A BILL FOR AN ACT

CONCERNING THE PROHIBITION OF DISCRIMINATION AGAINST EMPLOYEES BASED ON LABOR UNION PARTICIPATION.

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://www.leg.state.co.us/billsummaries.)

The bill prohibits an employer from requiring any person, as a condition of employment, to become or remain a member of a labor organization or to pay dues, fees, or other assessments to a labor organization or to a charity organization or other third party in lieu of the labor organization. Any agreement that violates these prohibitions or the rights of an employee is void.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add article 3.3 to title 8 as follows:

**ARTICLE 3.3**

**Membership in Labor Organizations**

**8-3.3-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "EMPLOYER" MEANS A PERSON, FIRM, ASSOCIATION, CORPORATION, PUBLIC ENTITY, PUBLIC SCHOOL, OR PUBLIC COLLEGE, UNIVERSITY, INSTITUTION, OR EDUCATION AGENCY THAT EMPLOYS A PERSON IN THIS STATE.

(2) "LABOR ORGANIZATION" MEANS ANY ORGANIZATION, AGENCY, EMPLOYEE REPRESENTATION COMMITTEE, OR UNION THAT EXISTS FOR THE PURPOSE, IN WHOLE OR IN PART, OF DEALING WITH EMPLOYERS CONCERNING WAGES, RATES OF PAY, HOURS OF WORK, OTHER CONDITIONS OF EMPLOYMENT, OR OTHER FORMS OF COMPENSATION.

**8-3.3-102. Prohibited activities.** (1) ON AND AFTER JULY 1, 2015, AN EMPLOYER SHALL NOT REQUIRE ANY PERSON, AS A CONDITION OF EMPLOYMENT OR THE CONTINUATION OF EMPLOYMENT, TO:

(a) BECOME OR REMAIN A MEMBER OF A LABOR ORGANIZATION;

(b) PAY DUES, FEES, ASSESSMENTS, OR OTHER SUMS OF MONEY TO A LABOR ORGANIZATION; OR

(c) PAY TO A CHARITY OR OTHER THIRD PARTY AN AMOUNT EQUIVALENT TO, OR A PRO RATA PORTION OF, DUES, FEES, ASSESSMENTS, OR OTHER CHARGES PROHIBITED IN PARAGRAPH (b) OF THIS SUBSECTION (1) IN LIEU OF REQUIRING PAYMENT TO A LABOR ORGANIZATION.
8-3.3-103. Void agreements. A written or oral agreement, understanding, or practice, implied or expressed, between a labor organization and employer that violates the rights of employees as guaranteed by this article is void.

8-3.3-104. Penalty. Any person who directly or indirectly violates any provision of this article is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars, imprisonment in the county jail for not more than ninety days, or both a fine and imprisonment for each offense.

8-3.3-105. Civil remedies. (1) Any person injured as a result of a violation or threatened violation of this article may bring suit in a court of competent jurisdiction to recover all damages, including costs and reasonable attorney fees, resulting from the violation or threatened violation.

(2) The remedies provided by this section are independent of, and in addition to, any other penalty or remedy established by this article.

8-3.3-106. Investigation of complaints - prosecution of violations. The attorney general or the district attorney in each judicial district shall investigate a complaint of a violation or threatened violation of this article, prosecute any person violating this article, and take actions necessary to ensure effective enforcement of this article.

8-3.3-107. Applicability of article - exceptions. (1) This article does not apply:

(a) to employers and employees covered by the federal
"RAILWAY LABOR ACT", 45 U.S.C. SEC. 151 ET SEQ. AS AMENDED;

(b) TO FEDERAL EMPLOYERS AND EMPLOYEES;

(c) TO EMPLOYERS AND EMPLOYEES IN EXCLUSIVE FEDERAL
ENCLAVES; OR

(d) WHERE IT WOULD CONFLICT WITH OR BE PREEMPTED BY
FEDERAL LAW.

8-3.3-108. Severability. IF ANY PROVISION OF THIS ARTICLE OR
THE APPLICATION OF THIS ARTICLE TO ANY PERSON OR CIRCUMSTANCE IS
HELD INVALID, THE OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE
THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR
APPLICATION ARE SEVERABLE.

SECTION 2. In Colorado Revised Statutes, 8-3-108, amend (1)
(c) and (1) (e) as follows:

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

(c) (4) Encourage or discourage membership in any labor
organization, employee agency, committee, association, or representation
plan by discrimination in regard to hiring, tenure, or other terms or
conditions of employment; except that an employer shall not be
prohibited from entering into an all-union agreement with the
representatives of his employees in a collective bargaining unit if such
all-union agreement is 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, by secret ballot
in favor of such all-union agreement in an election provided for in this
paragraph (c) conducted under the supervision of the director. Where the
collective bargaining unit involved is currently recognized under sections
8 or 9 of the "National Labor Relations Act", as amended, (49 Stat. 449; 61 Stat. 136), or where the collective bargaining unit involved is currently recognized by reason of certification by the director or the national labor relations board, or where such units were so recognized at the time of an election provided for in this paragraph (c), there is and shall be deemed to have been no need for a certification election as a precedent to an election provided for in this paragraph (c) in such collective bargaining unit on the issue of an all-union agreement. The employees in such a recognized or certified unit within this state shall be the only employees eligible to vote in an election provided for in this paragraph (c) held in such unit.

(H) (A) Any agreement as defined in section 8-3-104 (1) between an employer and a labor organization in existence on June 29, 1977, which has not been voted upon by the employees covered by it may, by written mutual agreement of such employer and labor organization, be ratified and upon such ratification shall be filed with the director. Any agreement as defined in section 8-3-104 (1) between an employer and a labor organization in existence on June 29, 1977, which has not been ratified and filed, as provided in this subparagraph (H), shall not be legal, valid, or enforceable during the remaining term of that labor contract unless and until either the employer, the labor organization, or at least twenty percent of the employees covered by such agreement file a petition upon forms provided by the division, demanding an election submitting the question of the all-union agreement to the employees covered by such agreement and said agreement is 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, by secret
ballot in favor of such all-union agreement in an election provided for in 
this paragraph (c) conducted under the supervision of the director:

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

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

(D) Within forty-five days after the certification by the director 
provided for in sub-subparagraph (B) of this subparagraph (II) twenty 
percent of the employees covered by such agreement may file a petition, 
upon forms provided by the division, demanding an election submitting 
the question of ratification of such agreement to the employees covered 
by such agreement. If ratification of the agreement is 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, in said election, the agreement shall be conclusively deemed
ratified. Such election shall be held as promptly as possible following the
filing of the petition. In the event that a certified contract expires or is
terminated prior to the conducting of such an election, such certification
shall be applicable to any subsequent agreement between the same parties
until such election may be held.

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

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

(B) The employer or twenty percent of the employees covered by
such agreement file a petition with the director on forms provided by the
division seeking to revoke such all-union agreement and, in an election
conducted under the supervision of the director, there is not an
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, in such election by secret ballot in favor of such all-union
agreement. Such petition may only be filed within a time period between
one hundred twenty and one hundred five days prior to the end of the
collective bargaining agreement or prior to a triennial anniversary of the
date of such agreement, and the division must complete said election
within sixty days prior to the termination or triennial anniversary of said
collective bargaining agreement. The director may conduct an election
within a collective bargaining unit no more often than once during the
term of any collective bargaining agreement or once every three years in
the case of agreements for a period longer than three years.

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

(V) No officer or employee of the division shall disclose the
names of any signers to a petition or disclose how any person voted in an
election to any person outside the division except pursuant to a court
order or subpoena issued by a governmental authority or a court, and any
such officer or employee who violates such nondisclosure provisions or
who refuses to call an election pursuant to this paragraph (c) or prevents
or conspires to prevent such call of an election commits a class 2
misdemeanor and shall be punished as provided in section 18-1.3-501;
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(e) Enter into an all-union agreement; except in the manner
provided in paragraph (c) of this subsection (1);

SECTION 3. In Colorado Revised Statutes, 8-3-109, amend (1);
and repeal (3) as follows:

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

(3) It shall not be an unfair labor practice for an employer engaged
primarily in the building and construction industry to enter into an
all-union agreement, except an agreement providing for an agency shop
or modified agency shop, with a labor organization, which agreement is
limited in its coverage to employees who, upon their employment, will be
engaged in the building and construction industry, if a copy of such
agreement is filed with the director and certified by him as provided in
section 8-3-108 (1) (c) (II) (B). Such agreement may be ratified as
provided in section 8-3-108 (1) (c) (II) (C) or terminated by the director
as provided in section 8-3-108 (1) (c) (III):

SECTION 4. Effective date. This act takes effect July 1, 2015.

SECTION 5. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.