

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 07-0394.01 Kristen Forrestal

**HOUSE BILL 07-1072**

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**HOUSE SPONSORSHIP**

**Garcia,** and Cerbo

**SENATE SPONSORSHIP**

**Veiga,**

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**House Committees**

Business Affairs and Labor

**Senate Committees**

Business, Labor and Technology

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**A BILL FOR AN ACT**

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

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**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.

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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.*

SENATE  
3rd Reading Unamended  
February 5, 2007

SENATE  
2nd Reading Unamended  
February 2, 2007

HOUSE  
3rd Reading Unamended  
January 22, 2007

HOUSE  
Amended 2nd Reading  
January 19, 2007

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 OR SHE finds that the labor organization involved  
2 unreasonably has refused to receive as a member any employee of such  
3 employer, and any person interested may come before the director, as  
4 provided in section 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 (3), Colorado Revised Statutes,  
15 is repealed as follows:

16 **8-3-109. What are not unfair labor practices.** (3) ~~It shall~~  
17 ~~not be an unfair labor practice for an employer engaged primarily in the~~  
18 ~~building and construction industry to enter into an all-union agreement,~~  
19 ~~except an agreement providing for an agency shop or modified agency~~  
20 ~~shop, with a labor organization, which agreement is limited in its~~  
21 ~~coverage to employees who, upon their employment, will be engaged in~~  
22 ~~the building and construction industry, if a copy of such agreement is~~  
23 ~~filed with the director and certified by him as provided in section 8-3-108~~  
24 ~~(1) (c) (H) (B). Such agreement may be ratified as provided in section~~  
25 ~~8-3-108 (1) (c) (H) (C) or terminated by the director as provided in~~  
26 ~~section 8-3-108 (1) (c) (H).~~

27 **SECTION 3. Effective date - applicability.** (1) This act shall

1 take effect at 12:01 a.m. on the day following the expiration of the  
2 ninety-day period after final adjournment of the general assembly that is  
3 allowed for submitting a referendum petition pursuant to article V,  
4 section 1 (3) of the state constitution, (August 8, 2007, if adjournment  
5 sine die is on May 9, 2007); except that, if a referendum petition is filed  
6 against this act or an item, section, or part of this act within such period,  
7 then the act, item, section, or part, if approved by the people, shall take  
8 effect on the date of the official declaration of the vote thereon by  
9 proclamation of the governor.

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