

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 07-0394.01 Kristen Forrestal

HOUSE BILL 07-1072

HOUSE SPONSORSHIP

Garcia, and Cerbo

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF THE REQUIREMENTS FOR A VOTE**
102 **RATIFYING AN ALL-UNION AGREEMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Eliminates the requirement that, in order to validly enter into an all-union agreement, the all-union agreement must be approved by the affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater. Makes conforming amendments.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** 8-3-108 (1) (c) and (1) (e), Colorado Revised
3 Statutes, are amended to read:

4 **8-3-108. What are unfair labor practices.** (1) It is an unfair
5 labor practice for an employer, individually or in concert with others, to:

6 (c) (I) Encourage or discourage membership in any labor
7 organization, employee agency, committee, association, or representation
8 plan by discrimination in regard to hiring, tenure, or other terms or
9 conditions of employment; except that an employer shall not be
10 prohibited from entering into an all-union agreement with the
11 representatives of his OR HER employees in a collective bargaining unit.
12 ~~if such all-union agreement is approved by the affirmative vote of at least~~
13 ~~a majority of all the employees eligible to vote or three-quarters or more~~
14 ~~of the employees who actually voted, whichever is greater, by secret~~
15 ~~ballot in favor of such all-union agreement in an election provided for in~~
16 ~~this paragraph (c) conducted under the supervision of the director. Where~~
17 ~~the collective bargaining unit involved is currently recognized under~~
18 ~~sections 8 or 9 of the "National Labor Relations Act", as amended, (49~~
19 ~~Stat. 449; 61 Stat. 136), or where the collective bargaining unit involved~~
20 ~~is currently recognized by reason of certification by the director or the~~
21 ~~national labor relations board, or where such units were so recognized at~~
22 ~~the time of an election provided for in this paragraph (c), there is and~~
23 ~~shall be deemed to have been no need for a certification election as a~~
24 ~~precedent to an election provided for in this paragraph (c) in such~~
25 ~~collective bargaining unit on the issue of an all-union agreement. The~~
26 ~~employees in such a recognized or certified unit within this state shall be~~
27 ~~the only employees eligible to vote in an election provided for in this~~

1 paragraph (c) held in such unit.

2 (II) (A) ~~Any agreement as defined in section 8-3-104 (1) between~~
3 ~~an employer and a labor organization in existence on June 29, 1977,~~
4 ~~which has not been voted upon by the employees covered by it may, by~~
5 ~~written mutual agreement of such employer and labor organization, be~~
6 ~~ratified and upon such ratification shall be filed with the director. Any~~
7 ~~agreement as defined in section 8-3-104 (1) between an employer and a~~
8 ~~labor organization in existence on June 29, 1977, which has not been~~
9 ~~ratified and filed, as provided in this subparagraph (H), shall not be legal,~~
10 ~~valid, or enforceable during the remaining term of that labor contract~~
11 ~~unless and until either the employer, the labor organization, or at least~~
12 ~~twenty percent of the employees covered by such agreement file a petition~~
13 ~~upon forms provided by the division, demanding an election submitting~~
14 ~~the question of the all-union agreement to the employees covered by such~~
15 ~~agreement and said agreement is approved by the affirmative vote of at~~
16 ~~least a majority of all the employees eligible to vote or three-quarters or~~
17 ~~more of the employees who actually voted, whichever is greater, by secret~~
18 ~~ballot in favor of such all-union agreement in an election provided for in~~
19 ~~this paragraph (c) conducted under the supervision of the director.~~

20 (B) ~~Upon filing of such instrument of ratification with the~~
21 ~~director, the director shall certify that such agreement complies with the~~
22 ~~provisions of section 8-3-104 (1) notwithstanding the absence of any~~
23 ~~other election requirements of this article, and by virtue of such~~
24 ~~ratification and certification, such agreement shall be deemed legal, valid,~~
25 ~~and enforceable to the extent permitted under the provisions of this~~
26 ~~article, subject to the provisions of sub-subparagraph (D) of this~~
27 ~~subparagraph (H).~~

1 ~~(C) Within two weeks after the certification by the director~~
2 ~~provided for in sub-subparagraph (B) of this subparagraph (H), the~~
3 ~~employer which is a party to such agreement shall post or give written~~
4 ~~notice to all employees covered by such agreement on the date of~~
5 ~~ratification of the fact that the agreement has been ratified and certified~~
6 ~~pursuant to the provisions of this subparagraph (H) and of the right of~~
7 ~~such employees to file a petition demanding an election as provided in~~
8 ~~sub-subparagraph (D) of this subparagraph (H). Proof of giving of notice~~
9 ~~shall be filed with the director within twenty days after the certification~~
10 ~~by the director provided for in sub-subparagraph (B) of this subparagraph~~
11 ~~(H):~~

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

26 ~~(III) The director shall declare any such all-union agreement~~
27 ~~terminated whenever:~~

1 ~~(A) He finds that the labor organization involved unreasonably~~
2 ~~has refused to receive as a member any employee of such employer, and~~
3 ~~any person interested may come before the director, as provided in section~~
4 ~~8-3-110, and ask the performance of this duty; or~~

5 ~~(B) The employer or twenty percent of the employees covered by~~
6 ~~such agreement file a petition with the director on forms provided by the~~
7 ~~division seeking to revoke such all-union agreement and, in an election~~
8 ~~conducted under the supervision of the director, there is not an~~
9 ~~affirmative vote of at least a majority of all the employees eligible to vote~~
10 ~~or three-quarters or more of the employees who actually voted, whichever~~
11 ~~is greater, in such election by secret ballot in favor of such all-union~~
12 ~~agreement. Such petition may only be filed within a time period between~~
13 ~~one hundred twenty and one hundred five days prior to the end of the~~
14 ~~collective bargaining agreement or prior to a triennial anniversary of the~~
15 ~~date of such agreement, and the division must complete said election~~
16 ~~within sixty days prior to the termination or triennial anniversary of said~~
17 ~~collective bargaining agreement. The director may conduct an election~~
18 ~~within a collective bargaining unit no more often than once during the~~
19 ~~term of any collective bargaining agreement or once every three years in~~
20 ~~the case of agreements for a period longer than three years.~~

21 ~~(IV) The director shall provide a means by which employees may~~
22 ~~submit confidential petitions for an election under this paragraph (c), a~~
23 ~~means for verifying the employment, status, and eligibility of petitioners,~~
24 ~~and a means for determining the sufficiency of such petitions with respect~~
25 ~~to the twenty percent signature requirement, all of which shall be~~
26 ~~accomplished without disclosing the identification of such petitioners,~~
27 ~~except as allowed under subparagraph (V) of this paragraph (c). This~~

1 duty shall apply to petitions filed pursuant to subparagraph (H) (A), (H)
2 (D), or (H) (B) of this paragraph (c).

3 (V) ~~No officer or employee of the division shall disclose the~~
4 ~~names of any signers to a petition or disclose how any person voted in an~~
5 ~~election to any person outside the division except pursuant to a court~~
6 ~~order or subpoena issued by a governmental authority or a court, and any~~
7 ~~such officer or employee who violates such nondisclosure provisions or~~
8 ~~who refuses to call an election pursuant to this paragraph (c) or prevents~~
9 ~~or conspires to prevent such call of an election commits a class 2~~
10 ~~misdemeanor and shall be punished as provided in section 18-1.3-501,~~
11 ~~C.R.S.~~

12 (e) ~~Enter into an all-union agreement except in the manner~~
13 ~~provided in paragraph (c) of this subsection (1);~~

14 **SECTION 2. Repeal.** 8-3-109, Colorado Revised Statutes, is
15 repealed as follows:

16 **8-3-109. What are not unfair labor practices.** (1) ~~It is not an~~
17 ~~unfair labor practice for any employer to refuse to grant a closed shop or~~
18 ~~all-union agreement or to accede to any proposal therefor as provided in~~
19 ~~this article.~~

20 (2) ~~The right of both employer and employee freely to express,~~
21 ~~declare, and publish their respective views and proposals concerning any~~
22 ~~labor relationship shall not be abrogated or limited by this article, nor~~
23 ~~shall the exercise of such right constitute an unfair labor practice. No~~
24 ~~strike shall be lawful unless it is authorized by a majority vote of the~~
25 ~~employees in the union involved taken by secret ballot such as is provided~~
26 ~~in this article.~~

27 (3) ~~It shall not be an unfair labor practice for an employer engaged~~

1 ~~primarily in the building and construction industry to enter into an~~
2 ~~all-union agreement, except an agreement providing for an agency shop~~
3 ~~or modified agency shop, with a labor organization, which agreement is~~
4 ~~limited in its coverage to employees who, upon their employment, will be~~
5 ~~engaged in the building and construction industry, if a copy of such~~
6 ~~agreement is filed with the director and certified by him as provided in~~
7 ~~section 8-3-108 (1) (c) (H) (B). Such agreement may be ratified as~~
8 ~~provided in section 8-3-108 (1) (c) (H) (C) or terminated by the director~~
9 ~~as provided in section 8-3-108 (1) (c) (H).~~

10 **SECTION 3. Effective date - applicability.** (1) This act shall
11 take effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly that is
13 allowed for submitting a referendum petition pursuant to article V,
14 section 1 (3) of the state constitution, (August 8, 2007, if adjournment
15 sine die is on May 9, 2007); except that, if a referendum petition is filed
16 against this act or an item, section, or part of this act within such period,
17 then the act, item, section, or part, if approved by the people, shall take
18 effect on the date of the official declaration of the vote thereon by
19 proclamation of the governor.

20 (2) The provisions of this act shall apply to all-union agreements
21 entered into on or after the applicable effective date of this act.