

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 26-0311.01 Josh Schultz x5486

HOUSE BILL 26-1005

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO REDUCE BARRIERS IN THE "LABOR PEACE**
102 **ACT" TO PROMOTE GOOD FAITH COLLECTIVE BARGAINING**
103 **NEGOTIATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes the following changes to the "Labor Peace Act":

- Specifies that employees' right to bargain collectively includes the right to bargain collectively concerning any mandatory subject of bargaining;
- Eliminates the requirement for a second election to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- negotiate a union security agreement clause in the collective bargaining process;
- Declares that it is not an unfair labor practice for an employer to refuse to agree to a lawful proposal made by the exclusive representative of the employees, or for the exclusive representative of the employees to refuse to agree to a lawful proposal made by the employer, concerning a mandatory subject of bargaining if the refusing party has bargained in good faith with the other party; and
- Requires employers and employees, through their exclusive representative, to bargain in good faith.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-3-102, **amend**
 3 (1)(a), (1)(b), (1)(c), and (1)(e) as follows:

4 **8-3-102. Legislative declaration.**

5 (1) The public policy of the state as to employment relations and
 6 collective bargaining, in the furtherance of which this article 3 is enacted,
 7 is declared to be as follows:

8 (a) It recognizes that there are three major interests involved,
 9 namely: That of the public, the employee, and the employer. ~~These three~~
 10 ~~interests are to a considerable extent interrelated.~~ It is the policy of the
 11 state to protect and promote each of these interests with due regard to ~~the~~
 12 ~~situation and to the rights of the others~~ THE RIGHTS OF ALL INVOLVED.

13 (b) Industrial peace, ~~regular and adequate income~~ FAIR WAGES
 14 AND BENEFITS for the employee, and uninterrupted production of goods
 15 and services ~~are promotive of~~ PROMOTE all of these interests. They are
 16 largely dependent upon the maintenance of ~~fair, friendly, and mutually~~
 17 ~~satisfactory~~ GOOD FAITH employment relations and the availability of
 18 suitable machinery for the peaceful adjustment of whatever legitimate
 19 controversies may arise. ~~It is recognized that certain employers, including~~

1 ~~farmers and farmer cooperatives, in addition to their general employer~~
2 ~~problems, face special problems arising from perishable commodities and~~
3 ~~seasonal production which require adequate consideration.~~ It is also
4 recognized that whatever may be the rights of disputants with respect to
5 each other in any controversy regarding employment relations, they
6 should not be permitted in the conduct of their controversy to intrude
7 directly or indirectly into the primary rights of third parties to earn a
8 livelihood, transact business, and engage in the ordinary affairs of life by
9 any lawful means and free from ~~molestation~~, interference, intimidation,
10 restraint, or coercion.

11 (c) ~~Negotiations~~ of Terms and conditions of work should BE
12 NEGOTIATED IN GOOD FAITH BY ALL PARTIES AND result from voluntary
13 agreement between AN employer and ~~employee~~ ITS EMPLOYEES AND
14 WITHOUT UNDUE INTERFERENCE BY THE STATE. For the purpose of such
15 negotiation, ~~an employee has~~ EMPLOYEES HAVE the right, if ~~he desires~~
16 DESIRED, to associate with ~~others~~ EACH OTHER in organizing and
17 bargaining collectively through representatives of ~~his own~~ THE
18 EMPLOYEES' free choosing without intimidation or coercion from any
19 source.

20 (e) In order to preserve and promote the interests of the public, the
21 ~~employee~~ EMPLOYEES, and the employer alike, the state shall establish
22 standards of fair conduct in employment relations and provide a
23 convenient, expeditious, and impartial tribunal by which these interests
24 may have their respective rights and obligations adjudicated, without
25 limiting the jurisdiction of the courts to ~~protect property~~ PREVENT
26 VIOLENCE, and to prevent and punish the commission of unlawful acts.
27 ~~While limiting individual and group rights of aggression and defense, the~~

1 ~~state substitutes processes of justice for the more primitive methods of~~
2 ~~trial by combat.~~

3 **SECTION 2.** In Colorado Revised Statutes, **amend** 8-3-106 as
4 follows:

5 **8-3-106. Rights of employees.**

6 In accordance with ~~the provisions of this article~~ ARTICLE 3,
7 employees have the right of self-organization and the right to form, join,
8 or assist labor organizations; to bargain collectively, INCLUDING THE
9 RIGHT TO BARGAIN COLLECTIVELY CONCERNING ANY MANDATORY
10 SUBJECT OF BARGAINING, through representatives of their own free
11 choosing; and to engage in lawful, concerted activities for the purpose of
12 collective bargaining or other mutual aid or protection. Each employee
13 also has the right to refrain from any ~~of~~ such activities. The rights of each
14 employee are essential rights, and nothing contained in this ~~article~~
15 ARTICLE 3 shall be so construed ~~as~~ to infringe upon or have any operation
16 against or in conflict with such rights.

17 **SECTION 3.** In Colorado Revised Statutes, 8-3-108, **amend**
18 (1)(c)(I) and (1)(c)(III); and **repeal** (1)(c)(II) and (1)(c)(IV) as follows:

19 **8-3-108. What are unfair labor practices.**

20 (1) It is an unfair labor practice for an employer, individually or
21 in concert with others, to:

22 (c) (I) Encourage or discourage membership in ~~any~~ A labor
23 organization, employee agency, committee, association, or representation
24 plan by discrimination in regard to hiring, tenure, or other terms or
25 conditions of employment; except that an employer shall not be
26 prohibited from entering into an all-union agreement with the
27 representatives of ~~his~~ THE EMPLOYER'S employees in a collective

1 bargaining unit. if such all-union agreement is approved by the
2 affirmative vote of at least a majority of all the employees eligible to vote
3 or three-quarters or more of the employees who actually voted, whichever
4 is greater, by secret ballot in favor of such all-union agreement in an
5 election provided for in this paragraph (c) conducted under the
6 supervision of the director. Where the collective bargaining unit involved
7 is currently recognized under sections 8 or 9 of the "National Labor
8 Relations Act", as amended, (49 Stat. 449; 61 Stat. 136), or where the
9 collective bargaining unit involved is currently recognized by reason of
10 certification by the director or the national labor relations board, or where
11 such units were so recognized at the time of an election provided for in
12 this paragraph (c), there is and shall be deemed to have been no need for
13 a certification election as a precedent to an election provided for in this
14 paragraph (c) in such collective bargaining unit on the issue of an
15 all-union agreement. The employees in such a recognized or certified unit
16 within this state shall be the only employees eligible to vote in an election
17 provided for in this paragraph (c) held in such unit.

18 (II) (A) Any agreement as defined in section 8-3-104 (1.5)
19 between an employer and a labor organization in existence on June 29,
20 1977, which has not been voted upon by the employees covered by it
21 may, by written mutual agreement of such employer and labor
22 organization, be ratified and upon such ratification shall be filed with the
23 director. Any agreement as defined in section 8-3-104 (1.5) between an
24 employer and a labor organization in existence on June 29, 1977, which
25 has not been ratified and filed, as provided in this subsection (1)(c)(H),
26 shall not be legal, valid, or enforceable during the remaining term of that
27 labor contract unless and until either the employer, the labor organization,

1 or at least twenty percent of the employees covered by such agreement
2 file a petition upon forms provided by the division, demanding an election
3 submitting the question of the all-union agreement to the employees
4 covered by such agreement and said agreement is approved by the
5 affirmative vote of at least a majority of all the employees eligible to vote
6 or three-quarters or more of the employees who actually voted, whichever
7 is greater, by secret ballot in favor of such all-union agreement in an
8 election provided for in this subsection (1)(c) conducted under the
9 supervision of the director.

10 (B) Upon filing of such instrument of ratification with the
11 director, the director shall certify that such agreement complies with the
12 provisions of section 8-3-104 (1.5) notwithstanding the absence of any
13 other election requirements of this article 3, and by virtue of such
14 ratification and certification, such agreement shall be deemed legal, valid,
15 and enforceable to the extent permitted under the provisions of this article
16 3, subject to the provisions of subsection (1)(c)(II)(D) of this section.

17 (C) Within two weeks after the certification by the director
18 provided for in sub-subparagraph (B) of this subparagraph (H), the
19 employer which is a party to such agreement shall post or give written
20 notice to all employees covered by such agreement on the date of
21 ratification of the fact that the agreement has been ratified and certified
22 pursuant to the provisions of this subparagraph (H) and of the right of
23 such employees to file a petition demanding an election as provided in
24 sub-subparagraph (D) of this subparagraph (H). Proof of giving of notice
25 shall be filed with the director within twenty days after the certification
26 by the director provided for in sub-subparagraph (B) of this subparagraph
27 (H).

1 ~~(D) Within forty-five days after the certification by the director~~
2 ~~provided for in sub-subparagraph (B) of this subparagraph (H) twenty~~
3 ~~percent of the employees covered by such agreement may file a petition,~~
4 ~~upon forms provided by the division, demanding an election submitting~~
5 ~~the question of ratification of such agreement to the employees covered~~
6 ~~by such agreement. If ratification of the agreement is approved by the~~
7 ~~affirmative vote of at least a majority of all the employees eligible to vote~~
8 ~~or three-quarters or more of the employees who actually voted, whichever~~
9 ~~is greater, in said election, the agreement shall be conclusively deemed~~
10 ~~ratified. Such election shall be held as promptly as possible following the~~
11 ~~filing of the petition. In the event that a certified contract expires or is~~
12 ~~terminated prior to the conducting of such an election, such certification~~
13 ~~shall be applicable to any subsequent agreement between the same parties~~
14 ~~until such election may be held.~~

15 (III) The director shall declare ~~any such~~ AN all-union agreement
16 terminated whenever

17 ~~(A) He~~ THE DIRECTOR finds that the labor organization involved
18 HAS unreasonably ~~has~~ refused to receive as a member ~~any~~ AN employee
19 of ~~such~~ THE employer, and ~~any person~~ AN interested INDIVIDUAL may
20 come before the director, as provided in section 8-3-110, and ask the
21 performance of this duty. ~~or~~

22 ~~(B) The employer or twenty percent of the employees covered by~~
23 ~~such agreement file a petition with the director on forms provided by the~~
24 ~~division seeking to revoke such all-union agreement and, in an election~~
25 ~~conducted under the supervision of the director, there is not an~~
26 ~~affirmative vote of at least a majority of all the employees eligible to vote~~
27 ~~or three-quarters or more of the employees who actually voted, whichever~~

1 is greater, in such election by secret ballot in favor of such all-union
2 agreement. Such petition may only be filed within a time period between
3 one hundred twenty and one hundred five days prior to the end of the
4 collective bargaining agreement or prior to a triennial anniversary of the
5 date of such agreement, and the division must complete said election
6 within sixty days prior to the termination or triennial anniversary of said
7 collective bargaining agreement. The director may conduct an election
8 within a collective bargaining unit no more often than once during the
9 term of any collective bargaining agreement or once every three years in
10 the case of agreements for a period longer than three years.

11 (IV) The director shall provide a means by which employees may
12 submit confidential petitions for an election under this paragraph (c), a
13 means for verifying the employment, status, and eligibility of petitioners,
14 and a means for determining the sufficiency of such petitions with respect
15 to the twenty percent signature requirement, all of which shall be
16 accomplished without disclosing the identification of such petitioners,
17 except as allowed under subparagraph (V) of this paragraph (c). This duty
18 shall apply to petitions filed pursuant to subparagraph (H)(A), (H)(D), or
19 (HH)(B) of this paragraph (c).

20 **SECTION 4.** In Colorado Revised Statutes, 8-3-109, **amend** (3);
21 and **add** (4) as follows:

22 **8-3-109. What are not unfair labor practices - obligation to**
23 **bargain in good faith.**

24 (3) It shall not be IS NOT an unfair labor practice for an employer
25 engaged primarily in the building and construction industry to enter into
26 an all-union agreement. ~~except an agreement providing for an agency~~
27 ~~shop or modified agency shop, with a labor organization, which~~

1 ~~agreement is limited in its coverage to employees who, upon their~~
2 ~~employment, will be engaged in the building and construction industry,~~
3 ~~if a copy of such agreement is filed with the director and certified by him~~
4 ~~as provided in section 8-3-108 (1)(c)(II)(B). Such agreement may be~~
5 ~~ratified as provided in section 8-3-108 (1)(c)(II)(C) or terminated by the~~
6 ~~director as provided in section 8-3-108 (1)(c)(III).~~

7 (4) IT IS NOT AN UNFAIR LABOR PRACTICE FOR AN EMPLOYER TO
8 REFUSE TO AGREE TO A LAWFUL PROPOSAL MADE BY THE EXCLUSIVE
9 REPRESENTATIVE OF THE EMPLOYEES, OR FOR THE EXCLUSIVE
10 REPRESENTATIVE OF THE EMPLOYEES TO REFUSE TO AGREE TO A LAWFUL
11 PROPOSAL MADE BY THE EMPLOYER, CONCERNING A MANDATORY SUBJECT
12 OF BARGAINING IF THE REFUSING PARTY HAS BARGAINED IN GOOD FAITH
13 WITH THE OTHER PARTY. EMPLOYERS AND EMPLOYEES, THROUGH THEIR
14 EXCLUSIVE REPRESENTATIVE, HAVE THE OBLIGATION TO BARGAIN IN GOOD
15 FAITH. THE OBLIGATION TO BARGAIN IN GOOD FAITH DOES NOT COMPEL
16 EITHER PARTY TO AGREE TO A PROPOSAL OR MAKE A CONCESSION.

17 **SECTION 5. Applicability.** This act applies to collective
18 bargaining agreements entered into or renewed on or after the effective
19 date of this act.

20 **SECTION 6. Safety clause.** The general assembly finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety or for appropriations for
23 the support and maintenance of the departments of the state and state
24 institutions.