192 him whether as fees, fines, forfeitures or otherwise.

193

PROCEDURE

194 Section 17. Proceedings shall be commenced in the labor court
195 as follows: a criminal case, by complaint in like manner as in a
196 district court; an action at law, including an action for summary
197 process, by writ in like manner as in the superior court or a district
198 court; and a suit in equity, by bill or petition with a writ of
199 subpoena according to the usual course of proceedings in equity,
200 in like manner as in the superior court.

201 The clerk of the labor court shall charge a fee of two dollars
202 for the entry of an action or suit, which shall be paid by the party
203 entering the same; and no other fee shall be charged for taxing
204 costs, for issuing any subpoena or execution or for issuing any
205 order of notice or other mesne, interlocutory or final order, rule,
206 decree or process authorized by law, except a temporary
207 restraining order or preliminary injunction for the issuance of
208 which the clerk shall charge five dollars; provided, however, that
209 no fee for the entry of an action or suit or for the issuance of a
210 temporary restraining order or preliminary injunction shall be

211 charged the commonwealth, its political subdivisions, or any
212 board or officer of either. If the labor court finds that the party
213 entering the action or suit or obtaining the restraining order or
214 preliminary injunction is destitute and unable to pay, it may order
215 the payment of the fee or fees prescribed by this paragraph to be
216 waived.

217 Notwithstanding that a proceeding under this chapter is
218 commenced by complaint, if the labor court finds that the offense
219 charged was not willful, intentional, reckless or repeated, the
220 proceeding shall not be deemed criminal and no record of the case
221 shall be entered in the probation records.

222 Suits in equity in the labor court shall be entered upon a
223 separate equity docket, and shall proceed in accordance with the
224 Massachusetts Rules of Civil Procedure.

225 Section 18. Any action at law or suit in equity within the
226 jurisdiction of the labor court which is pending in another court
227 may be transferred to the labor court by any party thereto; but
228 no action at law or suit in equity originally entered in the labor
229 court shall be transferred to any other court, except that the
230 supreme judicial court may direct any cause pending in the labor
231 court to be transferred to it in whole or in part for further action
232 or directions, and in cases of partial transfer may issue such orders
233 or directions in regard to the part of such cause not so transferred
234 as justice may require.

235 Whenever cross actions between the same parties or two or
236 more actions, including for the purposes hereof other court
237 proceedings, arising out of or connected with the same labor
238 action are pending, one or more in the labor court and also one
239 or more in one or more district courts or one or more probate
240 courts, or in the superior court, or in the appeals court, the labor
241 court, upon motion of any party to any of such actions, may order
242 that the action or actions pending in the district court or courts
243 and in the probate court or courts or in the superior court, or
244 in the appeals court, with all the papers relating thereto, be
245 transferred to the labor court without the payment of any entry
246 fee; and such action or actions shall thereafter proceed in the labor
247 court as though originally entered there.

248 Section 19. All cases in the labor court, including demurrers,
249 pleas, motions and the like, whether interlocutory or final, shall

250 be heard and determined by the labor court sitting without a jury,
251 except that in all cases where a jury trial is required by the
252 constitution of the commonwealth or of the United States and
253 the defendant has not waived his rights to a trial by jury, the cause
254 shall be forthwith tried in the labor court before a jury selected
255 in accordance with chapters two hundred and thirty-four and two
256 hundred and thirty-four A.

257 Section 20. Every judgment, order and decree entered by the
258 labor court shall bear as its date the day when actually entered
259 by the clerk, and at the time of the entry he shall note such date
260 upon the judgment, order or decree and upon the docket. When
261 a judgment or decree is entered by the labor court upon a demurrer
262 or a case stated or when a judgment or decree is entered in an
263 action or suit, except in open court, the clerk shall forthwith give
264 notice thereof to the parties or to their attorneys.

265 In suits in equity under this chapter, a final decree shall be
266 entered although the exceptions have been taken or a bill of
267 exceptions has been filed and allowed, but execution and
268 operation of the decree so entered shall be stayed until the
269 exceptions have been disposed of unless the judge who made the
270 ruling to which the exceptions were taken finds that the exceptions
271 are immaterial, frivolous or intended for delay.

272 Section 21. In the determination of causes, all decisions of the
273 labor court shall be given in writing, except as otherwise provided
274 herein, and the grounds for each decision shall be slated and filed
275 in the cause in which rendered. The court may, in appropriate
276 cases, enter a proper order, direction, judgment or decree for the
277 further disposition for a case without stating the reasons therefor,
278 or may cause a rescript containing a brief statement of the grounds
279 and reasons for the decision, to be filed therein. Opinions and
280 rescripts of the labor court shall be published by the reporter of
281 decisions.

282 Section 22. If upon making an interlocutory order or decree
283 at law or in equity, the judge is of opinion that it so affects the
284 merits of the controversy that the matter ought, before further
285 proceedings, to be determined by the full court of the supreme
286 judicial court, he may report the question for that purpose, and
287 stay all further proceedings except those necessary to preserve the
288 rights of the parties.

1 SECTION 2. Section 7 of chapter 4, as appearing in the 1986
2 Official Edition, is hereby amended by inserting after line 359 the
3 following words: —

4 Fifty-ninth, "Labor court" shall mean the labor court
5 department of the trial court, or a session thereof for holding
6 court.

1 SECTION 3. Section 14 of chapter 30A, as appearing in the
2 1986 Official Edition, is hereby amended by inserting in line 16
3 after the word "in" the words: —

4 the labor court where applicable, or in.

1 SECTION 4. Chapter 30A of the General Laws is hereby
2 amended by inserting after section 15 the following new section: —

3 Section 15A. The supreme judicial court shall have exclusive
4 jurisdiction to review any proceedings had, determinations made,
5 and orders or judgments entered in the labor court pursuant to
6 section fourteen. The supreme judicial court may by rule vary the
7 procedure authorized or required for such review upon a finding
8 that the review by the court will thereby be made more simple,
9 speedy and effective.

1 SECTION 5. Section 11 of chapter 150E, as appearing in the
2 1986 Official Edition, is hereby amended in lines 71 and 72 by
3 adding after the words "appeals court" in each instance the
4 words: —

5 or labor court.

1 SECTION 6. Section 1 of chapter 211B, as appearing in the
2 1986 Official Edition, is hereby amended by adding after the words
3 "land court department," in line 3 the words: —

4 the labor court department,.

1 SECTION 7. Section 2 of said chapter 211B, as so appearing,
2 is hereby amended by adding after the words "land court
3 department," in line 3 the words: —

4 three justices appointed to the labor court department,.

1 SECTION 8. Section 8 of said chapter 211B, as so appearing,
2 is hereby amended by adding after the word "housing," in line
3 4 the word: —
4 labor,.

1 SECTION 9. Section 9 of said chapter 211B, as so appearing,
2 is hereby amended by adding after the word "housing," in line
3 23 the word: —
4 labor,.

1 SECTION 10. Said section 9 of said chapter 211B, as so
2 appearing, is further amended by adding after the words
3 "municipal court department," in line 42 the words: —
4 labor court department,.

1 SECTION 11. Section 13 of said chapter 211B, as so
2 appearing, is hereby amended by adding after the word "housing,"
3 in line 2 the word: —
4 labor,.

1 SECTION 12. Section 1 of chapter 214, as appearing in the
2 1986 Official Edition, is hereby amended by striking out line 5
3 and inserting the words: —
4 that the superior court and the labor court shall have original
5 concurrent jurisdiction of all.

1 SECTION 13. Section 6 of said chapter 214, as so appearing,
2 is hereby amended by inserting in line 101 after the word "court"
3 the words: —
4 or labor court as the case may be.

1 SECTION 14. Section 6E of chapter 231, as appearing in the
2 1986 Official Edition, is hereby amended by adding after the words
3 "land court," in line 4 the words: —
4 the labor court,.

1 SECTION 15. Chapter 231 of the General Laws is hereby
2 amended by inserting after section 112B the following new
3 section: —

4 Section 112C. An appeal to the supreme judicial court shall lie
5 from the final decision of the labor court in any action or other
6 civil proceeding arising out of any judgment, finding, decision or
7 award rendered by the contributory retirement appeals board, the
8 civil service commission, the labor relations commission, the
9 commission against discrimination or the industrial accident
10 board or a reviewing board within the department of industrial
11 accidents. Claims of appeal shall be filed in the office of the clerk
12 within thirty days after the notice of the decision. The completion
13 of such appeal shall be in accordance with the Massachusetts
14 Rules of Appellate Procedure. The expense of the preparation of
15 the necessary papers and copies of papers and their transmission,
16 and the entry fee in the supreme judicial court, shall be taxed in
17 the bill of costs of the prevailing party, if he has paid it.

1 SECTION 16. Section 113 of said chapter 231, as so appearing,
2 is hereby amended by striking out the word "A" in line 1 and
3 inserting in place thereof the following: —

4 A party aggrieved by a final judgment of the labor court not
5 otherwise provided for pursuant to section 112C, and a.

1 SECTION 17. Section 117 of said chapter 231, as so appearing,
2 is hereby amended by adding after the words "county of
3 Hampden," in line 3 the words: —

4 or the labor court,.

1 SECTION 18. Said section 117 of said chapter 231, as so
2 appearing, is further amended by adding after the word
3 "Hampden," in line 11 the words: —

4 or the labor court,.

1 SECTION 19. Section 118 of said chapter 231, as so appearing,
2 is hereby amended by striking out line 3 and inserting in place
3 thereof the following: —

4 ment, the labor court department or the probate and family
5 court department may file, within thirty.

1 SECTION 20. Said section 118 of said chapter 231, as so
2 appearing, is further amended by adding after the words “superior
3 court department,” in line 10 the words: —
4 the labor court department.

1 SECTION 21. Subdivision (1) of section 28 of chapter 519 of
2 the acts of 1986 is hereby amended by inserting after the words
3 “chapter two hundred and twenty-one of the General Laws,” the
4 following: —
5 the clerk and assistant clerks of the labor court, whose
6 compensation is provided for in section six of chapter one hundred
7 and eighty-five D of the General Laws;.

1 SECTION 22. Clause (a) of subdivision (2) of said section 28
2 of said chapter 519 is hereby amended by inserting after the words
3 “one hundred and eighty-five C of the General Laws,” the
4 following: —
5 section six of chapter one hundred and eighty-five D of the
6 General Laws,.

1 SECTION 23. Clause (c) of said subdivision (2) of said section
2 28 of said chapter 519 is hereby amended by inserting after line
3 14, under the heading “Class I”, the following: —
4 The Clerk of the Labor Court Department.

1 SECTION 24. Said clause (c) of said subdivision (2) of said
2 section 28 of said chapter 519 is hereby further amended by
3 inserting after line 34, under the heading “Class III”, the
4 following: —
5 All Assistant Clerks in the Labor Court Department.

1 SECTION 25. This act shall take effect upon its passage,
2 insofar as the appointing, commissioning and qualifying of the
3 judge and clerk of the court hereby established are concerned; and
4 it shall be in full force and effect, and the authority and jurisdiction
5 of the court hereby established shall begin on the first day of
6 January, nineteen hundred and ninety.